



**PROPERTY RIGHTS AND MARGINALIZED GROUPS IN UGANDA**

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**The views expressed in this paper are those of the author and  
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### Executive Summary

The paper<sup>1</sup> is an analysis of property rights of the poor and marginalized in Uganda. It is an attempt to assess the impact of the violations of these rights on the capacity of the poor to create wealth. The poor constitute women, children and people with disabilities in various settings. The paper has responded to four thematic themes:

1. How can countries create an inclusive enabling system of rights, obligations and enforcements surrounding the rights to property and other assets that addresses the interests of marginalized groups?
2. What barriers preclude men, and especially women from owning and exercising their rights to inheritance, property and other assets?
3. How can new approaches and reforms facilitate convergence between formal legal systems and existing extra-legal rules and systems?
4. How can property rights incorporate and recognize indigenous norms and structures (combining legitimacy and legality)? How can user rights, collective rights and communal rights be recognized and protected?

### Key Findings

Countries can create an inclusive enabling system of rights, obligations and enforcements surrounding the rights to property and other assets that addresses the interests of marginalized groups through:

- Ratifying and domestication of the instruments
- Need to remove the negative overtones within customary law
- Putting in place measures where the vulnerable groups can be catered for in a dignified manner, such as resettlement projects that cater for the totality of the human beings.
- Focus more on the rights of people in war affected northern Uganda.

The barriers, which preclude men, and especially women from owning and exercising their rights to inheritance, property and other assets, included (but not limited to) the following:

- customary (inheritance laws that prefer males) and
- statutory (which refer to names of ownership – meaning money),
- insecurity in conflict affected northern Uganda,
- ignorance of the law,
- Mistrust, and
- Poor (or lack of) representation in decision-making arenas.

New approaches and reforms can facilitate convergence between formal legal systems and existing extra-legal rules and systems through the following:

- Promotion of intellectual property rights
- Revisiting land law and the social sector policies

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Property rights can incorporate and recognize indigenous norms and structures (combining legitimacy and legality) through several ways as follows:

- Work with people at the grass roots.
- Implement affirmative action policies to target minority groups
- Enhance civil society activities
- Ensure effective legislation for user rights, collective rights and communal rights
- Codify customary law

And, finally, user rights, collective rights and communal rights can be recognized and protected through affirmative action policies, civic education, increased civil society involvement in their improvement and legislation.





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### Introduction

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This paper is a discussion of the status of property rights for the poor and marginalized groups in Uganda. It also examines the impact the violation of property rights has had on the empowerment and wealth creation for the poor and the marginalized. Although the poor and marginalized represent a wide section of the population, for the purpose of this paper, the poor and marginalized are defined in accordance with Uganda Participatory Poverty Assessment Process (UPPAP) (MFPED, 2002) report which recognized poverty to be “a lack of basic needs and services such as food, clothing, beddings, shelter, paraffin, basic health care, roads, markets, education, information and communication”.<sup>2</sup> In the same report, new poverty dimensions were mentioned as including, social exclusion, governance, community status or affluence and ignorance and lack of knowledge and awareness. While some dimensions of poverty are cross cutting, different categories of the poor also experience poverty differently depending on locality and the social political and economic conditions they face. In urban areas poverty is characterized by discrimination, child labour exploitation and voicelessness, while poverty in northern Uganda is defined as insecurity and internal displacement.

In rural areas, poverty is associated with lack of productive assets, particularly land. However it has been emphasized that land is only a necessary, not a sufficient condition for moving out of poverty. Some lack skills, finance and motivation to develop it; many other poor people produce on the land but lack markets for their produce. Groups seen as particularly vulnerable to poverty include; widows, the youth, the elderly, orphans, people with disabilities (PWDs), the displaced and refugees. There has been a lot of literature on the plight of women and less on other marginalized groups such as people with disabilities and adolescents in Uganda and minorities. Although the terms of reference may identify indigenous norms and structures (in question/theme 4), our understanding of this has been confusing in that most people in Africa are indigenous. Therefore, the discussions only briefly alludes to the rights of the very “backward” sections of the population such as the pygmies and the Batwa along the Congo/Uganda border and the Benet, who live along the slopes of Mountain Elgon on the Kenya/Uganda border.

Uganda has 28 million people (UBOS, 2002). According to the Poverty Eradication Action Plan (PEAP) (MFPED, 2004), 38% of the people in Uganda live below the poverty line (on less than a dollar a day); the majority of these are women. Of course there are variations in the levels of poverty with the internally displaced persons (IDPs) in northern Uganda bearing the heaviest brunt of poverty. Despite the rhetoric that women are poorer than men, there are specific groups of women who are particularly likely to be poor, and there are some dimensions of poverty in which women are generally at a disadvantage. Households headed by widows are consistently poorer than others, and

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<sup>2</sup> Uganda Participatory Poverty Assessment Process, MFPED, 2002:11



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households headed by married women (probably mostly married to polygamous or absent husbands) are poorer than other households<sup>3</sup>.

Although the discussion is about property rights in general, more time will be allotted to land as it provides the means of livelihood to the communities and development in Uganda, a predominantly agricultural country. This is one of the reasons land ownership and tenure has been the subject of debate since the period preceding independence in Uganda. But as the discussion below indicates, there is still variance between statutory and customary law in that the customary law makes ownership of land by women difficult, almost unattainable, while statutory law on land ownership by women has been shelved under the Domestic Relations Bill (DRB). In Uganda, while women provide 80 percent of labour in agriculture and over 90 percent in food production and processing, they own only 7% of the land<sup>4</sup>. Recent studies however show that, in addition to user rights over land which women in marital homes have, women have begun to acquire land in their own right.<sup>5</sup>

Therefore the discussion in this paper focuses on groups of individuals whose rights on property are jeopardized as a result of a socio-cultural setting, bad governance, xenophobia, poverty and marginalization, to mention but a few, which results in their exclusion from wealth creation opportunities and keeping them in perpetual poverty thus retarding their development. These groups include categories of women (who also form the majority of the poor in Uganda), households headed by men or women in shanty parts of towns, men and women operating in the informal sector, unaccompanied youth, the orphans and communities caught up in conflict affected situations. There is also need to consider in this category - children, the unemployed men and women, the elderly and the aged, and the unaccompanied minors.

Human rights are defined as the political, social and other advantages to which human beings have just claims morally or legally.<sup>6</sup> Some of these rights include; non-discrimination and equality, enjoyment of the highest attainable standard of health, the right to information, the right to equal legal capacity, the right to property and intellectual property rights among others<sup>7</sup>. The deeply embedded customary values, which constitute the way most Ugandan communities, govern themselves, makes interface with statutory laws problematic - calls for intervention in this regard.

Property rights are the rights human beings have to own, acquire (through purchase, gift or inheritance) manage, administer, enjoy and dispose of tangible and intangible property including land, housing, money, bank accounts, livestock, crops and pensions.

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<sup>3</sup> The PEAP, (MFPED, 2004:19)

<sup>4</sup> Asiimwe and Nyakoojo, 2001

<sup>5</sup> MISR, 2003.

<sup>6</sup> Longman Dictionary of Contemporary English.

<sup>7</sup> Human Rights Watch – Women's Property Rights

([hrw.org/campaigns/women/property/qna.htm](http://hrw.org/campaigns/women/property/qna.htm)) downloaded on 10/13/2006

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Property rights belong to human rights, which are explicitly mentioned in the Charter of the United Nations and major international human rights instruments, which include sex as one of the grounds upon which states may not discriminate.<sup>8</sup> There has been a tendency to treat civil and political rights as if they are the only ones that matter at the expense of economic or subsistence rights. Yet, all these rights are crucial for personal development. Equal property rights are important because they are fundamental to economic security, social and legal status and the survival of all human beings.

The paper is divided in four main sections guided by the four themes of the terms of reference and which also form the basis of the discussion as follows.

5. How can countries create an inclusive enabling system of rights, obligations and enforcements surrounding the rights to property and other assets that addresses the interests of marginalized groups?
6. What barriers preclude men, and especially women from owning and exercising their rights to inheritance, property and other assets?
7. How can new approaches and reforms facilitate convergence between formal legal systems and existing extra-legal rules and systems?
8. How can property rights incorporate and recognize indigenous norms and structures (combining legitimacy and legality)? How can user rights, collective rights and communal rights be recognized and protected?

It is worth noting that most of the information in this paper results from desk review, consultations and focus group discussions as well as the author's knowledge base.

### **1. Theme One: How can countries create an inclusive enabling system of rights, obligations and enforcements surrounding the rights to property and other assets that addresses the interests of marginalized groups?**

An inclusive enabling system of rights, obligations and enforcements surrounding the rights to property has been understood to refer to the amalgamation of the international, regional and national codes and standards which pertain to human rights in general and property rights in particular.

There is a need for countries to ensure harmonization between international, regional and national law. This calls for ratification as well as domestication of the laws.

#### *1.1 International Instruments*

Several international instruments that provide for rights to property abound. A few of these include the Universal Declaration of Human Rights (UDHR)<sup>9</sup>, which provides for the ownership of property as a fundamental human right and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)<sup>10</sup>. CEDAW is

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<sup>8</sup> EASSI, 2002:14

<sup>9</sup> UN 1948 Universal Declaration

<sup>10</sup> UN 1979 CEDAW



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women specific and requires that state parties recognize the role women play in the economic survival of their families. It imposes a duty on the states to ensure that women have access to equal treatment in land and agrarian reform as well as in land settlement schemes.<sup>11</sup> In addition, CEDAW imposes a duty on state parties to take appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against women and to repeal all national provisions that discriminate against women. Furthermore the Beijing Declaration and Platform of Action<sup>12</sup> recognises the legal and customary barriers to women's ownership of and access to land. It calls on states to undertake legislative and administrative reforms to give women equal rights with men to economic resources including access to, ownership and control of land.

Rights for children are provided for in the Convention on the Rights of the Child (CRC) and the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography, etc. The rights to property by refugees are provided for by the 1951 Convention Relating to the Status of Refugees and OAU 1969 Convention of African refugees, and recently the UNSC Resolution 1325. However the rights to property of internally displaced persons are provided for by the legal framework for the general population and are not addressed specifically. This poses problems because in many cases the government that is expected to ensure the rights of the displaced could be failing in this obligation. This hampers the effective upholding of rights to property for IDPs. In such a case civil society should be encouraged to monitor and advocate for the upholding of the rights of the displaced.

### 1.2 *Regional Instruments*

Regional instruments derive from the international codes and standards and are repackaged to fit the regional expectations and context. The African Charter on Human and People's Rights<sup>13</sup> (ACHPR) prohibits discrimination on the basis of sex. Article 2 prohibits discrimination on many grounds including sex, and this prohibition is strengthened by Article 18 (3) which provides for state parties to ensure elimination of every discrimination against women and also to ensure the protection of the rights of women as stipulated in international declarations and conventions. Uganda is a party to the charter. However, in practice there are variances between ratification and failure in obligations. This shows that there has not been proper domestication of this instrument by several African countries. For instance, although Tanzania and Uganda have ratified the African Charter, they have failed in their obligations under the Charter. They have not adopted legislation that would guarantee equality in access to land for women and other marginalised groups on an equal footing with men<sup>14</sup>. This remains a challenge.

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<sup>11</sup> Article 14 CEDAW

<sup>12</sup> UN 1995 Beijing

<sup>13</sup> UN 1981 African Charter

<sup>14</sup> Florence Butegwa 1994 'Using the African Charter on Human and People's Rights to secure women's access to land in Africa' in Cook, R. J (ed) *Human Rights of Women national and international perspectives*, Philadelphia: University of Pennsylvania Press.



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However, it is worth noting that African women made history in 2005 when a protocol came into force that specifically protects women's human rights and breaks new ground in international law<sup>15</sup>. In addition, the recently concluded Treaty of the East African Community provides for enhancing the role of women in socio-economic development. Under Article 126, partner States agree that women make a significant contribution towards the process of socio-economic transformation and sustainable growth and that it is impossible to implement effective programmes for economic and social development without the participation of women. Uganda is a party to the treaty.

Similarly, for children, the relevant international legal instruments are the African Charter on the Rights and Welfare of the Child (1990), and International Labour Organization (ILO) Convention<sup>16</sup> concerning the prohibition and immediate Action for the Elimination of the worst forms of child labour. In addition to the foregoing instruments there are many more legal instruments, which provide for human rights including rights to property. Nonetheless, the poor and marginalized continue to live in a state of deprivation and uncertainty. As an example, some children in war-torn Uganda are denied schooling opportunities and forced into child labour (in stone crushing activities for example) for survival. Despite the regional legal framework, the inequalities exist. A recent study<sup>17</sup> in West Nile showed how young boys and girls were forced out of school in a particular season of the year to fetch firewood for tobacco processing in Arua. Recent reports<sup>18</sup> in the media have mentioned how Karamojong children were being trafficked to Kenya and Kampala. The last two or so years have witnessed an increase in the number of Karamojong women and their children on the streets of Kampala where they depend on begging for their livelihood. In several incidences, the mothers send the children onto the streets to beg for 'kikumi kyoka' (one hundred shillings only). Surprisingly these women and children have kept on the streets without any attempts by the authorities to have them removed. Moreover unending reports in the media point to increased incidences of violence against women and children, and how in many cases the culprits go unpunished as if there were no law to protect them. While welfare policies exist for such people, for one reason or the other, the City Council does not seem to have addressed this issue sufficiently.

There is therefore a need to put in place measures where such vulnerable groups can be catered for in a more dignified manner. Such measures could include resettling the women and their children and ensuring they participate in income generating activities with assured physical protection and their children sent to school.

### 1.3 National legal framework

#### 1.3.1 The Constitution

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<sup>15</sup> Protocol to the Charter on Human and People's Rights on the Rights of Women in Africa was adopted in 2003 and came into force in 2005.

<sup>16</sup> International Instrument

<sup>17</sup> Mulumba D. (2005) 'Child labour and decentralization' funded by [I@Mak.com](http://www.mak.com)

<sup>18</sup> Save the Children (Uganda) report in the New Vision 20 November 2006

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The discussion in this subsection dwells on the supreme law of Uganda and how the provisions for rights to property of the poor and marginalized are translated into reality. The discussion also alludes to the challenges and makes recommendations.

The 1995 Constitution of Uganda forms the supreme the law of Uganda. Following deliberations by the Constituent Assembly in the early 1990s, Uganda was able to develop a constitution (in 1995), which is often referred to as one of the best and most gender sensitive constitutions in sub Saharan Africa<sup>19</sup>. Chapter four of the Constitution provides for a Bill of Rights and subscribes to the natural law school of thought - that rights are inherent and not granted by the state<sup>20</sup>.

Article 21 of the Constitution of the Republic of Uganda states that:

*“All persons are equal before and under the law in all spheres of political, economic, social, and cultural life and every other respect and shall enjoy equal protection of the law”*

Article 26 (1) and (2) guarantee the right of every person to own property individually or in association with others, in addition to protecting the right of every person not to be deprived of personal property without compensation. This guarantee does not in any way discriminate on the basis of gender or marital status hence no other enabling legislation under this constitution should deprive a proprietor or owner of land his/her interest in the property since all persons are equal before and under the law [Article 21 (1)].

The Constitution provides for equality, prohibits discrimination of all forms and promotes the protection of women’s rights<sup>21</sup> as well as affirmative action in favour of women<sup>22</sup> and other marginalised groups including special interest groups (SIGS)<sup>23</sup>. Article 32 commits the state to take affirmative action in favour of groups marginalised on the basis of gender for the purpose of addressing imbalances, which exist against them. This provision places direct responsibility on the government of Uganda to address the inequalities in access and control over land between men and women. Article 33 specifically stipulates protection of women’s rights in social, economic, and political spheres. In Article 33 (6), it outlaws the laws, cultures, customs or traditions, which are against the dignity, welfare, or interest of women. Article 34 (4) mentions that the state shall provide facilities and opportunities necessary to enhance the welfare of women to enable them realise their full potential and advancement.

The above provisions in the Constitution conform to the principle of equality of men and women in all spheres of life, and especially in marriage in which context the issue of

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<sup>19</sup> Tamale, 1999:116

<sup>20</sup> Article 20(1)

<sup>21</sup> Article 20-26, 30, 31, 33 40 (b & c) and 50.

<sup>22</sup> Article 33(5), 78 (1) b), 180 (b, c).

<sup>23</sup> Article 32 (1))



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property rights of women is being assessed. And yet as we shall see, the women suffer discrimination despite the provisions for equality within the Constitution. Discussions have revealed that the provisions for equality within the Constitution are theoretical and are in apposition with what takes place in reality. There is heavy dependency on customary law despite its inequalities. In practice women still face unequal treatment with regard to property and land rights.

With regards to children, Article 31 (4) states that it is the right and duty of parents to care for and bring up their children and 31 (5) states that children may not be separated from their families or the persons entitled to bring them up against the will of their families or of those persons, except in accordance with the law. Some of the challenges that have been faced in this area concern the deadly HIV/AIDS pandemic and the more than 20-year armed conflict in Uganda. Like HIV/AIDS, war in northern Uganda has disrupted the family structure such that the welfare of children can be guaranteed by law – only theoretically. In reality, for most children their situation continues to be vulnerable amidst the HIV/AIDS scourge, the death of parents and uncertainty for guaranteed survival. Children caught up in war affected northern Uganda have, in addition to the effects of HIV/AIDS, bear the brunt of the atrocities of the war. The efforts by civil society in Uganda to improve the protection of children in Uganda need to be commended. It has also been established that girl children especially in northern Uganda suffer discrimination. For instance, in several districts in Uganda girls are denied education; this is especially the case in northern Uganda. As an example, there were only 700 girls who completed primary 7 in Yumbe district in 2004 (net enrolment ratio boys- 2.40%: girls- 0.69%),<sup>24</sup> which contravenes Article 34(2) which states that a child is entitled to basic education which shall be the responsibility of the State and the parents of the child.

The rights to property for the people with disability are provided for in Article 32(1), which says “Notwithstanding anything in this Constitution, the State shall take affirmative action in favour of groups marginalized on the basis of gender, age, disability or any other reason by history, tradition or custom for the purpose of redressing imbalances which exist against them. Article 34(4) states that children are entitled to be protected from social and economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or interfere with their education to be harmful to their health, physical, mental, spiritual, moral or social development. Disability as an issue deserves serious and urgent attention. Article 35(1) says that persons with disabilities have a right to respect and human dignity and the State and society shall take appropriate measures to ensure that they realize their full mental and physical potential. The prevailing situation is that despite the disability-specific approaches and policies, people with disabilities are still marginalized with regard to accessing and controlling resources. The finding on the ground is that there are thousands<sup>25</sup> of PWDs in war-torn Uganda requiring rehabilitation before they can effectively realize their full economic

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<sup>24</sup> Ministry of Education and Sports Uganda Education Statistics 2004

<sup>25</sup> Source: information provided by Christine Okumu, Gender Officer Gulu District  
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potential. This calls for policies for and implementation of the reconstruction and rehabilitative needs for people with disabilities in northern Uganda.

Related to disability is the issue of Special Needs Education. The Annual School Census (2004)<sup>26</sup> identified types of disabilities for children attending school as follows: mentally impaired, visually impaired, hearing impaired, physically impaired, Autism, and Multiple impairments. In 2004, the disabled students attending secondary school were 10893 (of which 5156 were females). It is worth mentioning that many schools do not put in place user-friendly services for the disabled, which could pose an obstacle towards school attendance. This problem was re-echoed in war torn northern Uganda in a recent study<sup>27</sup>. At the primary education level, the number of pupils with special needs (mainly girls) increased from 26,429 in 1997 to 101,598 in 2000. In 2002, two primary schools have so far been established for people with disabilities, one in Gulu district and the other in Mukono district (MoES, 2004), which is inadequate. However the activity shows government commitment towards people with disabilities. It should be pointed out that efforts should be made to install disability-friendly gadgets even in the 'normal' schools for the disabled school children, which at the moment are conspicuously absent. There is need to involve civil society efforts in this crucial area.

Although the terms of reference in question (theme) 4 allude to 'indigenous norms and structures', we shall, for the purpose of this paper, take it to refer to minorities. In Uganda minorities refer to ethnic groups, such as Batwa, Pygmies and Benet who have failed to join the mainstream development agenda and have kept strictly to their traditional way of life. Article 36 of the Constitution states that minorities have a right to participate in decision making processes and their views and interests shall be taken into account in the making of national plans and programmes. Unfortunately, the finding is that none of these groups is represented in the National Parliament. In addition, the views of the minorities are not solicited before making plans and programmes; such was the case for the Benet when their forest was recently demolished in favour of a developmental project<sup>28</sup>. A few years back, media reports showed that ADRA<sup>29</sup> undertook development projects for the Pygmies in the forests of Kasese in western Uganda which included schools, health centres and iron-roofed housing. However the pygmies declined to reside in the houses because of the noise made by the rain, something they were not accustomed to. This means that the development process did not take into account the specific needs of the Pygmies. Further still, there does not seem to be much literature on the minorities and the education reports are silent about their participation. There is therefore a great need to 'unearth' the needs of minorities with a view to establishing the status of their human rights including rights to property.

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<sup>26</sup> MoES, 2004

<sup>27</sup> Mulumba and Nkoyoyo (2006): An assessment of reproductive health needs in northern Uganda. A study commissioned by UNFPA.

<sup>28</sup> Article by Uganda Land Alliance 2006

<sup>29</sup> Adventist Development and Relief Agency (ADRA)



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### **2.3.2 Policy Framework**

#### **2.3.2. 1. The Poverty Eradication Action Plan (PEAP)**

The PEAP is Uganda's comprehensive development framework and has identified the following pillars and priorities namely, economic management, production, competitiveness and incomes, security, conflict-resolution and disaster-management, governance and human development (MFPED, 2004). The PEAP further acknowledges the importance to address the issue of intra-household relations for agricultural productivity, shortage of fuel wood and effect on women's time, domestic violence, reviewing and reforming discriminatory laws and strengthening women's land rights. Consequently the integration of gender is integral to all government policies across all sectors of the economy. Through Sector Wide Approaches (SWAPs) and decentralised sector wide planning by the different line Ministries and districts, a number of complimentary policies and strategic plans and programmes have been developed, which impact on the rights to property for the poor and marginalized. These include inter alia: The National Gender Policy, The Decentralization Policy, National Health Policy, Education Sector Strategic Plan, The Universal Primary Education Programme, The National Population Policy, the National Youth Policy, Youth and Adolescent Policies, Land Use Policy, the National Policy on Disability in Uganda, the Orphans and Vulnerable Children Policy and, the National Policy. Others are the HIV/AIDS Policy, the Anti Retroviral Treatment Policy for Uganda, the Policy for Reduction of the Mother to Child HIV Transmission, the Programme for Modernization of Agriculture (PMA) and the National Policy for Internally Displaced Persons.

Within the social sector, the PEAP addresses the trends and patterns of poverty in Uganda; security, conflict resolution and disaster management; good governance, and human development. The PEAP (2004) in Pillar 3 'security, conflict resolution and disaster management' has not addressed gender based violence which impacts people's capacity to realize their rights. In addition the UNSC Resolution 1325 is quite clear in its provision for gender mainstreaming in conflict and post conflict settings. However, for now, neither the PEAP nor the National Policy for the Internally Displaced Persons seem to be addressing gender based violence in armed conflict. Thus, several manifestations of violence go unpunished. These include, among others, abduction of children and forced conscription in the warring rebel factions, rape, defilement, forced impregnation, adolescent pregnancies which adds to the problem of uncared for children and acts of violence in the 20-year old war in northern Uganda, which has left women mutilated, STI and HIV infected, forced impregnation and psychological trauma. Moreover, there is need for a specific legal and policy framework for vulnerable groups including children, (in particular orphans and the unaccompanied), former abductees and child mothers caught up in the war. The extreme deprivations in northern Uganda have led to ill and undesired social practices, such as selling sex for income or food<sup>30</sup>. What is required is for the war to end and the implementation of a successful and sensitive resettlement programme of the displaced persons taking their specific needs into consideration.

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<sup>30</sup> Angulo J. 2003



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### **2.0 Theme Two: What barriers preclude men, and especially women from owning and exercising their rights to inheritance, property and other assets?**

In a recently concluded focus group discussion (FGD), which comprised members of the civil society, the government and academia, several barriers were highlighted. These included, inter alia: reliance on customary law which is imbued with inequalities, ignorance of the law, lack of documentation, poor representation for the poor and marginalized, poor record keeping methods, illiteracy, corruption, insensitive government policies, and poor information dissemination practices.

### **2.1 Customary Law and Property Rights**

It should be pointed out from the outset that in Uganda, customary law is part and parcel of the existing formal legal framework and is clearly enshrined in the Constitution. The customs and values of the ethnic groups of Uganda have been included in the law, thereby gaining legal ground. This being as it may, customary law has been blamed for discriminating against women and used to denying women (the larger half of the population) resources, such as land and other assets. This section examines the extent of customary law, gender and other inequalities that impact the poor's rights to property.

#### *Succession and Inheritance rights*

The right to own land in Uganda is still very controversial. It will be noted that despite the differences in customary practices among the 56 ethnic groupings in Uganda, inheritance to land is through the males. The statutory law on succession in Uganda mainly caters for patrilineal consanguinity, which is unfair to the women<sup>31</sup>. Apart from a few women in Buganda who acquired land by virtue of the 1900 Agreement, the majority of women in Uganda do not own land. Under Ugandan law, a wife is guaranteed a share in her husband's estate whether he died testate or not. A widow has a right to the matrimonial home until she remarries or dies. However, it is a mere right of occupancy, she holds the trust for the legal heir. In the case the husband dies intestate and is survived by linear descendants and dependent relatives, the widow's entitlement is 15% of the total estate<sup>32</sup>. The legal position closely follows the customary way of choosing and appointing a legal heir; it is always a male to succeed his father. The legal/customary heir always succeeds the matrimonial home. This position therefore can be seen as marginalizing women and stopping them from inheriting property.

Although all children, irrespective of sex and legitimacy are entitled to share in equal proportions of the deceased's property, in practice, the cultural taboos dictate that the girl children cannot inherit the matrimonial home. In a recent study of orphans in one of

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<sup>31</sup> Jennifer Okumu Wengi (1994) *Women and Law in East Africa: The Law of Succession in Uganda: women inheritance laws and practices essays and cases*. Kampala: WLEA Publications No 1

<sup>32</sup> Laws of Uganda The Succession (Amendment) decree of 1972



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the war-affected districts<sup>33</sup>, it was established that orphans faced problems associated with the land left by their fathers, which according to discussions with a probation officer, was seized by the paternal relatives in the guise of looking after them. This is a problem especially in a 'communal' land system.

The Succession Law as amended by the 1972 Decree recognized women's rights to inherit from their husbands and fathers. It also recognized the rights of all children whether males or females, legitimate or not to inherit from parents in equal shares. Despite this fact, the majority of Ugandans still practice their customary laws of inheritance and in many cases estates are distributed at a ceremony held as the last funeral rights.<sup>34</sup> FGDs indicated how women who own land bequeath it to their nephews and not nieces. This clearly demonstrates the deeply held values, which portray men as the sole owners of land. There is need to diffuse such attitudes. Meanwhile, women continue to be marginalized in the area of power and property sharing in the home, community and national spheres. Women hardly own any property and are caught up in perpetual situations of landlessness. This is a challenge of land ownership. Discussion with UWONET<sup>35</sup> indicated that there were fears that women who had suffered violence at the hands of their husbands (and had been rehabilitated with land, etc) would still be persuaded to surrender their land to husbands during reconciliation.

The paper has found that the Ugandan population is ignorant and lacks information. A visit to FIDA<sup>36</sup> (U) office reveals several cases lodged of property grabbing by men (usually in-laws and relatives of a dead husband) and the mortgaging of the matrimonial home without the knowledge of spouse (usually wife). It seems most women are taken by surprise and are not aware that husbands used the land title of the matrimonial home as collateral. Other women have no idea about their entitlements. Men used all sorts of gimmicks including 'marrying' other women for the purpose of consent, which is now a must before marital property can be mortgaged. The challenge is that most women in Uganda are dependent on men for survival and status. The majority of women are also illiterate. There is need to address these pitfalls through emancipating measures, such as capacity building, and skills development for the poor. Moreover, the high population growth will affect land access and use. The number of children per woman in Uganda is close to 7 (6.9)<sup>37</sup> and the population growth rate at 3.4% is one of the highest in the world. If this rapid growth is not controlled, there will be land shortage, which will lead to food shortage and catastrophic economic consequences.

Nevertheless, there have been exceptions. By virtue of the 1900 Agreement, the propertied class in Buganda were able to distribute land to both male and female

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<sup>33</sup> Mulumba D and S Kabwegyere (2005) Health Needs Assessment of orphans in Lira district (a study commissioned by Global Fund-Uganda).

<sup>34</sup> Mulyangonja-Kakooza 2001

<sup>35</sup> Uganda Women's Network (UWONET)

<sup>36</sup> Association of Women Lawyers (Uganda)

<sup>37</sup> UBOS 2002



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offspring<sup>38</sup>. One of the results of inheritance of land by women in Buganda was the creation of a class of women who were landowners and were thus free to opt out of marriage. They were free to develop their land and built tenements to let within and on the outskirts of urban areas in Buganda. They were known by the derogatory term of *Nakyeyombekedde*, which literally means, “I built for my self”<sup>39</sup>. But this phenomenon is only for a few women in Buganda who happened to belong to the propertied class in urban areas and does not apply to the majority of women in Buganda.

### 2.2 Land Rights and Statutory Law

The British introduced three types of alien land tenure in Uganda as follows: Mailo Land Holding, Freehold and Leasehold<sup>40</sup>. These existed until 1975 when fundamental change overtook them with the enactment of the Land Reform Decree 1975. Freehold tenure referred to the holding of registered land in perpetuity and applied to land outside of Buganda. Mailo land tenure refers to the 1900 Buganda Agreement in which 9000 miles of land were registered in perpetuity and ‘given’ to the Kabaka of Buganda and his chiefs, with some land being allotted to the Queen mother and the Kabaka’s sisters. Apart from benefiting some men and a few women in Buganda, Mailo land was only for a few prominent Baganda men as chiefs, officers, etc who were be close to the Kabaka. It can be concluded that Mailo land tenure was exclusive and marginalising as it kept most Baganda off the land and reduced them to squatters. Surprisingly no one was permitted to occupy and use land even when the landlords were absent (this was a long standing case in Bugangaizi, Mubende). The remaining larger sections of the population continued to settle on their respective land customarily (for northern Uganda the land tenure was and is still primarily communal).

Article 237 of the Land Act 1998 reversed the situation created by the 1975 Decree as follows:

- All land is vested in the citizens of Uganda;
- Customary tenure is now recognised and all customary tenants on former public land, now own the land they occupy;
- All lawful and *bona fide* occupants of Mailo Land, freehold or leasehold land now have security of tenure and are protected by the constitution;
- Mailo and freehold tenure, which were abolished by the 1975 Decree have been restored; and
- Land management and dispute settlement mechanisms have been decentralized to the district and sub-county levels.

The land law reform has guaranteed protection of ‘*Bibanja*’ holders; this has resulted in the construction of permanent houses and other developments. *Bibanja* owners have been able to acquire land titles signifying ownership. However, besides the law, the

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<sup>38</sup> Mulyagonja Kakooza 2001

<sup>39</sup> *ibid*

<sup>40</sup> Jacqueline Asiimwe, 2000 ‘The Challenges of Policy and Advocacy: the case of Land Legislation in Uganda’.



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process has been influenced by several other things, which include capacity to pay for land title, to pay the Local Council (LC) Kanzu<sup>41</sup>, to pay at the Land office (as one needs to negotiate payment at every process level<sup>42</sup>) and to negotiate payment with the Mailo land owner. These activities call for financial resources, which many of the population cannot afford. Therefore even as there may be a friendlier land law, for the poor women and men, legal empowerment has to be accompanied with financial empowerment. Overall, the fact that construction and development is taking place on previously owned *Bibanja* is indicative enough of the peoples positive feelings of empowerment due to the legal intervention.

A history of bad governance and poor politics in Uganda can be said to have negatively affected property rights. It will be recalled that as an act of vengeance, many Baganda in Western Uganda lost their property to acts of vandalism during the late 1970s in the war that expelled President Amin because they, like him, were Muslims. Because there was no way of protecting these families from the terrible acts of violence and death threats, the majority of Muslim Baganda in western Uganda relocated to Kyazanga in Masaka district<sup>43</sup>. In addition, there have been many incidents of land disputes, evictions and wrangles in the districts of Kibaale and Mubende in the recently resettled areas by migrants from Kabale and Kisoro, which seem to do with rivalry and ethnic phobia than with the availability of land.

As indicated above, development projects have on occasion been put ahead of the property rights of the poor as has been the case in Eastern Uganda among the Benet minority group whose forest has been turned into a development project without their consent. In addition,<sup>44</sup> there have been projects initiated politically in which people have been displaced in the name of investment. Issues of governance and representation are at stake in this respect.

Communal/customary land tenure refers to a system of land tenure regulated by customary rules, which are limited in their operations to a particular description or class of persons. Customary land tenure is most common in northern and north-eastern Uganda where most of the land is communally held. The Ugandan law recognises customary tenure as ownership in perpetuity<sup>45</sup>. A study<sup>46</sup> in northern Uganda (where most of the land is communally owned) indicated that the formal tenure system is unfortunately more a danger than a protection to most villagers. Accessing protection for land rights under the formal tenure systems is almost impossible for most of the rural population. The costs of surveying land are too high, exacerbated by the fact that many

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<sup>41</sup> Male Tunic but payable in the equivalent in Uganda shillings

<sup>42</sup> During discussions with land occupants, it transpired that the process of getting title is riddled with corruption and that one has to pay ones way. (Bibanja holders at Bwerenga, Entebbe).

<sup>43</sup> Personal discussion with Hajati Tebandeke, Ishaka Township, Bushenyi.

<sup>44</sup> Part of Mabira Forest in Mukono district was given to investors to grow sugar cane.

<sup>45</sup> Kulata Basangwa p44

<sup>46</sup> Judy Adoko and Levine 2005



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people own a number of small plots, each of which would require separate titling. There are also socio-economic factors because land under the communal system is owned by families and not individuals. There is a strong awareness that giving one person the rights over land free from socio obligations will increase the tendency to sell land, since the temptation to accept money is strong. Customary land ownership is a complex and interlocking set of rights and obligations. Many people, such as wives and children, have claims to land (i.e. land rights) without being the manager or the trustee (or principal owner) of land. According to the aforementioned study, these land rights are in danger when one person has his name put on the land title, moving from being the 'principal owner' or trustee managing the land on behalf of others in the family, to becoming the sole owner. It is emerging that specific tribal areas in Uganda require specific land policies.

The same study further showed that there is a clash between statutory and customary law. The land rights are de-valued in the translation of "ownership" from one language (customary law) to another (formal state law). Under customary law, these rights are part and parcel of ownership; under state law, ownership (usually) rests with one person, with other claims relegated to the status of 'third party rights.' Even if such rights were ever registered, they are likely to be eroded over time with any future land sales or with any development of the land. This aspect calls for further study.

It is therefore recommended that:

- The law on property rights should be redefined as it affects the rural people who may not be in a position to translate and put in practice what the law says. This could be done by way of small booklets in a language people understand.
- For those poor who need to transfer their land to freehold, there is a need for financial assistance or friendly financial transactions.
- There is need for information transfer to the people in war affected northern districts regarding the protection of their property including land and other assets such as livestock.
- There are many people born during the 20 year armed conflict whose right to land will be in doubt and who therefore need specific protection and provisions.

The vulnerability of slum dwellers exposes them to sudden evictions and hampers their livelihoods. There are many people in which this category without a guaranteed employment and income and who have to live from hand to mouth. They generally reside in slums at the periphery of the main city suburbs and construct their shelters on highly congested small-unplanned parcels of land with hardly any basic amenities such as water, sanitation and electricity. This category of the poor is vulnerable to eviction at any time without any compensation during developmental projects. This was the case in Bugolobi (a Kampala suburb in Kampala east) during the recent construction of the new market. Similarly, the construction of the Namuwongo low housing project displaced many squatters who have moved to adjacent land and established a new neighbouring



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slum. These slum dwellers are constantly insecure as they continue to occupy land illegally and dwell in so-called 'illegal' structures. An interview with some women<sup>47</sup> in the slums revealed that not only are they at risk of eviction, but they also risk to lose their cash crops, which are in the gazetted wetlands, on which they depend so much for their subsistence and that of their families.

This aspect calls for protective laws for the vulnerable and for empowerment to enable them recover from the shocks, which they are likely to experience. For instance, the introduction of income generating activities and micro finance can go a long way into alleviating poverty.

### 2.3 Other factors

#### 2.3.1 Armed conflict

The land rights of the IDPs in Uganda need to be upheld. For most part of the war in Uganda, IDPs have been forced to reside in camps for the internally displaced, thus abandoning their land; indeed many have been born and bred in these squalid spaces. National Policy for Internally Displaced Persons<sup>48</sup> spells out the rights to property of the internally displaced persons. Although the policy alludes to 'special protection and support' for vulnerable groups, it does not actually spell out how the land needs of the disadvantaged and the marginalised will be handled. It should be borne in mind that there are many people produced during the 20-year old armed conflict whose right to land will be in doubt and who therefore need specific protection. Men get land from their fathers and women, the marital homes. What is at stake now is the impact the war could have had on the land tenure given the changes which have taken place. For instance, where does a young man born out of rape, whose father is unknown, get his land from? And there are many such young men. What about a woman who has been abducted several times and has had many 'husbands' (for who no bride wealth has been paid)? This calls for a revisit of the traditional practices of acquiring land. Whereas the Acholi may wish to resort to '*Mat Oput*', a traditionally acceptable mechanism for solving conflicts and disputes, it is possible that there are groups that stand to be marginalised by this mechanism. For instance, the unaccompanied minor, the 'fatherless', the widowed and so on. Moreover the war in northern Uganda extended beyond Acholiland into Teso and Lango and some parts of West Nile. It is not clear if those communities would accept the use of *Mat Oput* for conflict resolution. This aspect calls for transparency especially bearing in mind that the UPDF has been accused in the past of 'stealing' land belonging to the IDPs in northern Uganda. There is need for laws and policies that address the needs of particular situations.

There is therefore the need for an accepted, transparent and formalised mechanism for conflict resolution by all stakeholders.

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<sup>47</sup> Women self help group in Kanyogoga, Namuwongo.

<sup>48</sup> Office of the Prime Minister 2004 The National Policy for Internally Displaced Persons  
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### *2.3.2 Land Management and Dispute Settlement Mechanisms at District and Sub-County levels*

The representation of the poor in decision-making is minimal. Article 32(1) of the Constitution provides for women representation on major land committees, such as the Uganda Land Commission, which currently has one female out of five members, the District Land Boards and District Land Tribunals.

With one woman out of the total five, the gender representation of the land tribunals at the district level is skewed in favour of men. Moreover, on the tribunals there is no representation for orphans, people with disabilities and other marginalized groups. There is a need to enact byelaws to address this anomaly. This is contrary to the Land Act 1998, which requires land management institutions to have some female members. The Uganda Land Commission should have at least one female out of its five members, 1/3 of the membership of district land boards should be female, and land committees at parish level should have at least one female out of four members.

Another issue concerns the chairperson of the Land Tribunal. At present, the chairperson is in charge of seven districts meaning that the justice process will be delayed for the people trying to access it; and yet most cases need to be dealt with expeditiously. Furthermore the Local Council Act 2006 (family and land issues) is not gender sensitive. There is no requirement that land tribunals, responsible for adjudicating land disputes, be gender balanced.

There is need for, not only gender sensitive dispute settlement mechanism, but also a pro-people mechanism, which shall ensure that the interests of the orphans, unaccompanied children, the elderly and other vulnerable groups are taken into account.

### *2.3.3 Mistrust*

In a study<sup>49</sup> of land access in Apac and Lira (northern parts of Uganda) it was found that although the Land Act provides for ways of applying for certificates of customary ownership, the implementation of the Land Act has not yet institutionalised the provision of these services. In addition, the communities fear that the rich will use the title and the certificates to steal land from them. Additionally, the process of acquiring title for land is an expensive one, particularly in view of meagre rural incomes. This is exacerbated by the fact that most people own many pieces of land not adjacent to each other, which makes the process of certification quite expensive. Finally, there is a high degree of mistrust of government intentions on land by the population in Apac. People fear that acquiring certificates will lead then to loose land or be taxed on the land (this fear is real as the PMA 2000 explicitly mentions the need to generate revenue through land and property taxes).

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<sup>49</sup> Adoko and Levine 2005



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### **3.0 Theme Three: How can new approaches and reforms facilitate convergence between formal legal systems and existing extra-legal rules and systems?**

New approaches and reforms can facilitate convergence between formal legal systems and existing extra-legal rules and systems through the following ways:

#### **3.1 Revisit land law and social sector policies**

- In land matters, there is need for streamlining the jurisdiction process, between the formal legal mechanisms and extra judicial ones. For example, by the time a case is taken to civil society and other pro-poor advocates, it has changed hands several times, which can have severe consequences especially for widows and orphans on its progression through the formal legal mechanisms;
- Expedite the legal reform process to enable confidence in the transition between informal and formal legal systems. For example, it transpired from the focus group discussions that there have been unnecessary adjournments of important Land Tribunal cases (in one case a case has been adjourned for several months until March 2007). This can increase the lack of confidence in formal legal measures to address inequality.
- Improve record keeping and tracking at the Local Council (LC) offices. LC's are one attempt to merge informal and formal systems of governance and dispute resolution – but unfortunately the system is not working as well as it could be. For example, currently trying to obtain any records from a LC office is a nightmare. There is need for a functioning records system if the marginalized in society will be willing to subject themselves to the authority of the LC system.
- There is need to synchronize key policies within the broader policy framework. An example of this is the case in northern Uganda in which resettlement of IDPs is being effected outside of the formal IDP Policy.
- Amending the law to cater for the needs of the people with disabilities, the refugees and internally displaced persons and others in the lower socio-economic strata.
- The socio- cultural and traditional patterns of property inheritance favour men as opposed to women. These attitudes cannot change over night. There is need for a steady and progressive attitude towards behaviour change in this regard. Education of the girl child could be one way towards changing the rigid attitudes – whereby education acts as a vehicle to formalise the right attitudes to issues such as gender, and eventually promoting pro-gender policy in established formal legal settings.
- Most sections of the Local Act require interpretation by qualified lawyers. And yet many officers working in Local government in districts are not lawyers. They therefore fail to interpret the law appropriately. There is need for capacity building in conflict resolution for people working in this sector.



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- Through civic education in the informal sector, it is expected that people will be informed of the policies, the law, etc. Government can borrow a leaf from the civil society and implement a national programme on civic education.
- There is need to promote Information, Education and Communication (IEC) through the media, posters, and school curriculum – but in a manner that accommodates cultural norms and traditions. In this regard Community Based Organisations (CBOs) can be relied on to carry out awareness sessions through drama and plays.
- The laws should be translated into local languages, read and understood.

### **3.2 Promote Intellectual Property Rights**

The area of intellectual property rights is illustrative of this problem and is therefore showcased in this paper as a good application of the failure of convergence between informal and formal legal rules and systems. Intellectual property rights refer to things or items in which people have put their ideas, intellect and thought as a way of self-expression or creation. These products are protected by law and once protected; the originators are given certain rights over their creations/production.

In Uganda a few cases of technological and scientific innovation have taken place within the fields of health, agriculture, music, energy, indigenous knowledge, etc. The exact statistics could not be established at the time of drafting this paper. Legally however, intellectual property rights are protected by the Constitution. There is a law for patent and copyrights to protect intellectual property rights (IPRs), which are administered by the office of the Registrar General. An interview with an official<sup>50</sup> at the Uganda National Council for Science and Technology (UNCST) indicated that UNCST offers advisory services to those who want to protect their innovations on technical content and procedures. However judging from the number of beneficiaries who were approaching UNCST, it was indicative of lack of knowledge about the existence of the services available to protect potential IPRs. Another problem was the high costs of the granting process. The following are the observations about this process:

- There is need for educating the public about the significance of intellectual property rights.
- The process for obtaining patent laws is expensive and cumbersome, and therefore there is need for reducing the cost to enable the stakeholders access the services.
- There is a need to empower the poor with knowledge. The interviews indicated that on the whole, Ugandans do not know the law (and consequently their rights). There is therefore the need to teach an average Ugandan the law. With proper funding, several NGOs within the civil society play this important role.

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### **4.0 Theme Four: How can property rights incorporate and recognize indigenous norms and structures (combining legitimacy and legality)? How can user rights, collective rights and communal rights be recognized and protected?**

#### **4.1 Work with people at the grass roots.**

A recent study reported that: “[If] you find the groups ... you have found the poor”; *Exploring the Dynamics of Community Based Organizations in Arua and Kabale*<sup>51</sup>. This study is of the view that the needs and interests of poorer people are directly or indirectly represented through community-based organizations and that working with CBOs is therefore a route to poverty reduction. There is a need to ensure partnership between government and CBO’s in formulating property policy towards ensuring that the rights of indigenous/cultural groups are fully recognised.

#### **4.2 Implement Affirmative policies for the benefit of previously marginalized groups**

There is need to recognize the marginalized entities such as the pygmies, the Batwa and Benet and to get them to participate in development projects that concern/affect them. As has been previously mentioned, there are a number of development projects that are undertaken that do not fully take into account the property of marginalized. This can be land, property on land, artifacts and other important aspects – such as in the area of IPRs. Representation of such groups in Parliament (in a way women, minority and youth are represented) would go a long way to ensuring that their property rights are fully recognized (even enshrined in legislation). Currently, these groups do not have any meaningful representation in Parliament.

Finally, since there is little that has been written about the indigenous groups in Uganda, it is proposed that detailed research be conducted to inform the public about their specific needs. This should include recognition of their rights in the current property regime.

#### **4.3 Law Reform Efforts championed by relevant civil society organisations**

Civil society could play an important pressure group role towards incorporating property rights through the vehicle of law reform. The aforementioned discussion highlights many instances where there is a need to bridge property rights (in a formal set up) and indigenous (and other rights) in an informal setting. Generally, representatives of the latter are not part of the law reform process. This role could be assumed by relevant civil society organizations acting on behalf of the marginalized unheard voices.

#### **4.4 Ensure effective legislation for user rights, collective rights and communal rights**

These can be recognized through a deliberate effort of teaching the masses about user rights. This can be done by government, the community based organizations (CBOs)

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<sup>51</sup> Community Development Research Network and CARE, 2003 “ Find the groups and you have found the poor?” exploring the dynamics of community based organizations in Arua and Kabale.



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and NGOs. The process should be followed by putting in place legislation and policies that enhance recognition and protection.

### **4.5 Codify customary law**

There is need for a thorough and detailed study of the customs and norms of the 52 ethnic groups in Uganda. It is only when this is done that we shall refrain from making generalizations of customary law. Customary law in Uganda needs to be codified - as long as it is non discriminatory.

### **Conclusion**

The foregoing is a discussion of the legal status of property rights of the poor and the impact it has on their capacity to create wealth. The discussion attempted to address the following thematic areas with a view to articulating appropriate policy solutions to the questions posed:

- How can countries create an inclusive enabling system of rights, obligations and enforcements surrounding the rights to property and other assets that addresses the interests of marginalized groups?
- What barriers preclude men, and especially women from owning and exercising their rights to inheritance, property and other assets?
- How can new approaches and reforms facilitate convergence between formal legal systems and existing extra-legal rules and systems?
- How can property rights incorporate and recognize indigenous norms and structures (combining legitimacy and legality)? How can user rights, collective rights and communal rights be recognized and protected?

The paper is of the view that countries can create enabling system of rights surrounding the rights to property and other assets as follows: ensuring harmonization between the international, regional and national law. The Uganda Constitution has been seen to providing for property rights of the poor. The paper has noted that although the legal framework for property rights is in place, the implementation of policies is insensitive to the needs of the poor. In as much as customary law is part of the national law, the negative aspects of customary law denies women the rights to access and control land and other matrimonial assets. In addition, while the law to protect children abounds, the implementation is not sufficient. People with disability especially those in war affected northern Uganda lack protective legal measures. This process calls for ratification and domestication of the laws as well as correctly implementing the policies.

Barriers to property rights include, inter alia, customary (inheritance laws that prefer males) and statutory (which refer to names of ownership – meaning money), insecurity in conflict affected northern Uganda, ignorance of the law, armed conflict in northern Uganda, mistrust and poor representation in decision making.

With regard to new approaches and reforms, men and women operating in the informal sector can be adequately protected through a revisit of the law and social sector policies, which must include them – taking into account their valid, different idiosyncratic



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practices. The paper has briefly discussed the issue of intellectual property rights and noted that the innovators lack knowledge (and financial support) on the issues of patents and property rights, which calls for further action in this area.

The last section of the paper recognizes that the minority groups such as the Batwa, Pigmies and Benet are marginalized – and are not represented in the national Parliament. The paper recommends their inclusion as a representative group in Parliament. Recommendations in the section include, working with people at the grass roots, affirmative action policies, and codification of customary law, research, and law reform.



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### Appendix 1: International Standards and Codes that address property rights of the poor and the marginalised

International Standards and Codes	Signed (Date)	Ratified (Date)	Adopted (Date)	Applied (Date)
Convention on the Elimination of all forms of Discrimination against Women	30 July 1980	22 July 1985	1979	
Optional protocol (CEDAW)			6 October 1999	
Equal Remuneration Convention			28 July 1951	
Convention on discrimination on employment and occupation			15 July 1958	
International Convention on civil and political rights (ICCPR)	Not signed	Accession 21 June 1995		
Convention on the Rights of the Child	17 August 1990	17 August 1990		
Optional Protocol to the CRC on the sale of children, child prostitution and child pornography	18 January 2002	Accession 30 Nov. 2001		
Convention Against torture and other cruel, inhuman and degrading treatment or punishment		Accession 3 Nov. 1986		
Convention on the Rights of Children in Armed Conflict		Accession 6 May 2002		
UN Convention (1949) on trafficking in women			2 Dec. 1949	
Universal Declaration of Human Rights				
UN 1325 Resolution on Conflict prevention			2000	
Optional Protocol to the CRC on the involvement of Children in armed conflict		Accession 6 June 2002		
Declaration on social and legal principles relating to the protection and welfare of children, with special reference to the Foster placement and adoption nationally and internationally		3 December 1986		
Other international and regional instruments/declarations (specify – health, education, armed conflict)				



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Convention against torture and other cruel, inhuman or degrading treatment or punishment (CAT)		26 June 1987		
Convention Governing Refugee Problems in Africa (OAU 1969; also UN 1969)				
International Labour Organization (ILO) Convention 182 concerning the prohibition and immediate Action for the Elimination of the worst forms of child labour				
ILO Convention 183 concerning the minimum age for admission to employment				
Declaration on elimination of Violence against Women	No signing required		20 Dec. 1993	
World Summit on Sustainable Development (WSSD) Johannesburg			2002	
Beijing declaration and Platform for Action			1995	
World Summit on Social Development Plan of Action (1995)			1995	
United Nations Millennium Declaration			2000	
United Nations Declaration on the Right to Development				
<b>Regional standards and codes</b>				
Right to Development in the African Charter on Human and Peoples' Rights (1981)	18 August 1986	10 May 1986	June 1981	
The protocol on the Right of Women in Africa	18 August 2003	Not ratified	11 July 2003	
African Charter for Popular Participation in Development (1990)			16 December 1990	
The African Charter on the Rights and Welfare of the Child (1990)	26 February 1992	17 August 1994	11 July 1990	
Constitutive Act of the African Union (2000)	25 Feb. 2001	3 April 2001	11 July 2000	
The Abuja Declaration on HIV/AIDS, Tuberculosis and other related infectious diseases				
African Charter on the Rights and Welfare of the Child (ACRWC)	26 Feb. 1992	17 Aug. 1994	21 October 1994	
Covenant on Economic, Social and Cultural Rights (CESCR)		21 April 1987		
Covenant on Cultural and Political Rights (CCPR)		21 Sept. 1995		



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Optional protocol to the International Convention on Civil and Political Rights (CCPR-OP)		14 Feb. 1996		
Convention on the Elimination of all forms of Racial Discrimination		21 Feb. 1980		
International Labour Organizations Conventions 100 (equal remuneration), 111 (discrimination at the work place), 183 (maternity protection at the work place) and code of practice on HIV/AIDS			14 February 1960	
NEPAD Framework Document			2001	