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(Wo)Men's Land

Land Policy Development and Land Reform in Tanzania, Kenya and Uganda

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Abstract

In this thesis, the currently much debated issues of Land Policy Development and Land Reform are discussed. The authors use existing theories on the topic and these are then applied on three East African case countries; namely Tanzania, Kenya and Uganda. The authors recognise the especially deprived role of women's land related rights and this matter is given extra attention.

It is concluded that the three countries do recognise land reform as one of the main means in fighting poverty and achieving economic growth. Many different policy sectors are much dependent on how land is used, not at least the agricultural sector which accounts for providing the absolute majority of these countries' populations with a livelihood.

The important role of women is also taken seriously upon, at least in the political rhetoric. In the statutory laws, women have been given the same rights as men. However, in the rural areas, it is customary rules and attitudes that are followed, leaving women with few rights or options to decide over their own situation.

Key words: Land reform, Land policy development, East Africa, Gender

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List of Abbreviations

EISA	Electoral Institute of Southern Africa
ERSP	Economic Recovery Strategy Paper
FAO	United Nation Food and Agriculture Organisation
IDRC	International Development Research Centre
IFAD	International Fund for Agricultural Development
IITA	International Institute of Tropical Agriculture
IMF	International Monetary Foundation
KRDS	Kenya Rural Development Strategy
LDC	Least Developed Country
LPD	Land Policy Development
LSSP	Land Strategic Sector Plan
MDG	Millennium Development Goals
MISR	Makerere Institute of Social Research
NAADS	National Agriculture Advisory Services
NALAF	National Land Forum
NGO	Non-Governmental Organisation
NSGRP	National Strategy for Growth and Reduction of Poverty
PEAP	Poverty Eradication Action Plan
PMA	Plan for Modernisation of Agriculture
PRSP	Poverty Reduction Strategic Paper
PSD	Private Sector Development
RDI	Rural Development Institute
UN	United Nations
UNCED	United Nations Conference on Environment and Development
VISION25	Tanzania's Development Vision
WB	World Bank

1 Land Reform in Africa

The aim of this first chapter is to introduce the reader to Land Policy Development (LPD) by giving a short description of land's essence in developing countries. We discuss previous research on the topic with which help we can contextualise our research question and discuss the purpose of this study and its given limitations. Finally, we present the outline of the thesis.

1.1 Land, Development and Sub-Saharan Africa

Sustainable agriculture and rural development are essentially a function of the way in which people organize their social, environmental, economic and political systems to determine who has the right to use which resources, in what ways, for how long and for what purposes (Manji, 1998, p 662). An estimated 45% of the world's population makes their living primarily from agriculture (Prosterman and Hanstad, 2003, p. 1). In many developing countries, agricultural families constitute the majority of the population. However, great numbers of these families earn their living as tenant farmers or agricultural labourers and lack a secure relationship to the land they farm. Nearly all tenure insecurity issues are basically situations where the rights of cultivators, considered as unitary households, require definition and protection as against the rights or powers exercised by private land lords, plantation owners, collective farm managers, local cadres, the state or other external actors. There are thus many reasons why governments in developing countries initiate LPD processes that lead to land reform; to improve productivity in the agricultural sector, reduce poverty and/or allocate the land in a more equitable way. In addition, there exists an important intra-household land tenure issue which is the gender issue. This concerns the relative land rights and powers exercised by wives, daughters, widows and female heads-of-households.

In this light, the international community has shown a renewed interest for the issue of land reform and economic development. The following quote further reflects the importance of land issues in poor countries.

Land provides livelihood, determines status and provides a sense of belonging within a village [and] is thus of economic, political and symbolic significance (ibid).

1.1.1 Land Issues in Sub-Saharan Africa

The issues of land ownership and land reform have been particularly pressing in Sub-Saharan Africa, given the regions poor economic performance and the fact that individualised ownership are not yet fully accepted here (Besley, 1995, p 904). Today, however, nearly every government in this region is engaged in some type of land reform. Like many other African countries, Tanzania, Kenya and Uganda have in common that they are in a transformation process where traditional systems of land rights are being exchanged to modern systems where claims of the individual are emphasised (Palmer, 1999, p. 1). For traditional tenure systems, the allocation and transformation of and control over land within the communities and families are mostly determined based on marriages, inheritance laws and practices. With private property tenure, on the other hand, the most significant determiner in land transfers has shifted to market forces and commercial transactions (ibid.).

Located in East-Africa, Tanzania, Kenya and Uganda share comparable geographic and climate endowments and have all a similar history with a British colonial heritage. The three countries have been characterized by a stagnating economy with large budget deficits, a bolting population growth, high unemployment and growing inequality. Agriculture is still the most important economic activity and the majority of the people are small rural peasants. Having only approximately 20% of arable land (Todaro and Smith, 2003, p. 15f), the countries must be increasingly productive in order to meet an amplified demand for food. This is impeded by fragmented landholdings, increasing environmental degradation and burdensome governmental involvement in the purchase, sale and pricing of agricultural output (ibid.).

1.1.2 Land Rights and Women in Sub-Saharan Africa

Women in developing countries generally own and control fewer assets than men, have poorer access to financial services and lack the information, technology and capital needed in order to start earning money and to make investments (WB, 2001, p. 52). Even though women's right to own land is stated in the statutory law, there often exists a discrepancy between such laws and customary practices. The latter, which is expressed in local norms and attitudes, normally has greater influence over the people than the former. Thus, even if a

country's existing land laws are supposed to be gender-neutral and women in theory have legal rights to own land, customary laws often discriminates women in all aspects of life. Hence, such norms result in that women are in general denied title to land (WB, 2001, p. 120f).

The one sided ownership of land have hurt the Sub-Saharan Africa societies severely. In a continent where urbanisation and HIV have increased female headed households, the negative effects of gender discriminating land laws are even stronger than in other developing societies. In addition, female-run farms and enterprises are less well-capitalized than those run by males which leave women in a vulnerable position (WB, 2001, p. 52). In this context, if special attention is given to the relation between customary practices, women and land reform, the latter can be an important instrument in enhancing women's rights.

1.2 Previous Research

Over the past decades, there has been a lively debate about the role agriculture have had and still has in economic development. It is not our aim to give an account of this debate, but rather describe how the situation looks today.¹ The right to use land has been central in most civilisations and, thus, the history of property rights and land reforms stretches centuries back. During the past 50 years, land reform has been put in context with economic development. International institutions such as the World Bank (WB) and the International Monetary Foundation (IMF) have together with innumerable private Non-Governmental Organisations (NGO) studied and published an enormous amount of articles and other literature on this subject.

For more than two decades, Sub-Saharan Africa has been the focus of a lively debate on whether governments should intervene to privatise land rights in areas of traditional tenure (Hunt, 2004, p. 173f). Those in favour argue that such a transition will lead to more efficient land use and higher rates of investment in land which in the long run will underpin both the development of a land market and enhance credit supply to farmers. Opponents of such

¹ We refer the interested reader to for example the article *Agricultural Productivity Growth and Poverty Alleviation* by Irz et al. which treats how changes in agricultural production may affect the numbers of poor and the depth of their poverty. Another well written and informative article that gives a good overview of the agricultural debate in Africa is *Agricultural Growth Linkages in Sub-Saharan Africa* by Delgado et al.

privatisation argue that property rights evolve endogenously in response to changing resource pressures. Furthermore, they believe that outcomes of promoted privatisation are likely to be inequitable and the benefits are unlikely to justify the costs (Hunt, 2004, p. 174).

In his influential work *The mystery of capital*, professor Hernando de Soto even takes his argument as far as to saying that the key to the economic development in the West has been the establishment of a formal, comprehensive, generally accepted and generally accessible system of property rights. According to De Soto, people in developing countries do own houses, goods and land but the usefulness of these assets stops with their immediate physical functions. Thus, a system that acknowledges property ownership, allows physical assets to lead a parallel life as it facilitates transactions, such as credit use, which lead to the production of additional value or *surplus value* in De Soto's terminology (De Soto, 2000).

Ultimately, De Soto argues that as long as economic agents agree upon the value of the property, an important characteristic of the property-based creation of money is that it is non-inflationary and, thus, can be used to finance and generate additional production that will contribute to economic growth (De Soto, 2000, p. 65). Although there are different views in how to deal with land issues, empirical evidence speaks its own language. As it is concluded in The World Bank Policy Research Report *Land Policies for Growth and Poverty Reduction* (2003, p. 3)

A brief review of evidence across the world's main regions illustrates not only that close links exist between land policy and economic growth, poverty reduction, and empowerment, but also that during the last decade, the relevance of such policies has increased considerably for a variety of often region-specific reasons. Therefore, despite the complexity and long-term nature of land policy issues and the fact that they cut across different institutions, there is now increasing recognition that, in view of their far-reaching implications, ignoring them can jeopardize social peace and efforts at long-term, sustainable development.

Even if land policies are widely studied, women's rights to own land tend to be neglected. In previous studies, empirical evidence show that women, compared to men, are more likely to reinvest their money in productivity increasing assets. Furthermore, there is a positive linkage between women's control over land and food security within the family, the latter which has an impact on many other societal spheres, such as productivity, education, etc (Akinyi-Nzioki,

2006, p. 1f, 4). The relation between female household heads and the fact that they rarely own the land that they cultivate may seriously hinder the development of a productive agricultural sector and ultimately harm a whole country's economy.

1.3 Our Research Question

Almost all Sub-Saharan countries have initiated LDP processes as a mean to alleviate poverty, enhance the standard of living for rural peasants and create a sustainable economic development. We have chosen to compare the institutional frameworks, and their preceding debates, of Tanzania, Kenya and Uganda. Our specific research question is dual:

- *What is the background of LPD in our three countries and how can we interpret these documents in terms of poverty alleviation and economic development?*
- *To what extent has women's exposed situation been addressed in the LPD documents?*

1.4 Purpose, Generalisations and Delimitations of the Study

Our purpose with this thesis is to create three different country profiles and compare their differences and similarities when it comes to LPD. We have deliberately constructed our research questions very broadly as it would have been impossible for us to find the data needed in order to conduct a study with a narrower research question. As a consequence, and as a cause of limitations in time, our ambitions to find revolutionary results are relatively modest. We will update the reader on the latest research in the area of land reform and simultaneously extract the gender related data from these findings. Hopefully our conclusions will concur with the existing research on LPD and land reform.

1.5 Outline of the Thesis

We have now introduced our topic and our research question. In the following chapter we will present and discuss our theory on land reform. Here, we will define central concepts and describe LPD and land reform. In chapter three, we have a methodological discussion with which we want to enlighten the reader with our research process. Chapter four is our

empirical part in which we present the reader with country specific data from our three case countries. We will describe and discuss their history, their LPD processes and where they are today. In our fifth and final chapter we summarise our findings and give our concluding remarks; both how to interpret our results and personal reflections from the research process.

1.6 Methodological Approach

When we started looking for a topic, we were both interested in the development problematic in Africa and how its colonial past influences policies today. As international institutions such as the World Bank and the IMF have put a lot of resources into land issues, it did not take long for us before we decided to study land reform. Much has been written on the topic and there is a broad selection of theoretical literature at our disposal.

In our point of view, all research should be based upon previous research, but not be limited by it. In this sense, we felt it important to contextualise our problem with what has been studied previously on our topic. As the main part of the previous research fails to take into account the importance of gender matters, it was this hole in the literature that motivated us to write our thesis with a gender perspective. Many African countries have recently conducted land reforms and we did not find it hard to motivate our choice of topic on the ground of actuality, rather the opposite. The choice of East-Africa was based on access to literature, language and Swedish presence, all in order to make our data collection possible.

1.6.1 The Comparative Case Study

Our methodological approach stems from the fact that it is hard to collect sufficient empirical data to regression tests on different variables, or even to do a qualitative one-country case study, from Sweden. As a consequence, we chose to study three countries with similar colonial heritage, economic situation, and geographical conditions, all located in East- Africa. Thus, we classify our study as a comparative case study (Esaiasson et al., 2003, p. 111). Our study have a the character of a literature survey where we will go in and examine different policy documents in order to pinpoint to which degree gender matters have been considered in the three countries respectively.

1.6.2 Material

The absolute main part of the material that we use will be secondary. In general, we have extracted both our theoretical and empirical findings from other studies and furthermore, we have used different policy documents from the three countries that we study. As we use other researches writings, we will never be able to escape from their partiality at the time of writing. In order to avoid misrepresentation as a cause from having used to one-sided material, we have put much energy on searching for material and we have deliberately tried to gather information from large and well respected organisations such as the UN and the World Bank. However, we have also used information from smaller NGOs such as the Overseas Development Institute (ODI) that are more oriented to the sole topic of land. We have always, but perhaps even more during the latter type of source, been very critical in our approach to our sources.

A diversity of different publishers is represented in the material used in this study and we feel that this has given us a relatively objective platform to work from. In the end, we hope that this will strengthen the study's validity.

1.6.3 Degree of Generalisation

We believe that a comparative case study, even with just a few research objects, can both test and build upon existing theories on gender and land reform. This is a nomothetic aim which is in accordance with the research ideal of Esaiasson et al. (2003, p 25). Harry Eckstein, in who's terminology our study would be named a "heuristic case study" (1975, p 99f), agrees with the logics of Sydney Verba: "The unique explanation of a particular case can rest on a general hypothesis" (1975, p 99) but continues "if the interpretations of a case are general laws correctly applied to the case, the interpretation may be valid or invalid, depending on whether the laws are valid" (ibid., p 100). Even if this implies the importance of theory, it does not reveal everything about the relationship between the general theory and particular case interpretations. King, Keohane and Verba quite strikingly translate this relationship into words (Esaiasson et al., 2003, p 25):

Generalization, however, does not eliminate the importance of the particular. In fact, the very purpose of moving from the particular to the general is to improve our understanding of both.

The theory can only be valid if it permits strict deductions to be made. Eckstein puts it: "...provided that the application is truly 'disciplined', i.e. designed to show that valid theory compels a particular case interpretation and rules out others" (1975, p 103). We agree that theory needs to compel a certain interpretation for more than one case in order to be valid. Being aware that strict "discipline" is seldom the case (Eckstein, 1975, p 104), we will not be able to falsify the theory with one case, or even a few cases. However, this does not mean that a single case study is meaningless. If the theory is applied correctly and the results are supported, it strengthens the validity of the theory. If our results are not supported by the theory, hopefully we will be able to identify why and thereby add new issues that have to be considered in the theory building process.

1.6.5 Result Validity

As we have chosen to conduct our study on only three countries in the same region, we have to be aware of the difficulties of observer bias, meaning that we as researchers only see what we want to see. In this sense, falsifying the theory must be seen as positive and strengthen the presence of intersubjectivity, and hence, our result validity (compare to Eckstein, 1975, p. 124f). Hence, we should not despair if our empirical findings do not correspond to our theoretical assumptions. On the contrary, this is probably more positive than negative and will result in us having more blocs for theory building.

2 Theoretical Approach to Land Reform

In this chapter, we will define LPD and land reform, describe different types of land reform and discuss their effects and benefits. We will also put these effects in connection to economic development. Finally and most importantly, we will examine and highlight the importance of taking gender aspects into consideration when initiating LPD processes.

2.1 Definition of LPD and Land Reform

Due to differences in land types, farming methods, the history of land acquisition, general socio-economic environment and political aims; land reform is not easily defined. Yet, a definition is important since some land reform policies are not intended to change the distribution of land ownership and rural power.

Oxford Professor Doreen Warriner has defined land reform as “*the redistribution of property or rights in land for the benefit of the landless, tenants and farm labourers*” (1969). As this is a rather narrow definition, reducing land reform to its simplest element, we have chosen to use the broader definition of Prosterman and Hanstad from the Rural Development Institute (RDI) (2003, p. 1): “*reforms that increase the ability of the rural poor and other socially excluded groups to gain access to land and to exercise effective control over land*”. The goal is, then, that land reform beneficiaries get ownership of their individual family farms or have owner-like tenure.

Land Policy Development is on the other hand even broader. The need for LPD comes from the realisation of that “resolving the land question” cannot be done by piecemeal reforms of individual components but rather needs a long term strategy that takes into consideration several aspects and linkages related to land (Akinyi Nzioki, 2006, p. 6).

2.2 Land Reform – How Are They Designed in Practice?

In several ways, how and to whom property rights are designed have implications on efficiency and economic growth in poor areas. Economic arguments favouring land redistribution focus on the diseconomies of large-scale farms and on the need to increase returns to land.² Owner-operated farms are more efficient than wage labour operated or collective production structures to the extent that the former provides more incentives to invest which in turn affects the productivity, and thus, the rate of growth. Secure ownership of land also enables land to function as collateral which allows the poor households to receive credits and further invest in their land (Deininger and Feder, 2003, p. 3).

As we have implied above, land reform looks different depending on its design and where it takes place. Economists may be influential but the final decisions whether to proceed with land reform or not is essentially political and depends on geographical, historical and socio-economical structures (Adams, 1995, p 2). Four principal types of intervention by the state in the operation of land market can be distinguished: *land reform*, *external inducements*, *external controls* and *confirmation of title* (Adams, 1995., p 3).

In Africa and elsewhere in the developing world, before initiating land reform, many developing countries have created National Land Committees with the purpose of evaluating existing land laws and making policy recommendations for new ones. These committees also often organise and supervise the use of land-related rights such as the conversion of more informal tenancy into formal property rights. In other words, these committees build the ground on which the LPD is to stand on and that in the end, will result in full scale land reform as defined above. Confirmation of land title is often used as a compliment to land tenure reform. This is a measure used in order to verify and secure land titles to those who have already demonstrable claims. Some of the expected results are reductions in doubts and contentions over land which hopefully should lead to that resources are used in order to increase land's productivity instead of putting energy and capital into defending it (Adams, 1995, p 3).

² This will be further discussed in subsection 2.3.2.

While land tenure reform is more a form of direct state intervention, external inducements are rather the creation of market-based incentives given by the government leading to the restructuring of existing property rights or the creation of new ones. Into this category we can include among others the distribution of public lands, state sponsored credits and government support to institutions in order to administer land acquisition and necessary distribution mechanisms. The opposite of external inducements are external controls. This measure has been widely used in for example Zimbabwe and in South Africa and is most commonly recognised by the creation of prohibitions imposed by law on property rights and include redistribution policies involving expropriation of land (with or without compensation) on grounds of excessive size, under-utilisation and ownership by absentee landlords and/or foreigners (Adams, 1995, p 3).

2.3 Contentious Issues on Land – Discussed from a Gender Perspective

In a recent study presented by the Food and Agricultural Organisation of the United Nations (FAO), it was concluded that poverty, inequality and food insecurity are the most crucial and persistent problems facing humanity and that their alleviation is, or at least should be, at the heart of any meaningful development effort. At the same summit, a set of major land-related changes affecting economic development was pointed out (Stamoulis, 2001):

- Changes in the role and functions of the state and implication for food, agriculture and rural development.
- Persistence of poverty, mounting inequality, food insecurity and continuing risks of emergencies.
- Population growth, urbanisation and related changes in demand on agriculture such as increasing pressure on natural resources and the environment.
- Development and inequality of access to research and technology.

As we have mentioned, it is not possible to define land merely as a factor of production. Land also has a political significance as it symbolises status and therefore power. In this light, the highly uneven distribution of land is one of the main determinants of a country's unequal levels of income and wealth and it makes redistribution of land a very sensitive matter and when done, it must be done with great care. Furthermore, as land is linked to many different

policy sectors such as agriculture, forestry, environment, etc. it has been common that governments in developing countries have created National Land Policies (NLP) in order to incorporate these sectors and thereby enable a sustainable use of land in the long term.

However, history has shown us that when more policy sectors are incorporated in the NLP, land reform becomes more complicated and the redistribution process becomes embedded in difficult juridical procedures. This results in that it will be harder for those who need the land the most to grab hold of it as they lack the knowledge of such procedures. Moreover, there is a linkage between poor administration and corruption, often resulting in large landholdings ending up in the hands of political elites (Deininger and Feder, 2003, p. 6). Thus, without transparent institutions and efficient land administration that provide fair access to land, the society will be characterized by inequality which will undermine the democracy and reduce the agricultural productivity and efficiency (Deininger and Feder, 2003, p. 3). Reversely, by being owners of their land, people improve their social and economic status and their collective identity, giving incentives to increasingly participate in political and economic forums which will strengthen the democratic process (WB, 2003, p. xx). This is especially important for women in order for them to oppose discrimination and to enable their participation in the political life and strengthen their freedom of voice. As it is today, to a greater extent than men women are illiterate, lack social networks and have no money and are thus unable to improve their own situation.

2.3.1 The Problem of combining Statutory and Customary Laws

A very difficult problem related to land in Sub-Saharan Africa is that people are not organised in Western styled societies. Only a small percentage of the used land is constantly used by the same persons. Especially in many rural communities, where people follow customary rules, many people live as nomads or at least, use different plots during different times of the year. It is therefore not possible just to overrule customary rules with statutory laws; they need to be integrated. In the first step of such integration, customary tenure must be recognised and valued equal to other types of tenure. In other words, customary tenure must include titling and be fully convertible into other types of tenures (compare to Mwebaza, 1999, p. 10). Furthermore, traditional authorities and leaders cannot be replaced by statutory laws. These old institutions and their practices, which the majority of the rural populations live by, must

be considered when creating new institutions such as dispute settlements and registration offices (ibid. p. 11).

Even when customary land is acknowledged, the difficult question of women's status under traditional rules remains. In most Sub-Sahara African communities, statutory law declares that men and women have equal rights, that women have inheritance rights and that both men and women have the right to own properties. There is, however, often a discrepancy between such laws and customary rules, the latter often being more influential than the former. Hence, women married under statutory law are found to be ruled by customary family and inheritance laws (Lastarria-Cornheil, 1997, p. 1321). In the end, women's legal rights are often ignored and they are often deprived of title to land (WB, 2001, p. 51).

The access that women do have to land, most commonly depends on the relation that they have to their male relatives and the existing practices in the region. Female children rarely inherit land and women's rights often stop with cultivation rights. As long as a woman is married, her husband is responsible for providing her with land but in case of separation or divorce, the woman loses the cultivation right to her husband's land. As an example, a recent study of 300 Ugandan rural households showed that only 9 % of the women had inherited a parcel of land compared to 77 % of their spouses (Lastarria-Cornheil, 1997, p.1322). In addition, polygamy is widespread in many developing countries and it is not unusual that men leave their older wives for younger new ones. It is then the wife, left without land or income, who is responsible for the children and especially female children are put in a highly vulnerable situation.

A further implication is that AIDS is widely spread in Sub-Saharan Africa and has brought with it high death rates. If a man passes away, his male children will inherit before his spouse. Widowed women are usually allowed to farm but not own land which is registered in their husband's name, and sons who inherit land can legally sell it without their mother's consent. This often results in widows being left without a livelihood (WB, 2001, p. 120).

2.3.2 Land, Agriculture and Rural Development

As the majority of Sub-Sahara Africa's rural populations lives of farming, an important ingredient in achieving sustainable rural development is to secure legal access to assets for the land poor. The contribution of land to Sub-Sahara African countries' GDPs exceeds that of any other production factor (Akinyi Nzioki, 2006, p. 7). However, when property rights are lacking or insecure, farmers cannot be sure of that they will benefit from their efforts and therefore *lack the incentives to work hard and invest* in sustainable practices of land management. The result might be land degradation and soil loss with further implications for food security, water resources and the conservation of biodiversity. In the end, such a development could threaten the livelihoods of millions of people. A step towards breaking this vicious cycle that links the degradation of natural resources to poverty, is by ensuring that the rural poor gain secure access to land, water, credit, information and technology (IFAD, 1996, p. 2f). The transition from collective to individual rights has shown to have major impacts on agricultural productivity and efficiency. Instead of putting energy into defending their land or arguing to receive their lawful part of the harvest, farmers can concentrate on farming. Individual property rights are also positively linked with higher demand for investments (Deininger and Feder, 2003, p. 6).

Previous studies combined with existing labour conditions present us with substantial evidence of that the reason for such productivity gains are the result from inverse productivity differences between large and small farms (UNCED, 1992). Even though it sounds controversial,³ smallholder farms are, thus, potentially more productive and also more environmentally sustainable than large-scaled commercial farms. The rationale behind this is that small plots tend to be farmed by their owners while large farms use hired labour. For hired workers or farmers with unfavourable tenancy contracts, the wage is not related to the productivity of the farm. Therefore, when there are few alternative rural jobs to those in agriculture and there often exists excess labour, hired workers will find it rational to slow down in order to create more work. However, if the farmer owns the cultivated land, she/he will receive the whole surplus of the farm's revenues. This condition gives small plot owners

³ According to traditional neoclassical economics, large farms should have scale advantages that make them more productive than smaller farms.

incentives to work hard and reinvest their money in their land, which further increases its productivity (Deininger and Feder, 2003, p. 4; Deininger and Feder, 1998, p. 17).

Even if women earn no or little money, they still provide the backbone of the rural economy in large parts of sub-Saharan Africa. About 80 % of the economically active female labour force is employed in agriculture and women comprise about 47% of the total formal agricultural labour force (Manuh, 1998)⁴. Food production is the major activity of rural peasants but women also provide much of the labour for men's cultivation of cash crops, the latter from which women derive little direct benefit or income. According to FAO, women are responsible for 70 % of food production, 50 % of domestic food storage, 100 % of food processing, 50 % of animal husbandry and 60 % of agricultural marketing (Manuh, 1998). Due to this, women's incomes and spending patterns are better indicators of the welfare of household members, since women spend more of their increased earnings on food, medicine and education for their children and other dependents. Improving women's earnings becomes both a matter of fairness and a prerequisite for child survival and welfare (ibid).

The privatisation process has brought different types of development and modernisation programs such as titling and registration of land. These programs are still repeatedly focused toward men and take seldom into account women's land rights, or the absence of them. Thus, rather than offsetting it, the privatisation of land rights often strengthens the existing gender-bias in land (Lastarria-Cornheil, 1997, p. 1326). As an example, there is often a discrepancy between the family member who is registered as, and the one who is actually functioning as the family's household head. The World Bank Group has criticised many Ministry of Agriculture's officials for not considering female-headed households as important. As they are unaware of the significant percentages of de facto female-headed households, and so ignore them, women are often deprived of resources and revenues that are earmarked for heads of households (World Bank Group, 1995).

⁴ Without being able to give exact numbers of the share of women who participate in the informal sector, one should know that this share is rather substantial.

2.3.3 Technology, Financial Institutions and the Importance of Infrastructure

Due to land's immobility, when it has secured and easily transferable property rights, land possesses the desirable characteristics of ideal collateral. The provision of collateral, facilitated by ownership of formal land title, is generally a requirement for participation in formal credit markets for medium- and long term credit (Deininger and Feder, 2003, p. 8). Therefore, secured land ownerships are likely to increase the supply of credit from the formal credit system, which in turn will facilitate and induce investment incentives. Furthermore, by enabling valid demands for credits, land reform also creates incentives to develop the, in developing countries, often lacking financial infrastructure.

In most cases, women enter the market system having no property, little cash income, minimal political power and the main responsibility over the household. The fact that women have little chance of owning land effectively disqualifies them from borrowing money and thereby accumulate the capital needed to buy land or make investments and improvements on the land that they already cultivate (Lastarria-Cornheil, 1997, p 1327). In their disadvantaged position, it is estimated that African women receive less than 10 % of all credit going to small farmers and 1 % of the total credit to the agricultural sector (WB, 2001, p. 52). Furthermore, women in general have smaller social and business networks available to them, networks that are useful in providing access to credit institutions. Social networks often function as a kind of security and African women have in general poor social safety networks, putting them in an even more vulnerable position (Manuh, 1998).

In many African countries, it is normal that credit associations and export-crop marketing cooperatives limit membership to household heads, thereby once again excluding most women. In addition, most resources and technical assistance have been channelled to men that grow export and cash crops and improved seeds and tools have gone almost entirely to large commercial farmers whom are almost all men. Only an estimated 5 percent of the resources provided through extension services in Sub Saharan Africa are available to women although in some cases, particularly in food production, women handled 80 percent of the work (Manuh, 1998). In the cases when women has taken part of technological advances in food processing, such as cassava processors, fish smokers and oil pressers, their labour time have been substantially reduced through more efficient processing and given them more time for

their other societal and household tasks. As Dr. Lukas Brader, Director-General of the International Institute of Tropical Agriculture (IITA) puts it (Manuh, 1998):

If Africa is to develop a more productive, sustainable, and equitable agricultural sector, it cannot afford to neglect women. The constraints that women face must be addressed if agriculture is to be the engine of economic growth

In rural areas, the lack of basic services, such as reliable water supplies, health centres, stores, woodlots, transports and mills adds considerably to the time women must spend on household responsibilities. Shortages of time constrain women's free time and their time in engaging in activities that benefit them like visits to health facilities and the time and attention they can devote to productive activities such as participating in wage labour. Women's obligations to work on husband's and family plots and to care for children limit their capacity to prioritise and to decide over their time (World Bank Group, 1995). A more dynamic agricultural sector can not only lighten the burden from demanding household work but can also reverse the assessment of economic returns to educating children, compared to the returns from keeping children out of school to work in household (agricultural) enterprises (ibid.).

Another implication is male migration to urban areas where they go to search for non-farm employment. This is an ever increasing phenomenon and consequently women are left behind in the village. They are however often unable to use the family's assets as these often are registered in the migrated husband and normally left under the control of another man. With less manpower, women spend considerably more time farming family and compound land but as they do not control the output from this land, their own agriculture and other activities are hurt (World Bank Group, 1995). This further hinders women from attaining some measure of autonomy and self-reliance. In addition, due to environmental degradation, women spend more time collecting wood and water and producing food crops to supplement production from family fields. Government investments in infrastructure are urgently needed in order to change such a development.

2.3.4 Employment Creation and Labour Market.

Women's limited access to financial services and productive resources hinder women from starting enterprises and participate in development which severely hurts their ability to contribute to a higher standard of living for their families. In many developing countries, women are highly underrepresented on the formal labour market and differences in wage between women and men are very high. This is the case even when women have the same education and work experiences as men do (WB, 2001, p. 14).

Evidence has shown that increased female education and participation in the formal work force yields higher rates of return to human capital which consequently strengthens the incentives for families to invest in girl's education and health. In order to achieve such a development, a complete reformation of people's attitudes and public policies are required. This would benefit women and facilitate their participation in all aspects of the economy and thereby the economy itself as well (WB, 2001, p. 18).

2.3.5 Discrimination and Poverty

In practice, Sub-Sahara African men and women cultivate and manage separate plots even if women often must work on their husband's crops as well. Due to women's lower level of education and smaller land-holdings compared to men, women receive less capital support for their agriculture. Women grow food crops and men cash crops which mean that women provide food for the household and men grow crops for the market and thus receive most or all of the income (Lastarria-Cornheil, 1997, p. 1321). This further strengthens men's power and control over women and amplifies the inequality between the genders. Ultimately, the gender division of labour in the home, norms and attitudes in the society and unequal access to productive resources prevent women from taking equal advantage of economic opportunities and from coping equally with risks or economic shocks (WB, 2001, p. 14). In this light, targeting of extensions and other services should depend on the relative importance of the various social groups in agricultural production and on their current access to extension, resources and benefits. It is essential that the de facto female-headed households in particular will not be neglected (World Bank Group, 1995). In addition, as developing countries often face a high population growth, an increased pressure on land and an enhanced demand for

food imply further needs for high productive arable land when an increasingly amount of people will share a decreasingly amount of arable land.

In order to improve women's welfare and strengthen their autonomy, politicians and funding agencies need to pry open what has been called the "black box" of the household, by taking into account intra-household differences in the use and control of resources. While men may control more resources and earn higher incomes, this does not translate into improved family or household welfare. Rather, women's incomes and spending patterns are better indicators of the wellbeing of household members, since women tend to spend more of their increased earnings on food, medicine and education for their children and other dependents (Manuh, 1998). Illiteracy and low levels of education, particularly for women, is a major problem in many parts of Africa. These are conditions that hurt productivity and have negative consequences in terms of limiting earnings and the capacity to upgrade technological skills. In addition, there is evidence that there is a strong positive correlation between a mother's schooling and her children's health and educational attainment (IFAD, 2006). Thus, ameliorating women's incomes becomes both a matter of equity and a prerequisite for child survival and welfare.

2.4 Potential Benefits of Land Reform

Land tenure in Sub-Saharan Africa is complicated and characterised by controversial policies existing from colonial times and, furthermore, by discrepancies between statutory and customary legislations. In addition, women barely have any ownership of land even though they are receiving an evermore important role in their households. Considering the large share of populations that live of farming, land reform has become a prerequisite for economic development in many poor countries and throughout Sub-Saharan Africa. Reports have concluded that land reforms are even more urgent today than before, mainly due to increased inequality and unemployment in rural areas and moreover, rapid population growth that has further aggravated these inequalities. In addition, Sub-Saharan Africa has not taken part in the *Green Revolution*, a recent technological breakthrough in agriculture, to the same extent as for example Asia. This has resulted in that African farmers, compared to Asian farmers, have not been able to cultivate smaller plots as effective which has left them worse off (Todaro and

Smith, 2003, p. 453). In reference to the contentious issues discussed above, we will end our theoretical discussion by extracting the major potential benefits of LPD and land reform.

Central in any attempt to conduct land reform is to increase the value of land and thereby stimulate and simplify investments that in the end will increase the productivity of land. However, in order for land reform to have an impact in the long term, it is particularly important that:

- Redistributed property rights have characteristics such as: long time duration, transferability and identification of boundaries (WB, 2003, p. 22ff).
- Include all related policy sectors, perhaps especially environmental issues in order to be sustainable in the long term.
- Take into consideration customary practices and rules (compare to Mwebaza, 1999).
- Acknowledge and highlight the role of women in rural communities and the agricultural sector.
- Have easy-accessed, transparent administrative processes that enable even the poorest groups to take part of the land redistribution.

If applied in a sensible manner taking the above aspects into consideration, land reform will potentially have several positive backward and forward linkages that can have an unquestionable impact on societies and ultimately on a whole country's socio-economic situation.

- The most important effect of land reform, as we see it, is the enablement of every individual to influence and ameliorate their own situation. Land reform increases the value of land and by securing its ownership. By owning land, individuals will not only have incentives to invest in their land but also receive the means to do so as they can access financial institutions.
- By improving the productivity of land, more farmers can leave the subsistence situation that they are in and join the formal labour market. In this way, jobs will be created and more people will be able to participate in different spheres of the society.
- Increased productivity and investments will yield a bigger income and at the same time be time saving, enabling farmers to spend more time with their children and participate in other social activities.

- Higher income will give better access to new technology such as irrigation methods and other agricultural tools. This will enable a more diversified agriculture and increase family and society food security as well as contribute to exports and government taxes.
- Better technology will enable farmers to be more productive on a smaller plot which will be both more environmentally sustainable (less land degradation and need of water) as well as create more job opportunities.
- There is a positive correlation between higher income nutrition, schooling and health. These are fundamental aspects in developing countries and their amelioration will have a huge impact on the society.
- With an improved social situation, it is likely that people will to a greater extent participate in political institutions which will strengthen the democracy and diminish social conflicts.

As we have mentioned many times already, it is imperative that extra attention is given to women as they today lack many of the rights that are given to men. Especially within the household but also in the agricultural sector at large, women contribute to the main part of the work and have also the main responsibility over the children and the elder. In order to eliminate discrimination and enhance women's possibilities, women must be given the same rights as men. A perhaps even more crucial step in obtaining equality is to invest in infrastructure and labour-saving technology and to invest in information campaigns that can change men's attitudes towards women.

Initiating land reform is a fundamental step in reaching a sustainable economic development. However, only if it is combined with these kinds of requisites is it likely that Sub-Saharan Africa will accomplish an equal society.

3 LPD in Tanzania, Kenya and Uganda

We will in this chapter present country specific data on LPD. This information includes a relevant historical comparison combined with general economic data and more specific land-related data extracted from different levels of society.

3.1 Land Related History of Tanzania, Kenya and Uganda

Our three countries have a long history of agricultural populations and even though they are rich on natural resources, they belong to the poorest countries in the world. As we can see in table 1, our three countries have many socio-economic similarities. Land is the primary mean of production and we can see that the agricultural sector occupies the main part of the populations' registered workforces. There is however a big difference to what extent land is used for permanent crops with Uganda well ahead of Tanzania and Kenya. In this context, Uganda's data is more similar to the Asian Green Revolution participants while the other two more resemble of Western countries where agriculture consists far from the main employment. Furthermore, each of these three countries has large informal sectors in which agriculture provide a living. This is for example verified by the unemployment rate in Kenya accounting to 40 %. Tanzania has spent great resources on stabilising their macroeconomic situation which has given results reflected by their low inflation rate and relatively stable debt situation.

3.1.2 The Colonial Heritage

The similar general economic profile in Tanzania, Kenya and Uganda is most likely rooted in the policy orientations taken by their former British colonisers (compare to Akinyi Nzioki, 2006, p. 7). Land was expropriated to colonial agents and the legal and social infrastructure was used to secure this expropriation. According to many, these policies were a form of race and gender apartheid depriving Africans of credit and ownership of land (see e.g. Tsikata, 2003). When becoming independent, the three countries have used different approaches to tackle land issues.

Table 1 – Socio-Economic Indicators of Tanzania, Kenya and Uganda

Economy (2005 estimates)	Tanzania	Kenya	Uganda
GDP (ppp) / per Capita	\$27.07 billion / \$700	\$37.15 billion / \$1100	\$48.73 billion / \$1800
GDP - Real Growth Rate	NA	\$5.2%	4%
2003 HDI Rank out of 175 Countries	160	146	147
Inflation Rate (Consumer Prices)	4%	12%	9.7%
GDP - Composition by Sector:			
Agriculture	43.2%	16.3%	31.1%
Industry	17.2%	18.8%	22.2%
Services	39.6%	65.1%	46.9%
Labour Force	19.22 million	11.85 million	13.17 million
Labour Force - by Sector:			
Agriculture	80%	75%	82%
Industry and Services	20%	25%	18%
Unemployment Rate	NA	40%	NA
Population Below Poverty Line	36%	50%	35%
Distribution of Family income (Gini index)	38.2	44.5	43
Public Debt	5 % of GDP	67.4% of GDP	62.8%
External Debt	\$7.95 billion	\$7.394 billion	\$4.949 billion
Economic Aid - Recipient	\$1.2 billion (2001)	\$453 million	\$959 million
People (2006 estimates)			
Population	37 445 392	34 707 817	28 195 754
Median Age	17.7 years	18.2 years	15.0 years
Population Growth	1.83%	2.57%	3.37%
Life Expectancy at Birth	45.64 years	48.93%	52.67
Total Fertility Rate	4.97 children/woman	4.91 children/woman	6.71 children/woman
Literacy: Age 15 and over who can read	85.1%	78.2%	69.9%
Male/Female	90.6% / 79.7%	85.9% / 70.7%	79.5% / 60.4%
HIV/AIDS - Adult Prevalence Rate	8.8%	6.7%	4.1%
Geography			
Area	945 087 sq km	582 650 sq km	236 040 sq km
Coastline	1 424 km	536 km	0 km
Arable Land	10.1%	8.01%	21.57%
Permanent Crops	1.16%	0.97%	8.92%

Source: CIA World Facts Book

In the recently independent Tanzania, President Nyerere introduced a system which has come to be known as “African Socialism”. In accordance with the 1967 Arusha Declaration, socialist experiments, or the *Ujaama Policy*, were widely implemented throughout Tanzania (UI, 2003, p 14). Land was farmed collectively and revenues were shared. Today it is, however, commonly recognized that the Tanzanian government’s Ujaama land policies were a failure and in practice, the Ujaama meant that many people had to leave the land that their

ancestors had cultivated for centuries to live and work in agricultural cooperatives. The disorganized state of the land tenure system in concert with an increased pressure from international institutions such as the World Bank and the IMF to restructure the economy, created a demand for land reform in the early 90s. A step toward secure property rights was made in 1999 with the creation of the Land Act and the Village Land Act (Manji, 1998, p. 649f).

As in many African countries, land in Kenya has a spiritual significance, hence underlying and reinforcing its value. More than providing a factor of production, land is first and foremost the medium which defines and binds together social and spiritual relations within and across generations (Akinyi Nzioki, 2006, p. 90). When Kenya became independent in 1963, similarly to in Tanzania, it was the land question that was the primary drive in the struggle for independence. The British had vested all land in Her Majesty but after independence, land was transferred to the Kenyan government. But unlike in Tanzania, in Kenya it was the elites who grabbed control over the land and up until today, the land question remains high on the political and development agenda (Akinyi Nzioki, 2006, p. 90).

The situation in Uganda has been somewhat different compared to in Kenya and Tanzania. Before colonialism, Uganda was divided in Kingdoms. Land was controlled by relations based on feudalism and governed by a complex of network of reciprocal bonds within families, lineages and larger social units protecting and guaranteeing individual and community rights as prescribed by customs (Akinyi Nzioki, 2006, p. 212). At colonialism, the British did not change the feudal system but the radical title to land was vested in the British Crown and the land users now became tenants of “Crown Land” (ibid.). Through a series of agreements with traditional rulers, a number of private estates named *Mailos* were granted giving feudal overlords absolute control over land, something they never had under customary law. After the 1962 independence, the Ugandan government kept the same system of land tenure but now in the name of the Ugandan state. It was first when President Idi Amin issued *The Land Reform Decree* in 1975 that all land in Uganda, including the *Mailos*, was vested in the state to be held in trust of the people and administrated by the Ugandan Land Commission (Mwebaza, 1999, p. 3). *Mailos* and freeholds were in other words converted into leaseholds with the state as the sole owner (Hunt, 2004, p. 176).

3.2 Recent LPD in Tanzania, Kenya and Uganda

Commonly for all of our three countries, the question of land has always been central throughout history up until today. As we have discussed above, Kenya, Uganda and Tanzania share a similar pre-colonial and colonial history, the latter which has had an especially great impact on land tenure systems. However, after becoming independent in the early 1960s, our three countries have chosen different paths in order to tackle the land question. We have briefly described the Tanzania's Ujamaa policies, Kenya's privatisation and Uganda's mixed approaches and we will now, with this history in mind, continue to describe more recent policies.

3.2.1 The Tanzanian Land Act and Village Land Act

Tanzania has about 487 100 square kilometres of arable land but only about 10.1 % of the country's total area is under cultivation. Of this area, nearly 93.4 % is used for small scale subsistence farming by land holders who mainly cultivate land under customary tenure. The remaining 6.6 % is cultivated by large scale farmers who operate under granted rights of occupancy. Furthermore, 611 238 square kilometres (69 %) of the total area is pasture or grazing land of which only 438 790 square kilometres (71.8 %) is actually used. Thus, the agricultural sector is the main user of land resources in the country and the sector is principally characterised by small-holder farmers (Akinyi Nzioki, 2006, p. 196).

In 1991, a Presidential Commission of Inquiry into Land Matters (also known as the Shivji Commission) was appointed with the goal of looking into and making appropriate recommendations considering (Akinyi Nzioki, 2006, p. 189):

- The root causes of the land problems and attendant disputes in rural areas and urban centres.
- Existing land policies/laws concerning land allocation, tenure, use and development.
- The institutional framework for land allocation, use and dispute settlement.

The Commission completed its work in November 1992 and published a two volume report in 1994. Having encountered "utter disorder in the land tenure system and land regime", the

Shivji Commission recommended policy structures and a legal regime based on principles which would ensure that (Kapinga, 1997):

- The legal land regime should provide both recognition and adequate protection of the land rights of indigenous producers.
- The local food producers, particularly peasants and pastoralists, should be provided legally entrenched security over land.
- The land allocation procedures should be open, transparent and challengeable through political and legal processes.
- There should be full participation of villagers and village communities in land administration.

The Commission's underlying principles, which guided the formulations of a NLP and an alternative land tenure structure were (ibid.):

- The modernisation of tradition as opposed to imposing modernisation on tradition.
- The democratisation of land tenure control and administration.
- The rules of land tenure should facilitate "accumulation from below"
- The underlying tenure principles are *security and safety of land rights first*.

The NLP was passed in parliament and published in 1995. It was motivated by the fact that land was becoming even scarcer and the land rights of individuals and organisations needed to be protected. Additionally, the NLP was not created only to serve as guidance regarding allocation, ownership and use of land but also in order to help resolve any recurring land conflicts (Akinyi Nzioki, 2006, p. 191).

After 1995, four years passed before the land reform was enacted into the Tanzanian legislation. The 1999 Land Act and Village Land Act were thus the result of an almost ten year long investigation. Having taken this long is perhaps rather more positive than negative; especially as the four year period with the NLP guided the legislation of the Land Acts. In accordance to the NLP, the wished result of the Land Acts in the long term was declared to be (ibid., p. 191f):

- Promoting an equitable distribution of and access to land by all citizens.
- Ensuring that existing rights in land especially customary rights of small holders (i.e., peasants and herdsman who are the majority of the population in the country) are recognized, clarified and secured in law.
- Setting ceilings on land ownership which will later be translated into statutory ceiling to prevent or avoid the phenomenon of land concentration (i.e., land grabbing).
- Ensuring that land is put to its most productive use and to promote rapid social and economic development of the country.
- Modifying and streamlining institutional arrangements in land administration and land dispute adjudication and also make them more transparent.
- Promoting sound land information management.
- Protecting land resources from degradation for sustainable development.

3.2.2 The (Lack of) Kenyan Land Reform

Land in Kenya is divided into three categories: Government Land, Trust Land and Private Land. These are embraced by three separate legislations: Government Land Act, Trust Land Act and Registered Land Act (Akinyi Nzioki, 2006, p. 91). Even though land has an especially elevated importance in Kenya, no fully comprehensive NLP has yet been taken. However, the Commission of Enquiry into the Land Law System in Kenya (also known as the Njonjo Commission) has recommended the transformation of the three laws of land into one single law, recognising that especially land administration, institutional frameworks and environmental concerns have received insufficient attention under the current system (ibid.). Finally in 2004, the ministry of lands embarked the process of creating a NLP to be ready in 2006 (ibid., p. 92f).⁵ The overall objective of the intended NLP is to provide a framework of policies and laws that enable for sustainable growth, investment and the reduction of poverty; goals that are in line with government's overall development objectives. Specifically, the predicted outputs from the NLP are (Akinyi Nzioki, 2006, p. 93f):

⁵ At the time of writing, the NLP is yet to be implemented.

- For all citizens, particularly the poor, the opportunity to access, beneficially occupy and use land.
- A framework for the establishment of proper land administration and management Systems.
- Reliable mechanisms for resolving land disputes.
- A framework of harmonized, simple and cost-effective laws.
- A legal and institutional framework for secure land tenure, including customary tenure and common property resources.
- A framework for managing pastoral commons as a specific category of land.
- A framework for the establishment of a functional land information system.
- Mechanisms that ensure gender equity in land allocation and ownership.
- Mechanisms for conservation and protection of the environment.
- A framework for the resolution of historical injustices.
- A framework for Land Use Planning and the creation of National Land Use Policy as a critical component of the NLP.
- Guidelines for the regularisation of informal sector.

By accomplishing the above described components, the NLP process is geared towards addressing the following core issues (Ministry of Lands and Settlement, 2004):

- Insecure land tenure: in particular for the urban and rural poor, for women, for HIV/AIDS affected households, for pastoralists and for other vulnerable groups in both urban and rural areas.
- Poor land administration: characterized by limited access to land information due to poor quality records, extended technical processes and lack of transparency.
- Weak, ineffective mechanisms, for fair, timely, affordable, transparent and accessible resolutions of land disputes.
- Continued land fragmentation: 80 % of small farms is less than 2 hectares.
- Poor governance in land administration, management and dispute resolution.
- Different land tenure regimes with limited harmonisation.

3.2.3 Uganda's 1998 Land Act

Under Amin's 1975 Land Reform Decree, all land was vested in the state, and three different types of tenure were recognised: freehold, leasehold and Mailo. Freehold is the holding of registered land in perpetuity according to the existing laws. Leasehold tenure is the holding of land for a given period from a specified date of commencement. This is the system under which foreigners can own land for a period not exceeding 99 years. The Mailo Tenure is holding of registered land in eternity (Akinyi Nzioki, 2006, p. 213). Customary tenures were regarded as occupiers of Crown Land and could therefore be evicted from the land with three months notice and without compensation (Mwebaza, 1999, p. 3). However, under the 1995 Constitution, customary tenure was added as a fourth system of acknowledged tenure (ibid.). Under the customary tenure, each community in Uganda has a traditional system of owning, occupying, dealing in or using the land. In some communities, land is owned by the community or by the traditional leaders or institutions, while in others it is owned by individuals (The Ugandan Land Act, 1998). In other words, the 1998 Land Act operationalises the reforms brought by the Constitution by providing that any person, family or community holding land under customary tenure on former crown land may acquire a certificate of customary ownership in respect of that land (Mwebaza, 1999, p. 3).

Even if policies exist on various aspects of land, the lack of an Ugandan comprehensive NLP in many respects render these policies eclectic, sectoral and inconclusive. Among others, policy sectors affected are on agriculture, poverty reduction, industrialisation, environment, infrastructural development and urbanisation. There is however, an issue paper for a NLP and a Land Sector Strategic Plan designed to provide the operational, institutional and financial framework for the implementation of the Land Act. These are intended to guide the government, the private sector and the civil society in their management and use of Uganda's land resources.

Over the last five years, the process of creating a NLP has been pushed largely by two parallel processes with different actors. While both processes have been concerned with land access and ownership, one is dominated by the need to address political realities through the resolution of historical tenure problems, while the other is dominated by issues of economic efficiency and poverty reduction. Specific issues to be considered by addressing the political realities include (Land Sector Strategic Plan, 2001-2011):

- Redressing historical injustices and providing more equitable access to land.
- Providing livelihood security through formal employment or secure access to land.
- Protecting and facilitating appropriate development of fragile environments.
- Integrating the various forms of tenure and registering formal and customary rights to land and fixed properties.
- Generating state revenues from land and property taxation.
- Providing effective land administration.
- Integrating spatial planning with financial, sectoral and institutional planning.

The economic efficiency group highlights the strong link between land resources and poverty alleviation. According to them, the agricultural and industrial development of Uganda will depend on, among other things, the land use and management policies adopted. The specific goals are to (Ministry of finance, Planning and Economic development, 2004):

Create an enabling environment for equitable access to land and security of tenure; increase land productivity through optimal and sustainable use; promote an integrated approach to planning and management on resources; and enhance the role of the land sector in poverty eradication.

Integration of these two approaches into a coherent strategy placing land within the broader national development context has taken place only recently. The Review of the Constitution of Uganda (1995) was done under the Commission of Inquiry who's terms of reference were: "To review aspects of land relating to the necessity of government to acquire land for public purposes and the desirability of the various land management and dispute resolution mechanisms" (Ministry of Water, Land and Environment, 1995). The Constitution went further and set a new system of land administration consisting of Land Boards in every district which were to operate independently from the Uganda Land Commission and which were also not subject to the direction or control of any person or authority. The Constitution further provides that Parliament establishes one or several land tribunals to deal with disputes relating to grant, lease, repossession, transfer, acquisition and compensation of land by individuals. Finally, the Constitution reaffirms the authority of the State to make laws regulating the use of land (ibid.).

3.3 Land Policies and Women in Our Three Countries

Concerning gender discrimination, Tanzania, Kenya and Uganda share a similar history and at present, face the same rigorous problems with unequal access to property and discrimination of women (Okello, 2003). Among the three countries, Tanzania's new land laws are the most detailed and also contain the most requirements on women's equal land-related rights. In addition, Tanzania is the only East African country that has included a presumption of co-occupancy in its legislation. Only a few requirements related to women's land rights in Uganda have been included and a clause on spousal co-ownership is still absent in the recently passed Land Act. In Kenya, even if an increasing amount of women have been able to get hold of land through co-operatives or land buying companies, most women do not have the means or possibilities to acquire land or houses (ibid.).

Under the statutory laws in Kenya and Uganda, inheritance rights have been given recognition, but these laws still do not contain equal inheritance rights for widows and their application is still quite limited. In Tanzania, a statutory, uniform law on inheritance is urgently needed. In all three countries, customary laws, traditions and attitude still play a significant role and often hinder women from owning land or land related properties. Through its 1995 Constitution, Uganda has made an attempt that disallows discrimination based on gender, while the Village Land Act of 1999 prohibits the use of customary law if it hinders women lawful access to ownership, tenancy or use of land. The next step it's the implementation of such provisions. Kenya's situation allows for discrimination in personal law matters but the on-going constitutional review is expected to deal with this matter (Okello, 2003).

3.3.1 Words That Lack Meaning in Tanzania

The Land Act legislation in Tanzania states that “*the rights of every woman to acquire, hold, use, and deal with land shall be to the same extent and subject to the same restrictions and be treated as a right of any man*” (United Republic of Tanzania, 1999; Akinyi Nzioki, 2006, p. 192). The NLP has, however, recognised that women under customary law in general have inferior land rights compared to men and that women's access to tenure is indirect and insecure. Village councils have been guided by customary practices and have continued to

discriminate women by allocating land almost exclusively to men. According to the Land Act, all citizens should be taken care of equally without consideration to genders and equality and equity in the distribution and accessing of land should be guaranteed. However, continued gender disparities and discrimination against women in terms of land tenure rights are still major problems in rural Tanzania. The NLP and Land Acts are thus not consistent with the Constitution in which it is stated that government should commit to deal with gender disparities in the land tenure systems (Akinyi Nzioki, 2006, p. 192).

As a mean to achieve sustainable agricultural development, the NLP acknowledges the need for equitable distribution of and access to land by all. However, the policy underpin gender disparities in terms of inheritance rights of clan land which are maintained by customary practices and where women have been deprived legislative provisions regarding ownership of land between the spouses (ibid., p. 193). One of the most severe criticisms of the Shivji Commission's report is related to the question of women and land. As stated by the Chair of the Land Tenure Study Group (NALAF):

Surprisingly, despite the extremely radical reforms being recommended by the Commission, when it comes to gender relations, the report virtually advocates for maintaining the status quo! Perhaps this should have been expected since the Commission was made up of 9 men and only 1 woman...True, the Land Commission makes some commendable fundamental improvements to improve the security of land tenure for women....However, progressive as it may seem, this recommendation is not likely to help women very much if they are not given direct land rights, i.e., to be identified as joint owners of household land.

3.3.2 Failure to Recognise Women's Role in Kenya

The government in Kenya has since independence in 1963 pursued programs with the aim to transform customary land tenure to statutory freehold tenure through land adjudication and registration (ibid, p. 94). In the 1989-1993 Development Plan, it is recognised that “*women have always occupied a central role in African economies, being the main agricultural producers and suppliers of welfare services at the household and community levels*” (Republic of Kenya, 1989). In this light, the Constitution states that “*women and men have equal rights to inherit, have access to and manage property*” and continues “*any law, culture,*

customs or tradition that undermines the dignity, welfare, interest and/or status of women or men is prohibited” (Republic of Kenya, 2005).

However, few ambitions have been translated into concrete policies and programs that would encourage a more equal distribution of resources, improve women’s productivity in agriculture and increase their ability to earn money. Titled land has been allocated almost entirely to men, leaving no provision on how women’s access rights are to be defined. This has further strengthened men’s control over the distribution of land and it has also created a dependency situation since women have no legal access to land (Akinyi Nzioki, 2006, p. 93f). It is thus clear that the principle of equality and equity among women and men and the protection of women’s rights have not been followed in Kenya. As land, being the critical determinant of economic welfare, social status and political power, will continue to remain the most important form of property in Kenya, it is imperative that equality between men and women’s land-related rights becomes a core issue in the currently under process Kenyan NLP.

3.3.3 Empty Jurisdiction in Uganda

The agricultural sector in Uganda consist the most important source of livelihood for the country’s predominately rural population. Agriculture contributes 43 % of the country’s GDP, 85 % of export earnings and 80 % of employment (Akinyi Nzioki, 2006, p. 222). At national and local levels, rural women today are still hampered by restricted rights of access and control over local resources and national policies do not match women’s increasing responsibilities in food production and management of natural resources. Subsequently, the inability of women to own the land that they cultivate will negatively affect their management of land-based resources. Given that women tend to grow food rather than cash crops, their security of tenure is likely to enhance both household and national food security. Women’s function in nation building can not be unnoticed as they form the bulk of small scale farmers (Republic of Uganda, 2004).

As is stated in the 1995 Constitution and the 1998 Land Act, land in Uganda belongs to the people of the country. The Constitution underlines the importance of women in rural development and directs the Parliament to make appropriate laws for the establishment and preservation of women’s inheritance rights (Republic of Uganda, 1995):

The State shall protect women and their rights, taking into account their unique status and maternal functions in society and prohibit the use of laws and cultures or traditions that are against the dignity, welfare and interest of women or which determine their status

However, the societies of Uganda are patrilineal and most women gain access to land through marriage. Despite the inheritance laws, widows are often expelled and their children disinherited by other male family members (Akinyi Nzioki, 2006, p. 217f). Many women activists and women's organizations in Uganda have declared that the Land Act in reality does not safe-guard women's security of tenure and they have lobbied for co-ownership for husband and wife, as both have a joint interests and the land is farmed in common. There has however been a lot of resistance to this co-ownership proposal in the country's Parliament (ibid.). Even if many policy statements recognise women's vulnerability to insecure tenure and that discrimination is prohibited in terms of gender, it is fundamental to position the law alongside practice. In the future, Uganda's National Gender Policy must be incorporated into alongside different land policies and the national development process.

3.3.4 Status of East Africa's Legislation on Women's Rights to Land

We have summarised the status on women's land-related rights in table 2. As we can see, there is a clear discrepancy between statutory and customary laws. Tanzania is the only country where a married couple is presumed to own their land together and perhaps most frightening, in neither of the countries do women have equal rights to inherit land compared to their spouses.

Table 2 – Women’s Land Related Rights in Tanzania, Kenya and Uganda

Women's Rights	Tanzania	Kenya	Uganda
Gender-based discrimination prohibited	Partly (discrimination still allowed in application of personal law and customs)	YES	YES
Application of customary laws prohibited if discriminating against women	NO	Partly (only if it denies women lawful access to ownership, occupancy or use of land)	YES
Women's equal right to acquire land/housing	YES (explicitly in Section 3(2) of the Land Act and the Village Land Act	YES (implicitly in the Married Women's Property Act and Registered Land Act)	YES (implicitly recognised in Art.26 of the Constitution)
Spousal co-ownership presumed	YES (Section 161 of the Land Act)	NO	NO
Women's equal inheritance rights:			
For Widows	NO	NO	NO
For Daughters	YES	Partly (only for Christians)	Partly

Source: UN-Habitat

3.4 Land Linkages in Tanzania – Relatively Well Integrated Policies

The aim of the Tanzanian NLP is to support and ensure a secure land tenure system, encourage optimal use of the land resource and ease broad based social and economic development without causing danger to the country’s ecological balance. The NLP entails detailed rules and regulations that are provided for the use of the land resources of which the majority is directed to the agricultural sector and to those who depend on the land (United Republic of Tanzania, 1997). The agricultural sector is characterized chiefly by small-scale farmers and in order to modernise and develop the Tanzanian agriculture, it is of vital importance that the land tenure system assures smallholder farmers and livestock keeper’s access and ownership of land. The Ministry of Agriculture has stated that it will support the implementation of the NLP which requires that (Akinyi Nzioki, 2006, p. 195ff):

- All land in Tanzania is public land vested in the President as a trustee on behalf of all citizens.
- Land has value.
- There is a dual tenure system which recognises both customary and statutory rights of occupancy as equal in law.
- All rights of occupancy acquired through direct grants, relevant customary procedures and alienation by legally designated allocating authorities are recognised.
- A right of occupancy should be confirmed by a certificate of title for the statutory right.
- Customary rights of occupancy by *Hati ya Ardhi ya Mila* (individual titles) must be confirmed by the Village Council and then issued and registered at the corresponding statutory district land registry.

3.4.1 Land and Environment

Agriculture is dependent on environmental resources such as fertile soil, water and forests. When using these resources in a bad way, the production of crops and livestock can have far-reaching impacts on the environment. In order to avoid such a development, the agricultural sector's policies must fit into the overall environmental policy. It is estimated that the ratio of males to females in the agricultural sector is 1:1.5. Women in Tanzania produce about 70 % of the food crops and they have also the major responsibility for many aspects of export crops and livestock production (Republic of Tanzania, 1997). However, as their access to productive resources is severely limited, the agricultural sector have been rigorously affected in terms of productivity (Akinyi Nzioki, 2006, p. 1996). The Agricultural Policy supports the NLP on access to land which guarantees equal access to land and security of tenure between the genders. However, as we have discussed, this has little meaning as the gender aspects of the NLP are practically ignored.

The National Environmental Policy provides sectoral and cross-sectoral policy analysis with the aim to achieve compatibility among sectors and interest groups and develop synergies between them. In these analyses, the importance of women's role as natural resource managers is recognised. Women's skills, experiences and knowledge regarding environmental aspects are highlighted and the significance of women's empowerment is underlined as a

critical factor in the strife to achieve equality and reduction of poverty and for achieving an environmentally sound development (United Republic of Tanzania, 1997:2).

Regarding water conservation, the overall aim for Water Resources Management is to develop a comprehensive framework for promoting optimal, sustainable, and equitable use of water resources for the benefit of the Tanzanian citizens. The policy recognises that water is a scarce resource and that integration of land use and water use play an important role in the national economy (United Republic of Tanzania, 2002).

3.4.2 Poverty and Rural Development

The National Strategy for Growth and Reduction of Poverty (NSGRP) focus on attaining Tanzania's Development Vision (VISION 2025) for high and shared growth and high quality of livelihood. It is committed to the Millennium Development Goals' (MDG), internationally agreed targets of reducing poverty, hunger, environmental degradation and discrimination against women by 2015 (United Republic of Tanzania, 2005). The main purpose with the NSGRP is to reduce income poverty and promote sustainable growth such as Private Sector Development (PSD). It is stated in the NSGRP that requirements for achieving such goals involve enhanced access to productive assets like land and financial services. Further it is stated that these requirements are especially important for small-scale rural farmers and other exposed groups such as women and land less peasants. In the NSGRP, it is recognised that the problems with HIV/AIDS increase poverty and reduce women's current and prospective earnings and that this further strengthen the already existing gender biases (United Republic of Tanzania, 2005).

The 1970's Tanzanian Ujaama policies were in its time a way to use land reform in order to fight poverty, especially in rural areas. As agriculture remains the main mean to eliminate rural poverty, the current Tanzanian NLP is much concerned with how to confirm customary rights of occupancy (*Hati ya Ardhi ya Mila*). These titles are to be given within areas that are not designated for communal uses, land conservation and other village and community projects (Akinyi Nzioki, 2006, p. 193). Titled land should then be marked and protected against encroachment which goes for both agricultural land and grazing land used by pastoralists. Furthermore, the Shivji Commission recommended an integrated approach for

rural and urban land use, mainly as a result of rural to urban migration and population increase. The point with such a measure would be to control the expansion of towns and the encroachment upon productive rural agriculture and pasture land. Whether the land laws drafted after the 1995 NLP has improved the economic position and security of tenure of rural land is not clear yet (ibid.; Juma, 1997).

Even though Tanzania has the best developed policy integration of our three countries, the main challenge within the above linkages remains to be the need for coordinated approach to oversee implementation of these interconnected challenges on the use of land and its related resources.

3.5 Land Linkages in Kenya – Lack of Integration

The Kenyan economy is, and has for a long time been dependent on agriculture and pastoral land uses. However, over the past ten years, the agriculture sector has experienced declining productivity in terms of export earnings, employment creation, food security and household farm incomes. It is commonly recognised that the country has failed with its land policies, which have been inadequate and affected Kenya's agricultural production negatively (Akinyi Nzioki, 2006, p. 98). The large farm sector is characterized by under-utilisation of land, a phenomenon that goes back to colonial times and which has been exacerbated by accumulation of land by elites who use land as social investment rather than for production. Less than 40 % of all land in large farm sector is under productive use (ibid.) and women, who provide the bulk of labour in agriculture, own only 5 % of the land in their own names. Land conflicts between crop production and other activities, such as forestry and wildlife, in combination with the problems and impact of HIV/AIDS in rural areas have had serious political and social effects in Kenya (Republic of Kenya, 2001). Consequently, the Kenyan government has stated in their Poverty Reduction Strategy Paper (PRSP) that various land reform policies will be implemented. These reforms are mainly recommendations of the Njonjo Commission which has examined Kenya's land law system in order to update existing maps and improve information management of land, records and procedures for timely processing of title deeds (Akinyi Nzioki, 2006, p. 98).

The most important outcome of the PRSP consultation was that agriculture and rural development were top ranked national priorities. Agriculture contributes to the GDP, foreign exchange earning, and government revenue and a large proportion of people in Kenya live in the rural areas and depend on agriculture as their main source of livelihood. However, this sector is characterized by low productivity, low incomes, few employment opportunities and poor social infrastructure, which enhance poverty and counteract a sustainable economic growth. During the PRSP period the Government aims to implement the Environmental Co-ordination Act and implement various land reform policies, including the Physical Planning Act, to encourage sound land use, water and forestry policies (Njonjo Commission, 2002).

3.5.1 Land and Environment

As almost 80 % of Kenya's population earns its livelihood from land and natural resource based production, a sustainable utilisation and management of environmental and natural resources form an essential part of the national planning and poverty reduction efforts. However, the lack of an obvious land-use policy has contributed to unsustainable land-use practices in many of Kenya's most potential areas which has harmed the country's agricultural production. Even though Kenya has legislation that directs land use planning, it has been highly difficult to enforce it completely since the land-use policy lack an implementation and maintenance plan. As an attempt to address these problems, an environmental legislation has been admitted providing for the establishment of the National Environmental Management Authority (NEMA) with the aim to oversee the management of the environment (Government of Kenya, 1999).

Water resource development contributes to a large extent to economic productivity and social well-being in Kenya. High population growth, urbanisation, tourism and agricultural activities increase the demand for water which requires better utilisation and quality of water resources. The fact that the water supply situation in many rural areas has deteriorated over the past years to a point where current systems no longer are sufficient, has especially affected women as they are the backbone of the rural households and have to go even further in search for water. The decline in the water supply is a result of poor management including uncontrolled damage of water areas. These problems have been even further aggravated by fragmentation among sectoral agencies. Effective implementation and coordination mechanisms are not

always clearly defined and in order to conquer the above described problems, there is a great need to adopt an integrated Water Resources Management in which land and water related aspects should be included. In this regard, the linkage between different institutions such as the district Water Board and Land Control Boards must be strengthened and practical operating procedures drawn in order to resolve inter-sectoral issues (Government of Kenya, 2002).

3.5.2 Poverty and Rural Development

There are two dominant programs in Kenya, both which recognise that agriculture has a critical role to play in addressing rural development and poverty alleviation subject to land. With exception for the first decade after independence, Kenya's agricultural sector has been declining. Land reform is included in the Kenya Rural Development Strategy (KRDS) as a mean to turn that development around but the success of the KRDS is subject to other policies which are beyond the Ministry of Agriculture. These issues mainly reflect the need for decentralisation policies allowing local communities to implement their own plans and the need to implement the still-under-process NLP. In the Economic Recovery Strategy Paper (ERSP) special attention has been given to pastoral areas. Central has been to recognise the way in which residents under customary law have been deprived of their land by statutory allocation under the Trust Land Act. Thus, pastoralists have lost land to wildlife preservation, military training grounds and other private or government interests. Land tenure and land ownership among the pastoralists communities therefore need to be resolved in order to detangle intra-ethnic conflicts, competition over critical communal resources and to provide an effective system through which the natural resource base can be improved and managed on a sustained basis by the communities themselves.

A further problem is the spread of HIV/AIDS in Kenya which has reduced the capacity of the rural labour force to work in agriculture and which has led to a widespread abandonment of productive land in many parts of the country. The scope of the NLP within its socio-cultural framework must address the impact HIV/AIDS has on land (Ministry of Lands and Settlement, 2004). As we see it, the following are some of the emerging challenges that need to be dealt with in the NLP:

- The lack of a clearly articulated land policy has negatively impacted on important issues such as land use, management, tenure, reforms, environmental protection, planning and conflict resolution. Resolving the administrative problems within a well articulated NLP will be a critical requirement for sustained economic recovery.
- Land, agriculture, environment and water management responsibilities are fragmented in different ministries and sectoral agencies without integrated or coordinated approach. Linkages between these sectors are critical and should be established for solving inter-sectoral issues related to land and land-based resources.

3.6 Land Linkages in Uganda – Relatively Success

The agriculture sector is the most prominent source of income and livelihoods for Uganda's predominately rural population and land is far the most important asset for the majority of the households. Land is accessed both with and without the existing market in the country but clearance of new land is highly uncommon as most of the arable land has already been claimed. However, an increased proportioned of land has been obtained through purchase in all regions of Uganda except in the north where people mostly acquire land through inheritance. Other means than buying land is by renting and borrowing and absolute landlessness is uncommon (MISR, 2000).

The most significant problem that characterises the agricultural sector in the country is the lack of documentation. Land's productivity potential, its capacity to maintain certain land uses and support different agricultural activities have not been fully and correctly documented which in turn has made it difficult to allocate land to its most optimal uses. It has been suggested that land should be zone based depending on soil and agro-climate factors. Today, the National Agriculture Advisory Services (NAADS) seeks to increase the proportion of market-oriented production through farmer empowerment providing information, knowledge and skills. NAADS has different district-specified programmes. The Poverty Eradication Action Plan (PEAP) is Uganda's national planning framework within which sectors develop their own detailed plans. The agricultural sector has developed the Plan for Modernisation of Agriculture (PMA).

3.6.1 Land and Environment

The National Environmental Management Policy states that in order to achieve a sustainable agricultural production, a NLP must not only encompass property rights to land but also other natural resources such as water, trees, wetlands etc. and provide farmers with secure access and users rights to grazing areas and water sources (Republic of Uganda, 2004). In a similar manner, the purpose of the Ugandan Forestry Policy is to integrate the forest and land sectors with the aim to achieve a sustainable increase in the economic, social and environmental benefits forestry can bring. The policy identifies key land and resource issues such as uncertainties over land ownership, land and tree tenure and the discrimination of women in terms of tenure insecurity, access to land and the fact that they are rarely involved in decision making over natural resource management (Republic of Uganda, 2003). Other related policies exist in order to preserve and maintain the biodiversity of Uganda, the protection of water and lakes and for an equitable allocation and division of minerals.

3.6.2 Poverty and Rural Development

Under the Land Strategic Sector Plan (LSSP) the delivery of services through decentralised structures and the balance between the review of the public and private sector provision is designed to bring about rural development. The purpose of the LSSP is to contribute to modernise agriculture by increasing the income of the rural poor by enabling productive and sustainable use of land and land-related resources. The main principles stated in the LSSP are among others that the management of land resources must comply with broader social and economic objectives, preservation and protection of the environment and that the decision making must be transparent, democratic and accountable (LSSP, 2001, p. 35-39).

Uganda has no specific legislation for the regulation of agriculture. There are a few general crop specific and livestock instruments, which are relevant to rural land use, but there still remain several key factors, with regard to rural development, that need to be sorted out (Akinyi Nzioki, 2006, p. 217f):

- Harmonisation of several land use policies and activities which is interconnected with land fragmentation and results in diminishing productivity.
- Raising rural smallholders' incomes in order to eradicate poverty (as done via the PMA)
- The limited provision of extension services to rural areas.
- Limited practices in land management.
- Promoting pastoral development taking into consideration the ecological nature of rangelands.

Specific concerns about land vary widely between regions, districts, communities and individuals. However, secure rights to land are recognised as essential for rural farmers in order for them to make future plans and investments. Thus, secure property rights are fundamental in order to achieve the Plan for Modernising Agriculture and apply especially to the poorest groups in the society which are often characterised by the most insecure land rights. These groups mainly consist of female and child headed households, refugees, urban slum dwellers and internally displaced persons (Akinyi Nzioki, 2006, p. 230). In this light, when applied to land policy the characteristics of PEAP take the form of (PEAP, 2000):

- Increased ability to use land as collateral.
- Greater transparency of titling process
- Improved availability of land to purchase
- Improved balance of rights within the household with potentially powerful impacts on incentives and productivity.
- More equal distribution both for equity and efficiency purposes.

3.7 Land Administration

Whether to centralise or decentralise land administration has been a burning question in all of our three countries. Even if, or perhaps since, all land in Tanzania is vested in the President, there are not less than nine different directly land-related institutions that manage land matters. Problems in land administration began to surface in 1978 when local government authorities were reinstated and provided with land experts in the hope that they will work for the local authorities while observing professional standards and existing laws. The local

authorities were to act and are still expected to act as agents of the central government. Contrary to expectations and also as a result of conflicting laws, local authorities manage land but in an uncoordinated manner. The involvement of many institutions in land matters has given room to various mal-practices for example accountability defused when problems arise, efficiency eroded and decision making and issuance of directives by higher organs to lower levels of government for implementation have sometimes complicated or created more land problems (Akinyi Nzioki, 2006, p. 193ff).

In Kenya, there has been no attempt to create a comprehensive policy for land administration. Land is still governed top-down by a centralised group of institutions that was set up by the colonialists. This has created legal and administrative bottle necks which have generated a poor efficiency to high costs (Akinyi-Nzioki, 2006, p. 86). An even worse outcome has been that Kenyans have not had access to these institutions and a little group of highly positioned people has thereby exploited loopholes in the system in order to grab land for themselves. Naturally, this has resulted in that ordinary Kenyans have lost their faith in a system that badly needs legal and administrative reformations. The Njonjo Commission Report has in this light recommended that a National Land Commission should be established to manage public land on behalf of the national and devolved governments and to establish offices throughout the country. Furthermore, it recommends the following actions to be put in place for land to be administered professionally (Njonjo Commission, 2002):

- National and District Land Authorities be established by legislation and entrenched in the constitution to hold and manage land on behalf of the citizens of Kenya.
- National Land Authority takes over functions of the current technical departments of the Ministry of Lands and Settlement namely, survey, physical planning, lands and land adjudication and settlement.
- The authorities should be run professionally and be insulated by the constitution from political influence, and be answerable to the people at the local level through an elective representation.
- The structure of the authorities should be set out in legislation.
- The district land authority should be accountable to the national land authority that will in turn be accountable to the minister.

In Uganda, articles 240 and 243 of the 1995 Constitution establish a decentralized system of administration. The Land Act of 1998 and the Land (Amendment) Act of 2004 has set up a decentralized system of land administration which is expected to operate from the centre to the districts and from the districts to the grass roots by providing for a district land board and district land office for each district, a recorder for each sub- county or division in a city and, land committees for each parish, gazetted urban area and division of Kampala City. Although decentralization of land management creates an institutional framework accessible to the people at the grassroots, it is very demanding in terms of human resources and finances. Interestingly despite of the noble cause of carrying services closer to the people, the way most people express their views indicates that communities regard the Land Boards as alien institutions. The Constitutional Review Commission (CRC) is therefore of the view that ownership by communities and transparency will be enhanced if the Land Boards accommodate and work closely with the traditional and clan structures which the people relate to, trust and accept (Akinyi Nzioki, 2006, p. 218f).

4 How Can We Interpret the Land Policies in Our Three Countries?

This far, we have created three separate profiles of Tanzania, Kenya and Uganda. We will in this chapter sum up our findings in order to give a good overlook of the land policies in our three countries. As we do so, we will also draw our conclusions, give personal comments and perhaps most importantly; generalise our findings so that they can be used for future research.

4.1 The Impact of Land Reform

The country profiles created in this thesis confirm much of what is already known, i.e., that land in Africa is not merely the basis of sustainable livelihood; it is also central to social identity and cultural cohesion. Although the quality, distribution and accessibility of, as well as physiological pressure on land vary, its contribution to the GDP in each country exceeds that of any other factor of production. For this and other reasons, reform of the land sector remains a development priority in our countries and probably in other Sub-Sahara African countries as well. In the following subsections we will analyse and comment on similarities and differences between our three countries.

4.1.1 LPD – Its Historical Context

In order to understand why the profiles of our countries look as they do today, we must consider their historical context. The profiles show that each of the three countries documented are at different stages of LPD and legislation. After independence, the Ujaama land reform was one of the first actions taken by the Tanzanian government. When recognising its failure combined with external pressures, it took almost ten years from the time when the Presidential Commission was appointed until the new land laws were ratified in Parliament. Furthermore, during the five years of having a NLP, but not yet the land laws, Tanzanian legislators received a lot of feedback from the grassroots and when finally writing

the Land Acts, many simple mistakes could be avoided. Thus, in Tanzania, a comprehensive legislation was enacted in order to operationalise the country's NLP.

Kenya is perhaps the country in which land has the highest status symbol. It is therefore not surprising that at independence when land was extensively privatised, political and economical elites grabbed hold of large pieces of the most attractive land. Even less surprising is it that these actions aggravated the mass of the country's population and that when new land legislation was forced through, it was done in a relatively hasty manor. Land legislation was enacted without a comprehensive NLP. This has had negative effects on land administration which in turn has once again rendered difficult a "fair" distribution of land.

Also in Uganda, land legislation was enacted without a comprehensive NLP surrounding it. However, land legislation did not come in the same haste as in Kenya. Instead, after intense lobbying by different lobbying organisations and other interest groups, the Ugandan government was obliged by the 1995 Constitution to pass a new land law, in which the rights of weak societal groups were to be strengthened, by June 1998. The effects of such a deadline were probably dual, in one respect creating a sense of urgency and pushing for action in another.

4.1.2 The LPD Processes Today

Firstly, it should be noted that at this point of time, our three countries are still in the initial stages of LPD. The profiles show that the specific issues in contention regarding the land question being addressed are remarkably similar and include:

- Land rights security.
- Public ownership of land.
- Reform of customary land tenure.
- Land administration.
- Sustainable management of land.
- Resolution of land disputes.
- Land and natural resource conflict.
- Gender disparities in terms of land rights.

Even though our countries resemble each other in the political rhetoric, they differ from each other in the implementation of LPD. We find that even though Tanzania has addressed the above core issues in both their NLP and their legislation, there are still problems with how to implement these policies in rural regions that are geared by customary rules and practices. The same problem exists in Kenya whereas in the Ugandan 1998 Land Act, customary rights have been well recognised and properly addressed. Here, holders of customary tenure can receive a certificate which is widely recognised and convertible into a freehold if so wished.

The differences in LPD approaches do not only stem from country-specific historical processes but also from different pressures, both external and internal. We find that in Tanzania, external pressure from international organisations have put focus on economic factors and perhaps neglected the real needs of rural peasants. In Kenya, pressures for reform came from grassroots, but in a disorganised way which consequently resulted in disorganised legislation. In Uganda, as a consequence of organised lobbying, policy makers concern for both historical and economical factors resulted in that especially farmers under customary tenure have been benefited.

4.1.3 Women's Land-Related Rights

An important issue being addressed by LPD is the nature of women's access to land. Policy makers now appreciate that the stability of agrarian relations depends to no small extent on whether or not women, the custodians of African agriculture, have secure access to land and associated resources. Specifically the profiles indicate that countries are concerned to ensure:

- The elimination of gender discrimination as regards ownership, control and transmission of land.
- The recognition of spousal co-ownership of land.
- The protection of widows and orphans from eviction or dispossession.

But as men own almost all the land, increasing women's ownership means redistribution of land and is therefore a highly delicate matter. It is therefore not very surprising that our profiles record that progress in eliminating gender-based impediments in access to land has

been slow, due either to the persistence of customary rules of patriarchy or deliberate subordination of women's land-related rights those of their male counterparts both within families and in the public domain. In Kenya, the government has totally failed, if they ever tried, to promote gender equality in their practices. In Uganda, it has proven difficult to incorporate both customary rights and gender equality into legislation. Even in Tanzania, where land-related gender discrimination was one of the main criticisms of the Shivji Commission regarding existing legislation and practices, have legislators failed to effectively incorporate sustainable methods that promote gender equality. The eradication of these impediments therefore will require more radical measures in policy making and laws. One step in the right direction would be to give women greater access to policy making institution and at the same time making these more democratic and totally transparent. Furthermore, greater efforts must be designated into information campaigns as achieving a sustainable change means changing the minds of man, especially men.

4.1.4 Land Policy Linked to Other Sectors

The profiles provide useful insights into how our countries conceptualise the land system in relation to other socio-economic and resource sectors. All three countries acknowledge forward and backward linkages with the land system.

Tanzania which, perhaps, has generated the greatest number of sectoral policies among the three countries profiled, is an important example in this regard. But even here, sectoral coordination is complicated and weak spots are often unforgivable which results negatively on development. Tanzania has succeeded relatively well in integrating its policies and has realised that the agricultural sector's policies must be incorporated in the overall environmental policy and that synergy and compatibility among the sectors are fundamental for agricultural productivity. Tanzania has through its Poverty Reduction Strategies and related legislations to a relatively high degree succeeded to identify the main problems within poverty and rural development. With the aim to reach the MDG, strategies for reducing poverty and promoting sustainable development have been implemented. Within these, there is a focus on enhanced access to productive assets for the country's most exposed groups. Furthermore, it is commonly recognised that women's empowerment is significant and that their role in agriculture must be incorporated in these policies in order to achieve an

environmentally sound development. However, even if Tanzania has the most developed policy integration of our three countries, many challenges remain and especially the coordination and implementation issues of land policies and its linked resources. Yet it is too early to see any sustainable improvements of the country's economic development and security of rural land.

While Tanzania has succeeded relatively well, Kenya has to a high degree failed with its land policies and have hardly developed any coordination or synergy between the sectors. Since colonial times, the large farm sector is characterized by under-utilisation of land and the lack of an obvious land-use policy including an implementation and maintenance plan has resulted in unsustainable land-use practices in many of Kenya's most potential areas. This has further been aggravated by other problems such as accumulation of land by elites and land problems between crop production and other activities. Furthermore, the devastating impact of HIV/AIDS has had serious consequences for the country's political and economical development.

Kenya's Poverty Reduction Strategy Paper and its related policies and legislations are, thus, highly fragmented and lack any form of integration and coordination approach. They contain only recommendations and hardly any concrete solutions or suggestions on how to deal with all the problems related to agriculture and its related resources. The result is a continued agricultural sector characterised by a declining productivity with severe consequences for the whole economy.

When it comes to Uganda, most of the arable land has already been claimed but the country is characterised by the problem of lacking documentation. This has resulted in difficulties to allocate land to its most optimal uses. Frameworks such as Uganda's Poverty Eradication Action Plan have been implemented in order to develop a detailed plan for each sector of the economy. Policies that recognises not only the importance of secured property rights to land, but also its related resources such as water, trees and woodlands have also been made with the aim to integrate the forest and land sectors and it seems as Uganda have succeeded relatively well in the areas where this have been tried. However, the country lacks a specific legislation for the regulation of agriculture and still lacks a harmonisation of several land use policies and activities. Even if Uganda has recognised the importance of secured property rights for rural farmers and has taken into account the special needs of the poorest groups in the society,

specific variations within the country which has made it even more difficult to implement certain strategies.

Common for all three countries is that they need public investments in marketing, infrastructure, research, extensions and other government services. All three countries' profiles show formulated poverty alienation and/or food security strategies and processes. In these, it is recognised that their foundation is sustainable use of land and land based resources. Hopefully, this will give land a continued centrality in different socio-economic questions. However, as many these strategies have been stimulated by the changing priorities of lending agencies over the years, it is perhaps not surprising that many policies have been formulated as stand-alone prescriptions not fully integrated into the LPD process. Only in Uganda does the land sector strategy paper attempt to forge necessary linkages with the majority of these strategies.

The impact of HIV/AIDS on land rights, land use and the physical environment generally, has rarely been systematically documented. Specific attention is needed to the fact that not only does morbidity and mortality due to HIV/AIDS lead to diminished production and productivity in the land sector, there are other direct impacts on the land rights system as well. These include:

- Distress transfers and leases of land to raise money for HIV/AIDS management.
- Forced expropriation or eviction of widows and orphans by relatives whose male siblings have died.
- Abandonment of land when those entitled to access is decimated.
- Breakdown in community land administration structures.
- Loss of institutional memory by whole generations of land communities.
- Increase in land disputes in the absence of credible mechanisms for their resolution.

As the incidence of HIV/AIDS intensifies, so will these impacts. It is therefore important that more work will be done on these issues.

4.1.5 Land Administration

Land administration has long been identified as the Achilles Heel of sustainable land development in Africa. In our countries, land administration systems are often bureaucratic, unclear, corrupt, inefficient and costly. The profiles document all these maladies as well as attempts, to democratise these systems. The shift towards the democratisation of land administration systems has taken a variety of forms, key among which are measures to:

- Vest radical title to all land, not in the state or government but in the people at large.
- Delink the state and its agencies from the control and management of land resources.
- Establish autonomous and professional land administration institutions to hold and manage public land.
- Enhance the efficiency of land rights delivery through the establishment of robust land information management systems.
- Guarantee public involvement in land administration at all levels.

The Tanzanian land administration system is characterised by many different land-related institutions which has resulted in coordination difficulties for the local authorities to manage land. Having too many levels in the administration system has resulted in various mal-practices and decision making and issuance of directives by higher organs to lower levels of government for implementation have sometimes complicated or created more land problems.

Kenya has not succeeded in creating a comprehensive policy for land administration and since colonialism, land is administered top-down by a centralised group of institutions. This has created administrative bottlenecks and made it possible for a small highly positioned group of elites to create loopholes in the system with the aim to grab land for themselves. This in turn has undermined the accountability of the Kenyan land administration system which has created a need for reformation.

Even if the Ugandan government have tried to bring administrative institutions closer to the grassroots, the lack of customary influence seem to have alienated these institutions anyway. Once again, in order for statutory institutions to reach out to people who live by traditional practices, it is necessary that these two sets of rules are integrated and that the

administrational process is fully transparent. The Ugandan government are on its way to realise these requirements.

4.2 Closing Remarks

Our purpose with this thesis was to create three different country profiles between Tanzania, Kenya and Uganda and compare their differences and similarities when it comes to LPD. We wanted to update the reader on the latest research in the area of land reform and investigate whether women's exposed situation has been taken into account. The main questions we posed were:

- *What is the background of LPD in our three countries and how can we interpret these documents in terms of poverty alleviation and economic development?*
- *To what extent has women's exposed situation been addressed in the LPD documents?*

We have discussed that almost all Sub-Saharan countries have initiated LPD processes as a mean to alleviate poverty, enhance the standard of living for rural peasants and create a sustainable economic development. Although Tanzania, Kenya and Uganda are in their initial phase in the implementation of the LPD, they have all reached differently far in these processes. Central in the land policy documents of our three countries are the importance of secured and equal access to land and its effect on poverty alleviation, especially among the rural populations. The fact that these relations have been fully recognised is probably the main reason for initiating land reform. In the aftermath of land reform, it seems though as if both Kenya and Uganda are on the verge of enacting NLP. It is rather clear that it makes sense to adopt a NLP before going into legislation and Kenya and Uganda now pay the price for not having done so.

All three countries have in their policy documents recognised the central role of women in agriculture. Female headed households are steadily increasing as men migrate to cities or pass away due to wars and diseases. This in combination with women being main providers of food, medicines and education for the household is well known among policy makers. Consequently, statutory legislation correctly addresses men and women's equal land-related rights in terms of access and ownership. However, in practice these laws are more or less

meaningless as customary practices and rules are the ones that are obeyed in the rural agricultural societies of these countries. Even worse is that widowed women do not automatically inherit their deceased spouses land. Thus, women are still repressed and discriminated in all aspects of life with negative consequences for agricultural productivity, child nutrition and schooling and the aim to reach a long-term sustainable economic development.

In order to ameliorate women's situation, more than meaningless words are needed. Active measures that incorporate customary practices into statutory legislation are required if attitudes are to be changed. As it is today, men possess all political, economic and social power meaning that women are impeded from participating and gain influence over the policy making process. Unless this order is changed, women are unlikely to attain any form of self-reliance and autonomy and therefore to improve their own situation.

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