

THE LAND INEQUALITY INITIATIVE
CASE STUDY

ASSESSING AND MEASURING THE GENDER GAP IN LAND RIGHTS

UNDER COMMUNAL
LAND ASSOCIATIONS
IN KARAMOJA

BY PAMELLA LAKIDI ACHAN

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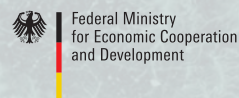
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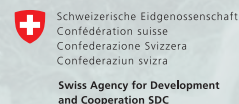
ASSESSING AND MEASURING THE GENDER GAP IN LAND RIGHTS

UNDER COMMUNAL LAND ASSOCIATIONS IN KARAMOJA

STRATEGIC PARTNERS & CORE DONORS



Government of the Netherlands



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BY PAMELLA LAKIDI ACHAN

KEY CONCEPTS

Land rights

In analysing the key issues addressed by Uganda’s National Land Policy (NLP), the government notes that “historical injustice and colonial legacies resulted in multiple rights and interests over the same piece of land; whilst under contemporary issues, Uganda is faced with disparities in ownership, access to and control of land by vulnerable groups” (Government of Uganda, 2013). “Access” refers to the ability to utilise land, while “control rights” means having the ability to make decisions concerning land. “Ownership” meanwhile embodies both of these rights, including the right to sell land or employ other forms of disposal, such as bequests or gifting, whether or not this ownership is documented (e.g. by having a title). The security of property rights is also important. Place et al. (1994) define three dimensions of tenure security: robustness, duration, and assurance of rights. Robustness refers to how many rights within a bundle of rights are held. Duration is the length of time for which a right is valid, ranging from a single season to a lifetime. Assurance is the certainty with which the rights are held and the extent to which they are enforceable.

Customary land tenure

It refers to land held in accordance with the customs, traditions, and practices of the family and community concerned. In Uganda, all citizens owning land under customary tenure may acquire certificates of ownership, and all customary land may be converted to freehold land by registration.

Land rights under customary land tenure are acquired through birth, which is automatic and equivalent to “birth rights”; through marriage, which automatically ends if the marriage ends; through land gifts; and through the sale of land (USAID-SAFE, 2013).

Land inequality

Based on the definition proposed by Guereña and Wegerif (2019) and contained in Uganda’s NLP, this term refers to a lack of equality with regard to land ownership, access, and control at all levels and between all social segments. Examples include lack of equality on land between men and women, rich and poor, different ethnic groups, small-scale farmers and large-scale farms operated by multinational corporations, pastoralists and farmers, and so forth.

Gender inequality

It refers to a condition of inequality caused by gender identities, gender roles, and imbalances of power between men and women in a society. A paper by Scalise (2020) undertakes an analysis of gender inequality in land from a broad perspective, looking at the different experiences of men and women, while this paper offers specific examples from Uganda. Hannay (2020) notes that inequalities exist worldwide between women and men, and also within these two categories, and illustrates this with examples of customary land tenure settings where, for instance, an unmarried woman with children may have different rights from a married woman with children or from a widow (see also Hannay and Scalise, 2015).

EXECUTIVE SUMMARY

Key words

COMMUNAL LAND

FAMILY LAND

GENDER GAP

COMMUNAL LAND

LAND INEQUALITY

This paper focuses on an assessment and measurement of the gender gap undertaken in Karamoja sub-region in northeastern Uganda. The assessment sought to establish whether Communal Land Associations (CLAs) have had any impact on the gender gap under a customary land tenure regime in this pastoral and agro-pastoral context. The Ugandan government has promoted the formation of CLAs as a means of securing land tenure for communities. This study finds that the formation of CLAs, which involves community sensitisation on gender-related land issues and the inclusion of women on land governance committees, has led to changes in attitude at the family level of land ownership, and therefore to a narrowing of the gender gap on land rights within families.

Although there are different norms for communal and family land in terms of women’s land rights, CLAs can be used as an entry point for tackling land inequality at the family level. The study also concludes that work on women’s land rights must be linked to change on women’s rights in general at the societal level. It recommends that future assessments of gender gaps in communal land ownership should take account of context, as customary norms vary within countries and between them. However, to establish the impact of development programmes on narrowing the gender gap, a standardised set of indicators is required that can be measured at baseline and then tracked in order to monitor and evaluate changes over time.

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INTRODUCTION

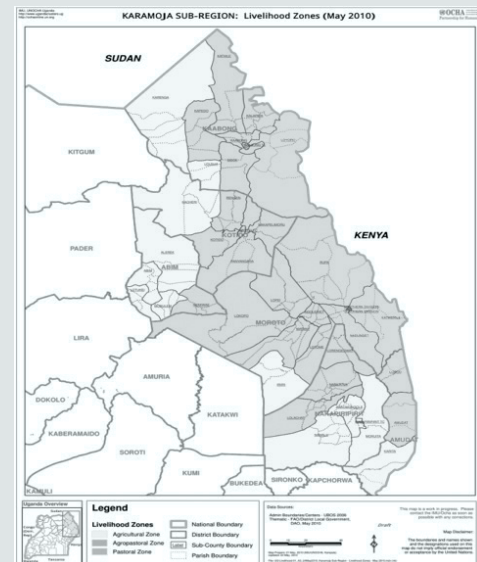
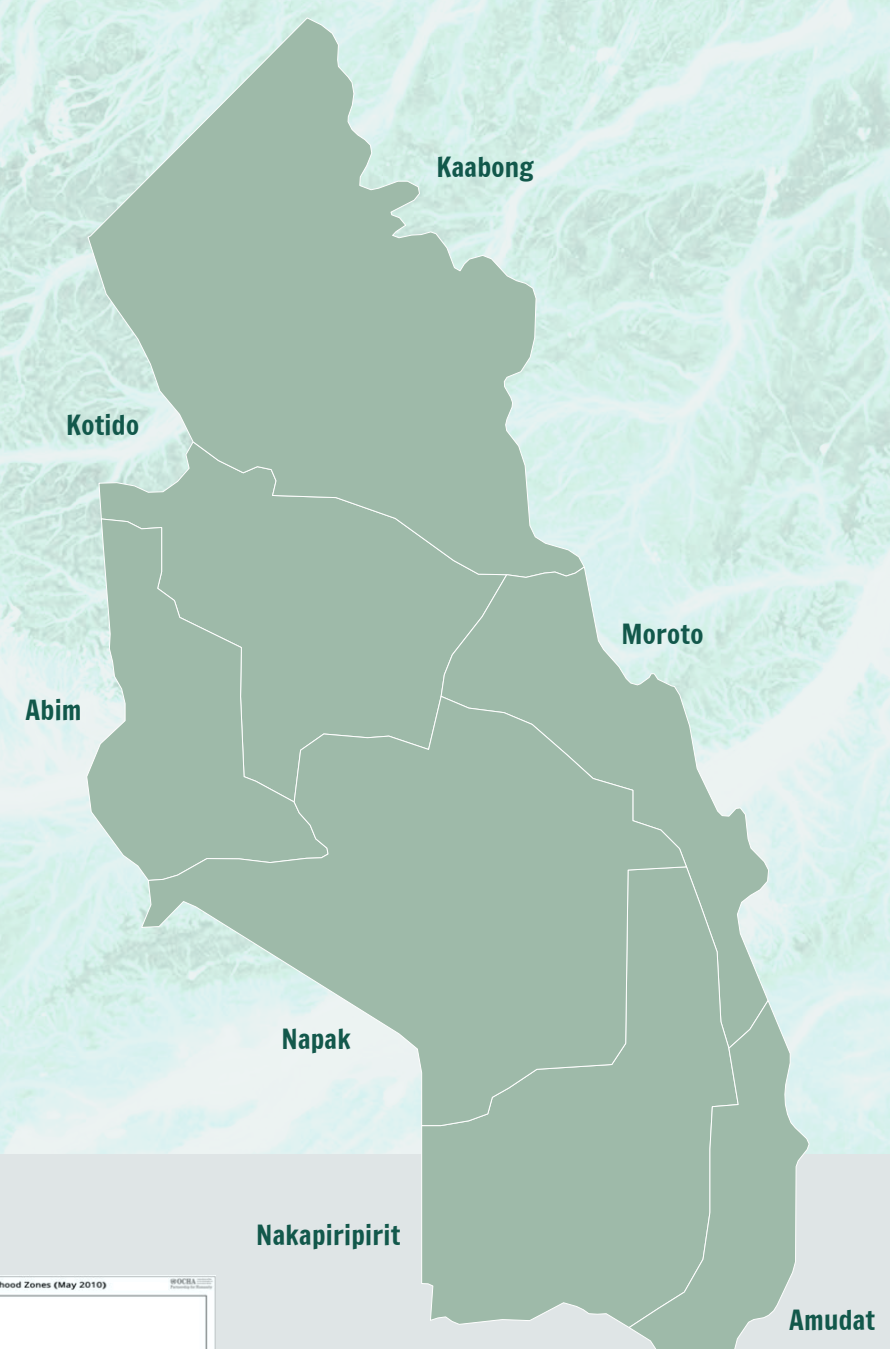
Background

With increasing pressure being felt on indigenous and communal lands, efforts have been made to codify and obtain legal recognition and protection of customary land rights, including the mapping and documentation of members' rights within communities (Giovarelli et al., 2016; Knight et al., 2012). An analysis of customary rules in 30 low- and middle-income countries concluded that community rules are often very discriminatory against women and fall far short of international standards (RRI, 2017). However, when it comes to assessing and measuring gender gaps there are few, if any, systematic data capturing women's land rights to collectively held lands or in customary systems (Guereña and Wegerif, 2019). Most of the analysis of farm sizes and land inequality that is currently available comes from agricultural censuses and from a variety of household surveys. Measuring inequality in this context requires the measurement of levels of power and the nature of land governance, something that is not widely done at present and will likely require some qualitative analysis (Ibid.).

This paper focuses on the assessment and measurement of the gender gap in a community-based or customary tenure regime. This hotspot case study was undertaken in the Karamoja sub-region, located in the northeastern tip of Uganda and home to 1.2 million people whose livelihoods are based on pastoral and agro-pastoral regimes. This region is considered a hotspot because all of the key contemporary land issues identified by Uganda's National Land Policy (NLP, 2013) apply here, in particular inter-district boundary disputes, ethnic land conflicts, and conflicts between pastoralists and settled farmers. In addition, Karamoja has suffered a significant amount of land grabbing, which has arisen from four main causes:

- the gazettement of land for wildlife conservation between 1962 and 1965, which resulted in 94.6% of the sub-region's total of 27,700 sq km being designated as wildlife reserves;
- degazettement of part of this land in the Pian Upe Wildlife Reserve for commercial agriculture purposes, which delivered it into the hands of foreign investors (from Korea, Libya, other Arab countries, and elsewhere);
- the discovery of vast mineral deposits, which has seen an influx of mining companies exploring or prospecting in the area (ULA, 2011); and,
- speculative acquisition of land by individual members of the Karamajong agro-pastoralist people, who have acquired large chunks of land in anticipation of finding investors to whom they can lease or sell it.

Figure 1: Karamoja sub-region and its districts



In a bid to address the increasing loss of Karamojong communal land through these land grabs, the Uganda Land Alliance (ULA), in collaboration with the Ministry of Lands, Housing and Urban Development (MLHUD), spearheaded the formation and implementation of a network of Communal Land Associations (CLAs) in 2012. This was the period when the NLP was being drafted; when it was finalised, the CLA mechanism was included as a key intervention for protecting the land rights of vulnerable communities from land grabbers (Government of Uganda, 2013).

However, challenges to communities’ land rights have persisted since then due to a number of local factors, according to respondents interviewed for this study.¹ These include an increased number of business people from other areas (particularly from Sironko and Mbale districts and from over the border in Kenya) seeking to buy land for commercial property development; border conflicts over administrative boundaries; and investors acquiring land for mineral exploration or exploitation. These new developments with regard to land in Karamoja are occurring under the customary tenure regime in force under Ugandan legislation.

The government, through MLHUD, has continued to promote the registration of customary land via certificates of customary ownership (CCOs). A key step in obtaining a CCO for communally held lands is the formation of a CLA. A study of potential changes in the gender gap under this government land registration initiative was justified on the grounds that information on the effects of land registration in other tenure regimes, such as freehold or Uganda’s Mailo system,² is relatively abundant, while evidence specifically on communally held land is scarce. This was against a background of different customary norms and practices within Uganda with regard to women’s and men’s land rights.

This study discusses how the gender gap in land rights has been affected in the Karamoja sub-region by the formation of the CLAs. Such associations have also been formed in Acholi sub-region.

The paper is organised as follows. Section 1 gives a brief background to the context of the study in terms of the national legal framework and the land rights of women and men in the Karamoja sub-region. Section 2 describes the gender gap assessment and measurement methodology, while section 3 presents the findings of the study and a discussion. Section 4 contains conclusions and recommendations.

1 Key informant interview (KII) responses from Amudat and from Kaabong.

2 The Mailo land tenure system is based on the holding of registered land in perpetuity. It has its roots in the allotment of land pursuant to the 1900 Uganda Agreement, and holdings are subject to statutory qualifications, as laid out in the Land Act 1998, Cap 227.

Legal framework on women’s land rights in Uganda

Uganda’s 1995 Constitution heralded far-reaching policy and legal reforms aimed at securing women’s land rights and advancing gender equality and empowerment of women. Article 31(1) of the Constitution entitles women and men to equal rights during and after marriage (Government of Uganda, 1995).

Chapter 227 of the Land Act 1998 contains a number of provisions for security of tenure and for safeguarding the land rights of women and children. The most significant of these are section 28, which outlaws discrimination against women and children in respect of ownership, occupation, and use of any land, and section 40, which requires mandatory consent from spouses to transactions involving matrimonial land (where the family ordinarily resides) and land from which the family derives sustenance (Government of Uganda, 1998). The Land Act 1998 also provides for mandatory representation of women in institutions of land tenure governance. It stipulates that at least one of the five members of the national-level Uganda Land Commission must be female; one-third of the membership of District Land Boards³ must be women; at least one of the four members of each Area Land Committee must be a woman; and at least one-third of the nine members of a CLA committee must be female (Government of Uganda, 1998).

At the same time, Uganda recognises customary laws and practices regarding land rights, though with a caveat of non-discrimination against women. However, persistent gender inequality in land rights has its origins in customary laws and practices that are moulded by patriarchal societal norms which give ownership of land to men and to male heads of extended families, while women enjoy only “secondary” rights in the form of access to, and use of, land through their husbands, fathers, brothers, or other male relatives (ICRW, 2011).

It is noteworthy that the legal framework and the customary system are clear on the rights of women and men as regards family land (and specifically for legally married women). However, there is still a lacuna on communal land, even though provision has been made for women to be part of the CLAs.

Women’s land rights in the Karamoja sub-region

In 2013 Oxfam conducted a study on women’s land rights in northern Uganda covering the West Nile, Acholi, Lango, Teso, and Karamoja sub-regions (Burke and Kobusingye, 2014). The study found that customary tenure remains strong in these areas, with only 1.2% of plots held under statutory tenure. Approximately 63% of women reported that they “owned” land under customary tenure, and over 86% of women reported that

3 District Land Boards are “subject to a minimum membership of five” (Land Act 1998, Cap 227).

they had access to land under customary tenure. Security of tenure is not dependent on formal documentation as proof of ownership, but men play a dominant role in land management (Ibid.). The study also highlighted the existence of two types of customary tenure across northern Uganda: communal land comprising grazing areas, forests, hunting grounds, and burial sites, with management vested in clans and with guaranteed access rights for all members of the clan but with no ownership rights conferred on users; and individual holdings by the head of a family or extended family as a custodian for future generations, with guaranteed user rights for all family members (Rugadya et al., 2010). In the Acholi region, over 90% of land is held communally and is used for hunting, grazing, and gathering firewood, herbs, and other natural resources (Hopwood et al., 2013). However, in the Lango region communal land disappeared in the early 1980s following the widespread theft of cattle by Karamojong rustlers. Since the communal land was utilised primarily for grazing, the disappearance of cattle meant that people then moved in and settled in these areas (Burke and Kobusingye, 2014).

The Oxfam study is very insightful on customary tenure and its forms, although it does not provide much detail on the Karamoja sub-region itself. Furthermore, it is not clear whether women's land rights were considered with regard to customary land that is individually owned or land that is both individually and communally owned. This is an important distinction, given that divisions in the bundle of rights are different for the two types of customary land, as pointed out by Rugadya et al. (2010). This is the information gap that the current study seeks to close.

Legal provisions on communal land

Uganda has adequate policy and legal frameworks that provide guidance on the holding and management of communal land. For instance, the NLP 2013 commits the state to guarantee and protect the land rights of pastoral communities through the following measures, among others: “ensure that pastoral lands are held, owned and controlled by designated pastoral communities as common property under customary tenure; and promote the establishment of Communal Land Associations and the use of communal land management schemes among pastoral communities” (Government of Uganda, 2013).

Under the Land Act 1998 (Sections 16–17), communal land may be held with a CCO or with a freehold or leasehold title by the managing committee on behalf of members of a CLA. Under Section 16 of this law, “A group of persons who wish to form themselves into an association may apply to the commissioner⁴ to become an association under the Act”. The law requires that 60% of the group must want to form the association; the association must have no more than nine and no fewer than three officers.

4 “Commissioner” here refers to the Commissioner for Land Registration and includes other officials such as the Assistant Commissioner, Principal Registrar of Titles, Senior Registrar of Titles, Registrar of Titles, and District Registrar of Titles, who are authorised to exercise any power or duty conferred or imposed by the act.

Other requirements are that the group must create a constitution, which must be submitted to the district registrar and, once formed, CLAs must follow a transparent and democratic process of management. The 2001 Land Regulations stipulate the procedures for establishing a CLA, including a requirement that at least one-third of the management committee of nine should be women.

The challenge, however, is that in Uganda there is always a disconnect between such progressive policy-making and legal provisions that promote gender equality and the actual practice on the ground. Implementation of such provisions is generally weak and, as a result, little progress has been made in translating them into tangible benefits for women. This is one reason for the persistently wide gender gap not only in terms of land resources but also in other health and economic outcomes, such as violence against women and women's economic empowerment.

Formation of CLAs in Karamoja

CLAs have not always been part of Karamojong culture, at least not in the form promoted by the NLP. As noted above, the CLAs were promoted by the ULA and MLHUD in 2012, in response to the increasing loss of Karamojong land through land grabs, and land is still under threat today.

What are the factors driving the threat to communal lands in Karamoja right now? There are various factors, ranging from the individual to the community level and from location to location within the sub-region. For example in Amudat, a district in the southeastern part of Karamoja on the border with Kenya, the population is split half and half between pastoral and agricultural livelihoods (UNOCHA, 2010) (see Figure 1). According to a key informant, Amudat district is currently facing a number of challenges with regard to communal land. For example, there has been a shift in focus from communal to individual ownership as people associate commercial benefits with the ability to sell land to buyers from outside the district. There have been a growing number of incidents of individuals within a community conniving with outside investors or land buyers and selling off communal land without community consent.⁵ There has also been a growing shift from pastoral livestock-keeping to crop husbandry, which has seen food stores (granaries) established at food production sites; this has raised the need to fence off the land to protect against intruders, in contrast with communal land which is usually unfenced and open for all to access freely. In addition, there has been increasing encroachment onto “open” communal land by people from neighbouring districts, which has resulted in border conflicts.⁶

5 The CLA of which key informant Philip Lokia is secretary was first formed as a result of such an incident. The matter is still going through the courts and is as yet unresolved.

6 Individuals from the neighbouring district of Nakapiripirit have invaded communal land in Amudat, with the intention of fraudulently selling it to investors. Interview with Phillip Locia, a former staff member of COPASCO who has worked in Amudat district.

Like Amudat, the district of Kaabong borders Kenya, but it has three livelihood zones – pastoral, agro-pastoral, and agricultural. This study focused on Loyoro and Sidok sub-counties, with the former being a pastoral area and the latter agro-pastoral. According to the chairperson of the Kaabong District Land Board, Loyoro sub-county has seen internal border conflicts, where members of one clan have crossed over and begun cultivating crops in another clan’s communal area. There has also been land grabbing by investors. For example, investors have come into communities and hired local people to cut down trees, while the people themselves were completely unaware that they had rights to this land.⁷

According to the chair of the local council in Sidok sub-county, there are three main types of land use in this area: for the establishment of dwellings, for agricultural purposes, and as pastureland for livestock. Land for dwellings and agricultural purposes is owned by individuals within a family, while land for rearing livestock is owned in common. While it is used primarily for livestock production, this kind of land also serves as a source of firewood, grass for thatching, poles for building houses, and medicinal plants, and for the mining of sand (for land near the river). Sidok sub-county has also faced a number of challenges. These include increasing inter-clan competition for fertile communal land areas, resulting in land grabs between clans, while communities in Kotido district have grabbed land from their neighbours in Kaabong. There has also been increased land fragmentation at the clan level within communal land areas.⁸

Other work on gender equality by development partners in Karamoja

The study found that the general promotion of gender equality is not a new concept in Karamoja. Women’s rights organisations and other development organisations have been promoting gender equality here for some time, though with a focus on other areas such as health, education, and political representation. Over the past decade many non-governmental organisations (NGOs) – women’s rights organisations such as the Uganda Women’s Network (UWONET) and Action for Development (ACFODE), development partners like ZOA, Mercy Corps, DanChurchAid, Diakonia, UN Women, and Irish Aid, and the Ministry of Gender, Labour and Social Development – have worked on women’s rights issues in Karamoja under the framework of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). Their work has provided fertile ground for the implementation of legal provisions relating to the establishment of CLAs in both Amudat and Kaabong districts.



⁷ Interview with Sylvia Rose Marwas, chairperson of the Kaabong District Land Board.

⁸ Interview with Mark Koppitto Kavar, chairperson of Local Council III, Sidok sub-county, Kaabong district.

2

METHODOLOGY

Research design

The research design in general is based on the difference-in-differences approach used by Bezabih and Holden (2010). By adopting this approach, the study aimed to compare the security of women’s and men’s land rights both before and after the formation of CLAs, and to compare this with control groups in areas where no CLAs existed. The differences detected in women’s land rights would be considered to be attributable to the impact of the CLAs.

Research hypothesis

- Women’s and men’s land rights are more equitable in areas where a CLA has been formed.
- The fact that women are included and make up one-third of the CLA committees contributes to greater equity in land rights between women and men.

Research objectives

- To assess changes in bundles of land rights for women and men when CLAs are formed.
- To assess women’s degree of influence on decisions made by CLA committees with regard to bundles of land rights for women and men.
- To identify other factors that have led to differential impacts of CLAs on the bundle of land rights enjoyed by women and men.

Data collection methods

Information was collected through a literature review of documents and by conducting telephone interviews with key informants from government and civil society organisations (CSOs) working on land development. A field visit was conducted to Kaabong and Amudat districts; in Kaabong district the researcher interacted with CLAs in three communities. A checklist based on the output of the KIs was prepared for data collection, and individuals from Kaabong and Amudat were interviewed using this checklist. Group interviews were conducted with three communities where a CLA had been established: Lokirinya CLA in Lobonya village; Lokulak CLA in Toroi West village, and Warwos CLA in Tiiti village. The status of the community was documented, with a specific focus on women’s land rights both before and after the CLAs were formed. This provided a baseline for evaluating the differential effects of establishing CLAs on the rights of women and men on communal land.

Sampling

Sampling was purposive, and case selection was based on the need to represent a variety of geographic regions and size parameters, different population segments, and so on (Davies and Beaumont, 2011). Two case districts were selected, Kaabong and Amudat. Kaabong is occupied by the Dodoth ethnic group of pastoralists while Amudat belongs to the Pokot ethnic group, who also have clan connections in neighbouring Kenya.

Twenty individuals participated in the research, drawn from a variety of backgrounds. They represented national-level government (MLHUD), local district government (District Land Board), lower-tier local government (two sub-county leaders), local communities (CLA committee members), and two CSOs – the Land and Equity Movement in Uganda (LEMU) and Participatory Ecological Land Use Management (PELUM) Uganda – which had worked with MLHUD to establish the CLAs in Karamoja. Additionally, the Coalition of Pastoralist Civil Society Organizations (COPASCO), which brings together pastoralist groups in the sub-region, was consulted.

Table 1: Categories of stakeholder consulted

CATEGORY OF STAKEHOLDER	NUMBER
Ministry of Lands, Housing and Urban Development (MLHUD)	1 (female)
Kaabong District Local Government	2 (1 male, 1 female)
Loyoro sub-county	2 (male)
Sidok sub-county	1 (male)
CLA committee members (Loyoro sub-county)	4 (2 female, 2 male)
CLA committee members (Sidok sub-county)	3 (1 female, 2 male)
CLA committee members (Amudat)	3 (male)
COPASCO, Kampala	1 (male)
Amudat District Local Government	1 (male)
LEMU, Kampala	1 (female)
PELUM	1 (male)

Data analysis and reporting

Qualitative data analysis took a deductive approach whereby research questions were used to group the data, and similarities and differences were identified. This approach was taken partly because time was limited for both data collection and for writing the report.

Qualitative data collected from the interviews were analysed by transcribing and cleaning all the interviews; coding the information based on the three key research objectives; then searching data to answer the research questions; and ending with a test of the research hypothesis. The evaluation of the effects of the CLAs was performed by comparing the “before” and “after” situations of men and women relating to rights to land in the areas where the CLAs were established.

Limitations of the study

A quantitative survey was foreseen among the data collection methods but, due to the limitations arising from the COVID-19 pandemic, it proved impossible to conduct this. Therefore, the study is based on desk research, a number of semi-structured interviews, and three focus group discussions with community members⁹.

Four districts – Moroto, Napak, Kaabong, and Amudat – were originally proposed for study, but because of the pandemic only two were covered. Therefore, when looking at the findings of this research, the possibility of ethnic and cultural differences should be borne in mind with regard to women’s land rights as practised by the five different ethnic groups in these districts – Dodoth, Tepeth, Pokot, Ike, and Jie. Additionally, different approaches were used by PELUM and LEMU when facilitating the original formation of the CLAs: for instance, while PELUM based CLAs on sub-clans, LEMU did not use the clan structure but rather used villages. All these factors have an influence on the data collected and on the analysis.

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The first group was from Lokirinya CLA in Lobonya village; the second group from Lokulak CLA in Toroi West village; and the third group from Warwos CLA in Tiiti village.

3 FINDINGS AND DISCUSSION

How the formation of CLAs has led to a narrowing of the gender gap

Situation before the CLAs were established

Before the introduction of the CLAs, there were different levels of ownership, access, and control of family and communal land for women and men.

At the family level, each homestead had a parcel of land. Among both the Dodoth and Pokot Karamojong, these vital land resources were passed from generation to generation through the male lineage, based on societal beliefs in the value of endowing men with resources so that they can have a family and take care of them. This was how men assumed the role of head of household and had the resources, including cattle and land, to fulfil their role. As the “owner”¹⁰ of inherited land, a man might allocate it to his wife or wives (where polygamy is practised, as is the case in Amudat district¹¹). Each wife “owned” the parcel allocated to her; she made decisions on what to grow on it and controlled the output from using that land. However, she could not sell the land without the consent of her husband or (for example, if her husband died) the consent of his family members. If she got divorced and returned to her father’s home, her right over the land was forfeited, but her children continued to “own” it – though only her male children¹².

At the level of communal land, the male members of the community “owned” the land while women had access rights to it for the purposes of gathering firewood, grass, and poles for building houses and medicinal and food plants and herbs¹³. However, when it came to decision-making in the community before the CLAs were formed, women reported that men would say: “Do not talk, it is us men”; and the men talked on matters of land and going to dig the well” (Sidok FGD).

Furthermore, society entrusted ownership and hence any key decision-making on communal land to male members of the clan alone, with a belief that “girls get married and go away, while it is the boys who stay behind and continue the family lineage” (Loyoro FGD).

¹⁰ “Ownership” here implies the authority to make decisions, to allow others to use the land, and the right to transfer it. The issue of selling land does not feature very prominently in Karamojong society.

¹¹ Interview with Suzan Irau, Senior Officer, LEMU.

¹² Interviews with Suzan Irau, LEMU; Phillip Lokia, Amudat CLA; Mark Koppito Kavar, council chair, Sidok sub-county.

¹³ Focus group discussion (FGD) in Sidok sub-county.



Figure 2: The names of female committee members on a certificate approving the constitution of a CLA fort Lobongia Ngikirinya clan

However, the tenure of communal lands by clans and communities was becoming increasingly insecure, due to a number of threats. These included investors in minerals grabbing communal land¹⁴, neighbouring communities grabbing communal land at district boundaries¹⁵, neighbouring clans coming into conflict over communal land¹⁶, and government entities acquiring communal land without proper free, prior and informed consent (FPIC) from the community¹⁷.

Formation of the CLAs

The government and the CSOs, PELUM and LEMU, reached out to communities and supported them to form CLAs, as provided for in the NLP 2013. During the process of establishing the CLAs, gender equality was emphasised in two key ways: through community mobilisation and sensitisation¹⁸ and by implementing the legal requirements to allocate a quota of seats on management committees to women¹⁹.

Due to the provisions on gender equality in the governance of CLAs, and also to the promotion of gender equality during the community sensitisation process, both men and women are now formally owners of the communal land (see Box 1).

Box 1

“With the formation of CLAs, land registration includes all members of the community and not just the head of the family (man or widow or unmarried person) as provided for by the Land Act 1998. Therefore in Amudat, where polygamy is the norm, if a man has four wives then all their names must be registered.” – Suzan Irau, LEMU

After the establishment of the CLAs

All the study participants agreed that, on the whole, there has been a positive shift in attitudes and practice with regard to the land tenure security of women and men.

For instance, one community member pointed out that, since the formation of the CLAs, women have had opportunities to talk about land matters, whereas before it was only men who discussed land²⁰. This increased opportunity for voice means that women are now able to influence decision-making on land matters, which was not the case previously.

14 FGD in Loyoro sub-county.
15 Interview with Phillip Locia, former COPASCO staff member, in Amudat district.
16 Interview with Sylvia Rose Marwas, chairperson of Kaabong District Land Board.
17 FGD in Loyoro sub-county.
18 Interview with Sylvia Rose Marwas, chairperson of Kaabong District Land Board.
19 Interview with Moses Onen of PELUM and Suzan Irau of LEMU.
20 Interview with Mark Koppitto Kwar, chairperson of Local Council III, Sidok sub-county.

Furthermore, community members highlighted as evidence of a change in practice the fact that more fathers are now giving their daughters land along with their brothers, whereas before the CLAs men gave land only to their sons²¹.

One male FGD participant said that he now considered his daughters in the same way he did his sons, because times have changed. He added: “Girls are now returning home after failed marriages.” Girls become a burden to their parents if they do not have a source of livelihood, and giving them land ensures that they do.

How the formation of CLAs has affected land rights for women and men

According to a LEMU official who helped facilitate the establishment of a CLA in Amudat, in the culture of the Pokot ethnic group, when a man has more than one wife, each wife is allocated a garden for cultivation or food production²². The officer further explained that this kind of allocation amounts to ownership of the land in the sense that if the man wants to marry another wife and he does not have any free land to allocate to the youngest bride, he seeks consent from the existing wives as to which land to allocate to her. Similarly, a PELUM official confirmed that amongst the Dodoth ethnic group in Kaabong district customs dictate that women have a very big say in determining land issues²³.

This shows that, even before the formation of the CLAs, women had rights of access to communal land and the right to make decisions concerning land allocated to them in the context of marriage. However, with the growing trend of land transactions, land has become a key asset for the acquisition of wealth, and this has led to cases where, when a man has died, his brothers or other male members of his family have gone against their own culture and turned on his widow in order to grab her land.

The establishment of the CLAs has strengthened women’s ownership over land by reawakening community consciousness of their right to land and the fact that the law protects this right.

This has been achieved through the community sensitisations done during the process of forming the CLAs, which included creating awareness on the provisions on women’s rights to land contained in the Constitution and the Land Act 1998.

21 Interview with Lokuwam Joseph, chairperson of Lokirinya CLA, Loyoro sub-county.
22 Interview with Suzan Irau, Senior Officer, LEMU.
23 Interview with Moses Onen, Senior Officer, PELUM.

This reawakening is now a deterrent to any male or even female opportunist who may want to abuse women’s rights to land, which have always been a part of the Karamojong culture. It also goes further in reinforcing principles of gender equality and ensuring that land inheritance is no longer the preserve of male children only.

Women’s influence on decision-making in CLA committees

“Women’s participation” means their ability to participate equally with men, at all levels and in all aspects of household, public, and political life and decision-making, including in activism (Womankind, n.d.). The term “participation and influence” refers to the equal and meaningful participation of women in decision-making. This means considering not only whether women are represented but also the extent to which they are able to be actively involved and hence influence decision-making processes through their participation (GADN et al., 2015).

According to a CLA committee member in Amudat district, the inclusion of women on the nine-member committee “means that women can now contribute to decision-making on a land transaction between the community and any outsider”, which was not the case before²⁴. In Kaabong district, a member of the District Land Board who took part in the CLA formation process reported that it had “trained women on how to make inputs into negotiations with regard to the benefits that the community should get out of land transactions between investors and the community”²⁵. She highlighted that, in the event of a land transaction between the community and an investor, women members of the CLA committee were now “aware and ready to push for such benefits as the establishment of schools to enable their children to get an education”.

By participating in decision-making on communal land on an equal footing with men, the position of women on land matters at the household level has been further strengthened. This is aided by recognition at the community level of women’s contribution to community development, as well as recognition at the family level of their role as the “pillar of the home”.

24 Interview with Phillip Lokia, CLA committee secretary, Amudat district.

25 Interview with Sylvia Rose Marwas, chairperson of Kaabong District Land Board.

Women’s influence in decision-making on CLA committees has been enhanced by the selection as members of older women, who are considered knowledgeable on the subject of communal land boundaries²⁶. This is an important consideration as it means that women members can influence decisions relating to the resolution of boundary conflicts at the community level, in addition to strengthening recognition of their participation on land matters (see Box 2).

Box 2

“When selecting the CLA committee, the community is sensitised that, of the nine committee members (the Executive), two to three should be women. The women selected for the CLA committee tend to be elderly, because they know how the communal land was formed and have information about the clan’s history.” –
Chairperson of Lokirinya CLA, Loyoro sub-county

Other factors leading to differential impacts of CLAs on the land rights of men and women

As already noted, the differential impacts of CLAs on men’s and women’s land rights have been supported by work done by other organisations in promoting women’s rights, albeit with a greater focus on health aspects (including gender-based violence (GBV) and female genital mutilation (FGM)) and women’s participation in governance. This has happened partly because the concepts of women’s rights and gender equality were not entirely new to the Karamojong, having been promoted by the Constitution and by the Land Act 1998.

Another factor that might have facilitated differential impacts from CLAs is the training of CLA members as community trainers on gender and land rights. According to the chairperson of Kaabong District Land Board, in areas where CLAs have been formed the capacities of committee members have been built “to continue sensitisation of the community”²⁷. One female member of a CLA committee testified that her work in sensitising the community on women’s land rights had yielded positive dividends for girls in terms of inheriting land from their fathers (see Box 3²⁸).

26 Interview with Lokuwam Joseph, chairperson of Lokirinya CLA, Loyoro sub-county.

27 Interview with Sylvia Rose Marwas, chairperson of Kaabong District Land Board.

28 Interview with Nacha, female member of Lokulak CLA committee, Loyoro sub-county.



Box 3

“I have been sensitising other women in the clan, and of course other clan members have known about the rights of women, especially for land. They have seen that it is a right for us. Even men are now giving land to girls: fathers are dividing up the land for boys and girls.” – *Nacha, female member of Lokulak CLA Committee*

4 CONCLUSIONS AND RECOMMENDATIONS

Conclusions

This investigation has sought to establish that the formation of CLAs has had a differential impact on the land rights of women and men, leading to a narrowing of the gender gap. It also set out to test the theory that the inclusion of women in governance functions results in a narrowing of this gap. Based on the findings of the study, the following key conclusions can be made.

Before the establishment of the CLAs, communal lands were owned by men, but now women also have formal ownership of such lands. With this new ownership status, women are participating in decision-making on communal land, which was not previously the case.

At the family level, before the CLAs were established the inheritance of family land was reserved for boy children only, but their formation has influenced fathers to consider their girl children when distributing land to the next generation. Married women have always had a significant stake in land but, in cases where a husband had died, this was being abused by his male relatives; now, since the formation of the CLAs, the ability of widows to defend their stake in land ownership has been strengthened.

The conclusion of the study, therefore, is that the establishment of CLAs has directly narrowed the gender gap at the level of communal land, while also indirectly narrowing the gap at the family level.

Looking at how the inclusion of women in the governance structures of CLAs has contributed to this, the study finds that the formation of CLAs has reawakened community recognition of women’s contribution to society, and that this has strengthened their stake in land ownership at the family level. Therefore, it is concluded that women’s participation in decision-making on the governance of common property does contribute to narrowing the gender gap on land rights, at the levels of both communal and family land ownership.

Recommendations

More research is needed to assess and measure gender gaps in terms of communal land. This includes further consideration of the interconnections between land tenure security at the levels of family land and communal land. This is especially pertinent as there is significant variety in norms and customs between ethnic groups. Therefore, locally based institutions are best placed to undertake such studies.

Assessing and measuring gender gaps relating to all types of land ownership, whether family or communal, requires that land actors implementing programmes aimed at narrowing the gender gap should pay greater attention to establishing baselines before work begins. However, this requires the development of specific indicators that could provide a consistent way of measuring the gender gap both before and after programmes are implemented.

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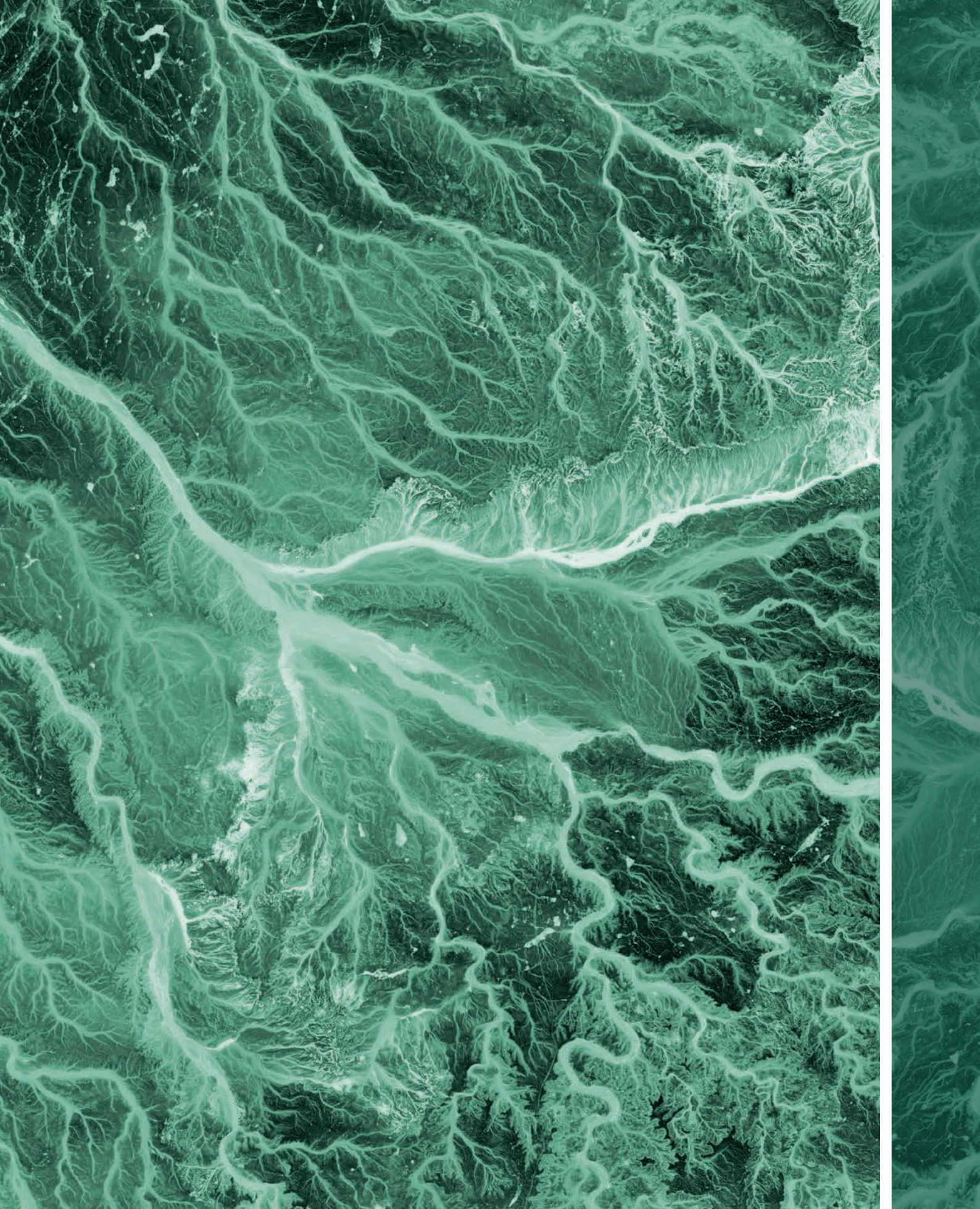
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is steered by an informal reference group, composed of experts in the field of land and wider inequalities.

Members of the reference group are meant to provide guidance and expertise throughout the process and include the following organisations:





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