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## **EVALUATION OF GRASSROOTS COMMUNITY-BASED LEGAL AID ACTIVITIES IN UGANDA AND TANZANIA**

### **Strengthening Women's Legal Knowledge and Land Rights**

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## **ABSTRACT**

Progressive legislative actions in Uganda and Tanzania have improved women's legal rights to land, however significant gender disparities persist in access, control, inheritance, and ownership of land at the grassroots level. One promising mechanism to improve the implementation of laws is through Community-based Legal Aid (CBLA) programs, which are typically designed as pro-poor to enhance legal empowerment of marginalized groups. CBLA programs targeting gender and land-rights issues aim to improve knowledge of existing laws, attitudes toward women's ability to own or control land and practice on how land is administered and distributed in rural communities. To date, there is little rigorous evidence on how effective these programs are in meeting these objectives. A qualitative study of CBLA programs in Uganda and Tanzania was conducted by the International Food Policy Research Institute (IFPRI) to assess the efficacy of CBLA activities, understand challenges faced by CBLA implementing organizations, and document opportunities and potential for scaling-up. Results demonstrate clear demand for enhanced CBLA services in program areas. Policy implications point to a number of opportunities for scale-up efforts from the programmatic level to the national policy level to improve the coverage and quality of CBLA services.

**Keywords:** gender, land governance, asset ownership, Uganda, Tanzania

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# EVALUATION OF GRASSROOTS COMMUNITY-BASED LEGAL AID ACTIVITIES IN UGANDA AND TANZANIA

## Strengthening Women's Legal Knowledge and Land Rights

Julia Behrman, Lucy Billings,<sup>1</sup> and Amber Peterman

### INTRODUCTION

Land is essential for the creation of stable livelihoods and well-being in rural communities around the world. Land has a productive dimension, as agriculture enables crop production for consumption, storage, gift, or sale. Ownership of land also provides a safety net for rural communities as it can be used as collateral to access financial capital or sale in times of hardship or unanticipated shocks. In addition, land has important cultural significance and people's attachment to land may go beyond productive or monetary realms. However, there are important gender differences in patterns of land rights worldwide. Global evidence indicates poor rural women lack reliable access to land; secure land tenure or customary land rights (Agarwal 1994; Lastarria-Cornhiel 1997; Kevane 2004). As compared to their male counterparts, women also lack access to essential complementary non-land inputs, such as fertilizer, pesticides, improved seed varieties and extension services, which would make women-controlled plots more productive or profitable (Peterman, Behrman, and Quisumbing 2010; World Bank and IFPRI 2010).

The implications of this gender-land gap are far-reaching. A number of studies demonstrate the different ways men and women use resources, which specifically highlight the benefits of investing in women. For example, increasing women's control over assets, including land, physical assets and financial assets, has been shown to improve child health and nutrition and increase allocations toward children's education (World Bank 2001; Quisumbing 2003). Research indicates that equalizing women's status is predicted to lower child malnutrition by 13 percent (13.4 million children) in South Asia and by 3 percent (1.7 million children) in Africa (Smith et al. 2002). Empirical work suggests that increasing resources controlled by women promotes increased agricultural productivity (Saito, Mekonnen, and Spurling 1994; Udry et al. 1995) and contributes to overall poverty reduction (FAO 2011).

A dominant perception among practitioners, researchers, and advocates working on women's land rights is that enactment of legislation equalizing land rights will not necessarily translate into the realization of rights. Women often lack legal knowledge and have restricted access to or inability to afford legal services. One promising mechanism to bridge these gaps is through Community-based Legal Aid (CBLA) programs. Broadly speaking, CBLA targeting gender and land issues are carried out as programs at the grassroots level aimed to improve rural men and women's knowledge of existing laws, attitudes toward women's ability to own or control land, and practice on how land is administered and distributed. Formally, legal aid has been defined as "a system of providing free advice about the law and

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practical help with legal matters for people who are too poor to pay for it.”<sup>2</sup> For the purposes of this report we adopt the definition of the Lilongwe Declaration, as has been done by others (Legal Services Facility [LSF] 2012), which defines legal aid as “legal advice, assistance, representation, education and mechanisms for alternative dispute resolution; and as including a wide range of stakeholders, such as nongovernmental organizations, professional bodies and academic institutions.” Thus, CBLA encompasses both direct legal aid services and more general legal education and advocacy activities, which are both described further in the theoretical framework presented in Section 2. Operationally, CBLA activities typically utilize the services of paralegal volunteers who provide legal advice and legal education at the grassroots level. CBLAs generally work under an umbrella organization which may also establish legal aid clinics run by legal professionals or trained volunteers to promote legal education and outreach activities.

CBLA programs gained popularity as a method to improve access to justice in a variety of sectors including the criminal justice and human rights systems in the 1990’s (Warren 2010; United Nations 2011). There is a common perception held by a number of donor and implementing organizations that CBLA programs represent a promising approach to addressing the gender-gaps in land rights (Knox et al. 2007). In recent years, many CBLA programs have started to adopt an explicit or implicit focus on gender and land issues. Although each program varies in strategy and objectives, a number of different programs with gender and land dimensions have been implemented in the last five years, including those in India (Landesa), Lesotho (Federation of Women Lawyers), and Rwanda (Women’s Land Link Africa). Although CBLA activities present a promising approach to enhancing women’s land rights, thus far there is little rigorous evidence on how effective these programs are in improving knowledge, attitudes and practice on gender and land rights issues in rural communities. In order to better understand how CBLA programs can be effective on a wider scale or in different contexts, there is a need for research on which programmatic components are most effective and what attributes contribute to their success. As governments, donors and civil society make decisions on how to allocate resources for women’s land and property rights, both monitoring and evaluation efforts are essential in making informed decisions to create the lasting improvements needed in poor rural areas.

In this report, we present the results of a research project using qualitative methods including Key Informant Interviews (KIIs), Focus Group Discussions (FGDs) and multimedia journals to assess the potential of CBLA activities to strengthen women’s land rights via improvements in men and women’s knowledge, attitudes and practices on gender and land issues in Uganda and Tanzania. These two countries were chosen as study sites in part because both countries have large rural populations and low levels of women’s ownership or control of land. Furthermore, a number of geographical, cultural and historical similarities and differences make for an interesting comparison and allow for some assessment of which components of CBLA projects are applicable between and across contexts. Strategically, these two countries also offer a potential opportunity for scaling up CBLA programs, and thus this study could lay the groundwork for expanded programs in this area.

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<sup>2</sup> <http://dictionary.cambridge.org/dictionary/british/legal-aid>

The specific objectives of this qualitative project were to:

1. elicit opinions from implementers, Civil Society Organizations (CSOs), local government officials and rural men and women on how current CBLA activities are functioning and how to most effectively design and deliver future grassroots CBLA related to gender and land;
2. assess the current knowledge and attitudes of rural men and women with respect to gender and land rights issues in areas with existing CBLA services as compared to areas without access to CBLA services; and
3. assess the potential for expansion of ongoing CBLA activities in Uganda and Tanzania, with particular attention to key program design components and opportunities for further research.

The report is organized as follows. Section 1 provides an overview of gender and land issues in Uganda and Tanzania and the legislative and policy environment in both contexts. Existing literature on CBLA activities is also reviewed and discussed in this section, both globally and within Uganda and Tanzania specifically. In Section 2 we develop a theoretical framework on the role of CBLA programs in gender and land issues at the grassroots level. In Section 3 we provide an overview of the research design and methodology of our qualitative project. Results from the various research activities are presented in Section 4. Section 5 concludes with a discussion of findings and implications for a scale-up of programming.

## **1. BACKGROUND AND CONTEXT**

### **Background on Gender and Land in Uganda and Tanzania**

Uganda and Tanzania are both East African countries with large rural populations engaged in subsistence agriculture. In both contexts, women continue to face difficulties owning land in spite of recent reforms enacting fairly progressive land policies (Uganda 1999, 2003; Tripp 2004). In Uganda, women are still minority owners of land, with the portion of female owned and female controlled plots estimated as less than 10 percent (Deininger and Castagnini 2006) and 18.7 percent (Peterman et al. 2011), respectively. Similarly, in Tanzania, significant inequities in land rights and ownership between men and women remain, with females representing only 19.7 percent of agricultural landholders (FAO 2011). Evidence indicates that women may face particular difficulty accessing land upon the death of a spouse. A cross-country study using nationally-representative data shows that only 36 percent and 38 percent of widows aged 15 to 49 received the majority of their late husband's assets in Uganda and Tanzania respectively. Additionally, it was found that inheritances contributed significantly to household's long-term welfare using data from the Kagera region of northwestern Tanzania (Peterman 2011).

Although both countries share a number of similarities in gender and land dynamics, they are also marked by cultural, political, agroecological, geographic, and historical differences. Agroecological differences across Uganda play a significant role in land use patterns. Uganda's high degree of ethnic diversity also results in a number of regional and cultural differences in land administration (Tripp 2004). Much of rural society in Uganda is organized around a clan structure that



shapes social interactions and access to land and property rights, depending on tribal and clan traditions. In Northern Uganda, the decade-long civil war that ravaged much of the north of the country has led to increases in land disputes that are often detrimental to women's control or ownership rights (Behrman and Bomuhangi 2011). In the Western region, heightened population pressure and increases in migrant settlement from neighboring countries have led to widespread problems of land scarcity and conflict over land. The Central region of the country is the most urbanized and the population tends to be wealthier and better educated in urban centers. In the Central region, women are, at least in theory, allowed to own land according to the customs of the dominant tribe. However, throughout much of the country, a patrilineal system of land inheritance is practiced in which women are restricted from inheriting land from their fathers or husbands to ensure that land remains in the clan if the woman marries or remarries into a different clan.

Geographically, Tanzania is four times the area of Uganda; however, it is estimated that only 6 percent of the land is under cultivation, with the majority of land remaining as either woodland or pastureland unfit for agriculture (WLAC 2009). Under the post-colonial socialist villagization policies of Julius Nyerere from the 1967 Arusha Declaration, ownership of private property was explicitly prohibited and attempts to generate a common national identity unified around a common language (Swahili) were put into place. In the past few decades, the country has become increasingly free-market oriented and ownership of private property has been allowed. Although attempts to promote a common language were largely a success, over 120 distinct tribes and ethnic groups remain in Tanzania, meaning that regional cultural differences persist. In the northern part of the country, around the Mwanza region, there is a mix of pastoralists and farmers; in the Southern regions agriculture dominates. Certain areas of the country, including the Kilimanjaro region, are known for extreme population density, resulting in higher frequency of land disputes than in other regions, such as the coastal areas, where there are fewer pressures on land. As in Uganda, in areas of high population density, women's land rights may be particularly vulnerable, due to increased demand for land resources. In general, rural Tanzania is also largely patriarchal, with landownership and rights passed down through the male line, although a few groups remain that practice matrilineal inheritance. Ethnic differences continue to shape land administration patterns to some extent.

As is the case in much of Africa, legal pluralism exists in both Uganda and Tanzania whereby both customary or "traditional" law and statutory or "formal" law exists side by side. In Uganda there are four types of land tenure systems: freehold, mailo, leasehold, and customary.<sup>3</sup> Of these systems, the majority of land (80 percent) is held under customary tenure, meaning that land use is governed by the clan and customary laws (Bomuhangi, Doss, and Meinzen-Dick 2011). It is also estimated that 80 percent of the land under cultivation in Tanzania is held under

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<sup>3</sup> Under the Freehold tenure system, owners hold a deed to the land that grants the right to use, sell, lease, transfer or subdivide the land. The mailo tenure system was established by the British colonial government and is a quasi-freehold system where tenants are required to pay a nominal rent and face restrictions on how they may use the land. In the leasehold tenure system, the landowner (either private or state) grants the tenant exclusive use of the land for a specified period of time. Land held under the customary tenure system is governed by tribal customs and rules. Under this system, landholders do not have formal titles, although they can acquire certificates of ownership.

customary tenure by smallholders; however, cultivated land only makes up a very small share of total land area in Tanzania (Mtatifikolo and Lugoe 2007). Toulmin and Quan (2000) argue that women typically have stronger rights under statutory law; however, the implementation of these rights is often limited. In addition, the shift from customary to statutory property has been found to discriminate against women. Rwebangira and Mukoyogo (1995) suggest that colonial influences changed the view of land from a communal resource to a source of individual wealth. Since men were perceived as the earners, they also become the controllers of land under the colonial system. Lastarria-Cornhiel (1997) supports this perspective by arguing that privatization of land in Africa leads to the concentration of land in the hands of those who can successfully assert ownership, such as community leaders and male household heads, often to the detriment of the access and use rights of poor rural women or ethnic minorities. For example, in regions of Malawi and areas of Southwest Tanzania, which are traditionally dominated by matrilineal-matrilocal land tenure regimes, the introduction of formal titles led to the erosion of women's land rights, as the male household head was consistently designated the official title holder (Peters 2010).

### **Legislative and Policy Environment for Women's Land Rights in Uganda and Tanzania**

At the legislative level, a number of legal gains, bolstered by strong grassroots movements, have improved women's legal rights in both Uganda and Tanzania (for a detailed overview of relevant legislation on women's land rights, see Obaikol 2009, Asiimwe 2008, FIDH 2012 for Uganda, WLAC 2009 for Tanzania). Uganda's 1995 Constitution guarantees all Ugandans the right to own property regardless of sex. In addition, the Constitution, which is declared to be the supreme law, stipulates that customs or traditions that discriminate against women are prohibited. Although private property was banned during the days of socialism, Tanzania's 1977 Constitution was amended in 1984 to recognize citizen's rights to own private property for the first time. The Tanzanian Constitution also explicitly prohibits discrimination against women in any form.

Land tenure and administration issues are defined in Uganda's 1998 Land Tenure Act, which was most recently amended in 2004. The Act provides that a person or community holding land under customary tenure may acquire a certificate of customary ownership through Parish Land Committees. Decisions on customary ownership are made in accordance with customary laws unless customs or practices discriminate against women and other marginalized groups in land access, ownership, and control. In a major victory for women's rights activists, a consent clause was added to the Land Act in the 2004 Amendment requiring that the consent of all family members be given before the sale or transfer of family land. Also significant for women is the fact that security of occupancy is granted to all family members inhabiting family land. The Land Act further attempts to promote increased participation of women in land administration by providing quotas for female participation in governing bodies related to land. However, a clause that would grant women and men co-ownership over land was absent both from the final document of the Land Tenure Act and the 2004 amendment. In addition, Uganda has never had an official national land policy to unify the various

aspects of law pertaining to land, although several versions of a land policy have been drafted.<sup>4</sup>

In Tanzania, land tenure and administration issues are formalized in the 1995 Land Policy and subsequent Land Laws of 1999, which are comprised of the Land Act and Village Land Act. The 1995 Land Policy recognizes the dual system of land tenure with customary and statutory rights of occupancy and makes provisions for registration of customary and statutory titles. The policy also entitles women to acquire title deeds in their own names through purchase or as a gift and allows for application of customary practice of inheritance as long as practices are not contrary to the constitution or to the principles of justice. Unlike the Ugandan land policy, the Tanzanian Land Act of 1999 addresses co-occupancy. As in Uganda, the Land Act requires spousal consent before sale or transfer of land. The other component of the 1999 Land Laws, the Village Land Act, declares void any customary law that denies women and other vulnerable groups access to, ownership of, occupation of or use of land and prohibits gender-based discrimination when issuing a customary right of occupancy. In addition, the Village Land Act made provisions for the establishment of Village Land Councils to mediate and resolve disputes and set gender-based quotas for this council so that three of the seven members must be women.

Land legislation in both countries set forth a system for acquisitions of formal and customary titles. In Uganda, the area land committee serves at the subcounty level to facilitate the land title process. These committees inspect land to identify reserve land such as wetland areas and government forests, and work with community members to demarcate individuals' holdings. This document is signed by the community members and sent to the district land board. If there are no disputes, the district land board sends the document to Kampala for the land title to be issued. In Tanzania, certificates of customary right of occupancy and land titles legally serve the same function, although the customary certificates pertain to ownership of village land according to the Village Land Act, while deeds are given in urban areas where land is predominantly classified as general land. On the side of land administration, the Village Land Management Council handles applications for land and the Village General Assembly approves land titles.

As part of the attempt at land tenure reform, both Uganda and Tanzania created a decentralized system for dealing with land management and dispute resolution issues that aims to have most issues settled at the local level. In Uganda, each village has a Village Land Committee charged with overseeing land administration issues in conjunction with the Local Council 1 (LC1, leader of the smallest administrative unit in Uganda) and other local leaders. At the next level is the Area Land Committee, followed by the District Land Board. The Local Council Court Act of 2006 declares that the Local Council Court be the first place where land disputes should be dealt with. In Tanzania, land is also managed at the local level. The Land Disputes Courts Act lays the procedural steps for bringing land disputes to the formal court system. Village-level disputes are initially referred to the Village

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<sup>4</sup> The latest land policy draft was released by the Ministry of Lands, Housing, and Urban Development in 2011. The overarching goal of the policy is "to ensure efficient, equitable, and sustainable utilization and management of Uganda's land." If officially acknowledged, this policy holds potential for improving gender equity in land matters. The policy specifically seeks to redress historical injustice to protect the rights of marginalized groups including women.

Land Council and if disputes are not resolved at the village level, they may be taken up at to the Ward Tribunal (each ward is comprised of a number of villages). In the urban context, local-level disputes are referred directly to the Ward Tribunal. Issues that are unresolved by the Village Land Council or the Ward Tribunal go to the District Lands and Housing Tribunal and, in rare instances, to the high court.

The extent to which these land laws have been implemented has been subject to some discussion. In Tanzania, WLAC (2009) conducted a research project and report on the status of gender and land issues 10 years after the passage of the 1999 Land Laws. The study employed qualitative techniques and a cross-section and case study design to sample nine villages and 1,204 women above the age of 18. The principal finding of the study was that the Land Laws appear to have had a limited impact on women's landownership. The study did find two areas where provisions of the Land Law have had some degree of success; women's representation in land adjudication bodies increased dramatically due to the gender-based quotas for local land administrative bodies set by the Village Land Act; and the ruling on void and inoperative customary law is seen as having improved women's land rights. Although promoted by government as an important process, many villages still do not have a land use plan. Due to budget shortages, villages are being asked to share in the cost of conducting the land use planning exercise, which can be prohibitively expensive.

Because of the rise of CBLA programing in both countries, there have been steps taken to introduce policy and protocols to regulate legal aid service provision. In Uganda, a legal aid policy has been drafted by key government and nongovernment stakeholders for the provision of free legal services by the state in collaboration with non-state actors. Once an agreement on the policy is reached among the stakeholders and is passed by the Cabinet, the policy would serve as the formal framework to guide and standardize legal aid service provision and lay the groundwork for a legal aid law. In Tanzania, legal aid reform is a component of the Legal Sector Reform Program (LSRP) under the Ministry of Constitutional and Legal Affairs. The Public Legal Services Department within the Ministry was specifically created to coordinate legal aid in the country and legislation for legal aid is an agenda item for the LSRP. A previous concept bill for paralegals was rejected by the Inter-ministerial Technical Committee. With the recent establishment of the legal aid division under the Ministry of Constitutional Affairs, the government has recognized the need for formalizing the legal aid subsector, because of the numerous organizations providing services without standardization or regulation. The legal aid division has been tasked with drafting a legal aid act that would provide the laws to govern legal aid service provision in Tanzania. The act is currently being drawn up, although a draft has not yet been released.

It is worth mentioning the other legal frameworks affecting women's property and landownership, as land rights are intrinsically tied to a number of issues, including family law, marriage and divorce rights, and domestic violence, given that domestic relationships often determine an individual's access to or ownership of land. In Uganda, existing family law does not clearly stipulate the rights of married women to access family-held property. In addition, there is no set legal procedure to determine rights to property upon divorce, and therefore rights are currently decided on a case by case basis. At present, inheritance law follows the Succession Act, although a 2006 petition challenged the act in the Constitutional Court and the

final judgment found many of the articles inconsistent with the equality provisions in the Constitution. The court thus declared these articles null and void (Asiimwe 2008). Further, the law fails to provide protection to those who adhere to customary or religious practices that conflict with the Act. Under customary law, there are no accepted practices on division of property or assets upon divorce or separation. A draft Domestic Relations Bill (also referred to as Marriage and Divorce Bill) has been stalled for the better part of the last decade. In its current form, the bill, among other things, defines matrimonial property, provides for equitable distribution of property in cases of divorce, recognizes the property rights of cohabiting partners, prohibits the practice of widow inheritance where a widow is passed on to a male relative of the deceased, and prohibits marriage gifts (or bride-price) as a requirement for marriage. Uganda's 2010 Domestic Violence Act clearly defines domestic relationships and holds convicted offenders of domestic violence liable to a fine or imprisonment, giving local courts jurisdiction to handle domestic violence cases. However, a report from the International Federation of Human Rights (FIDH 2012) noted that implementation of the Act has remained limited due to costs and inadequate budget allocations.

In Tanzania, The Law of Marriage Act of 1971 sought to provide uniformity in marriage and divorce and recognize equity between husbands and wives. However, the law does not provide specificity in the division of assets upon widowhood or divorce. In this case, a woman's rights may be retained over any property she may have brought to the marriage; however, ambiguity remains as to whether unpaid labor, including subsistence farming, improvements to land, domestic activities, or childcare constitutes official "contributions" to marital assets or are simply "wifely duties" (Mbilinyi 1972). The case of Bi Hawa Mohamed versus Ally Seif (1983) established that it is proper to consider the contributions of a spouse to the general welfare of the family as well as contributions to the acquisition of family assets. However, the presiding magistrate or judge is given discretion in determining the level of contribution, which can result in a woman losing everything through divorce. For example, in the case of Mariam Sulemani versus Sulemani Ahmed, the woman was left with nothing because she could not prove her contribution toward acquisition of the matrimonial assets. Domestic violence issues are minimally and vaguely addressed in The Law of Marriage Act, while sexual violence falls under the jurisdiction of the Sexual Offences Special Provisions Act of 1998. There are three systems of law that govern inheritance according to the 1920 Judicature and Application of Law Act. The Indian Succession Act of 1865 is the statutory law that provides for one-third of the estate to pass to the widow and two-thirds to the children. In the case where the couple had no children, then the widow is entitled to half the estate, while the other half passes to the parents or blood relatives of the deceased. Under Islamic law, widows receive one-eighth of the property if there are children and one-fourth if there are no children. According to customary law, a woman cannot inherit property from a deceased husband. Although the government has recognized this to be a discriminatory law, it is still widely practiced.

In both countries, coalitions have been formed to facilitate collaboration on advocacy among civil society members. In Uganda, the Uganda Women's Network (UWONET) and the Uganda Women's Parliamentary Association and Paralegal Advisory Services both campaign for advancing women's rights. On the side of legal aid advocacy, the Legal Aid Service Providers Network (LASP-NET) has been

instrumental in coordinating the development of a draft legal aid policy that has potential for standardizing legal aid activities throughout the country. In Tanzania, a number of networks have also been prominent in getting relevant legislation passed, including the Gender Land Task Force and the FEM–ACT. The Tanzania Paralegal Network (TAPANET) is hosted by WLAC and serves as the primary advocate for legal aid programs in Tanzania.

### **Key Issues Identified by Existing Studies on CBLA Programs**

A number of NGOs and research organizations have conducted reviews that summarize knowledge of key issues surrounding CBLA programs. These existing studies provide an important foundation for our research as we assess the current coverage of CBLA services in Uganda and Tanzania, and seek effective models for program delivery. We reviewed the literature with particular attention toward CBLA programs working on gender and land access issues, both in Uganda and Tanzania as well as other developing countries.

#### *Types and Coverage of CBLA Services*

CBLA services include education and sensitization, legal advising, referral to local officials, and alternative dispute resolution (ADR) as an alternative to dispute settlement in court. Since state and local institutions often lack the capacity to handle the large number of land dispute cases brought forward each year, ADR can help to alleviate some of the pressures on these systems. However, Kakooza (2007) notes that in Uganda, most land dispute mediation goes unrecorded and unanalyzed as to the procedural justice, effectiveness and compliance to the applicable laws. A study was commissioned by the Northern Uganda Land Partners Platform in 2011 to improve on the quality and impact of ADR service delivery. The report suggests that NGOs can successfully serve as a bridge to the statutory system through ADR methods. An important finding from this study is that ADR relies on the good faith of all parties. Thus this method is less appropriate for cases of contested ownership as a result of opportunistic land grabs, which was cited by interviewees as the most common cause of land disputes in the study region (Akin and Katono 2011).

Attempts have been made to estimate national coverage of CBLA services in both Uganda and Tanzania. In 2010 the Tanganyika Law Society (TLS) was commissioned by the Legal Sector Reform Program to conduct a baseline assessment of paralegal programs in all regions of Tanzania. The study identified 49 paralegal centers operating in Tanzania with 1,770 total trained paralegals. Approximately 66 percent of the paralegal centers were legally registered, most commonly as local NGOs. The baseline also found that paralegal services were offered in all 21 regions of mainland Tanzania, with centers based either at the regional level or at the district level. However, it was noted that coverage of paralegal services diminished in more remote areas where not all districts had centers and even the district–level centers were unlikely to have the capacity to provide full coverage within the district (TLS 2010). A more recent survey of legal aid programs in Tanzania was conducted by the Legal Services Facility (LSF) in 2012, which also found that legal aid service providers are generally concentrated in urban areas, preventing many potential clients in rural areas from accessing

services (LSF 2012). In 2009, the Uganda Legal Aid Service Providers' Network (LASP-NET), a CSO that serves to link all legal aid service providers through networking and advocates for the legal aid sector agenda, conducted a national mapping exercise to determine the location and coverage of CBLA providers in Uganda. The findings from the mapping exercise found that there are major gaps in legal aid coverage across the country, especially in remote regions of Northeast and Northwestern Uganda (LASP-NET 2009). To compare legal aid coverage in Tanzania and Uganda with coverage in another East African country, we use a 2009 survey conducted by the Legal Aid Forum in Rwanda. This study found 16 organizations with CBLA programs and at least 1,296 trained CBLAs in the country. All 30 of Rwanda's districts had coverage of CBLA services with a minimum of one organization operating in each district, and 10 districts with four to five organizations offering legal aid. Similar to Uganda and Tanzania, the more remote districts had fewer organizations offering CBLA services (Legal Aid Forum 2009).

### *Coordination of Services*

Coordination between state and non-state actors can serve as a means to identify and fill gaps in the provision services, as well as to engage other potential service providers from outside the legal sector (UNDP 2004). However, there is a clear need for CBLA organizations to establish networks to coordinate services and increase effectiveness (Knox et al. 2007). In Tanzania, research suggests developing an overarching legal aid strategy to mobilize resources for the sustainable scaling up of programs, and to enhance coordination and information sharing to improve quality and coverage of CBLA services (LSF 2012). A past attempt to improve the coordination of legal aid in Tanzania was initiated by WLAC in 2000 after the observation of duplicated services in some areas of the country. In 2005 WLAC organized a symposium with CBLAs from the prominent service provider organizations to conduct a mapping exercise of services. Recommendations from this symposium included improved coordination and information sharing between legal aid providers and uniformity in CBLA training with a standardized curriculum. However, action on these recommendations has been slow.

There is also evidence for the need of coordination with government actors to improve recognition of the potential that CBLA can play in the justice system from the local level to the national level. The LSF assessment of legal aid found that the legal framework for supporting legal aid is generally weak, with no guiding policy, national strategy, or legislation to regulate legal aid service provision in Tanzania (LSF 2012). However, in Tanzania, there are plans to establish a Legal Aid Secretariat to take over the coordinating function currently provided by TLS as part of the Legal Sector Reform Program. This secretariat would serve as an interlocutor for legal aid service providers, civil society and government. A 2004 needs assessment conducted by LAPS-NET in Uganda also identified the lack of any national policy framework to guide the provision of legal aid services and recommended the development of a government policy to guide and standardize legal aid services in Uganda (LASP-NET 2004).

### *Sustainability, Recruitment, and Capacity*

There are sustainability concerns as most CBLA service provider organizations rely heavily on donor funding to support program operations, leaving them vulnerable to shifts in donor interests (LSF 2012). A United Nations Development Programme (UNDP) practice note observed that legal aid programs are usually expensive to operate and often do not receive government support. The note advised that programs needed to pay particular attention to ensuring financial sustainability and cost-effectiveness through such schemes as pro bono lawyers, university law clinics; the participation of bar associations, and other public advocates; as well as a coordinated lobby for an adequate share of public revenue (UNDP 2004).

CBLA recruitment has the potential to increase the quality and focus of CBLA services. For example, some programs may select CBLAs based on gender, age or literacy level. In the TLS study it was found that 59 percent of CBLA respondents from the study sample were women. The explanation given for this gender composition was that many of the service provider organizations implementing the programs are women's rights organizations and specifically seek out gender balance in their selection criteria for CBLAs (TLS 2010). The Rwanda survey also found that the majority of CBLAs were women (70.2 percent) (Legal Aid Forum 2009). In addition, 69 percent of CBLAs were between the ages of 30–40 and 60 percent of the surveyed organizations required CBLAs to have a secondary education in Rwanda (Legal Aid Forum 2009).

Training investments vary widely between CBLA programs in terms of length, regularity of followup (or refresher trainings), and content of the training. The TLS (2010) study examined CBLA training curricula in Tanzania to identify which fields of law paralegals are trained in. The laws that are most commonly trained are the Land Act (87 percent of respondents), the Marriage Act (86 percent of respondents), and the Inheritance Laws (79 percent of respondents), all of which are extremely relevant to providing legal support around land and gender issues. TLS strongly supports standardization of CBLA training across all organizations that offer CBLA programs in Tanzania. Under the Legal Sector Reform Program, funding was made available to create a standard CBLA training manual. Six implementing organizations were involved in drafting the manual under the coordination of the bar association. The manual was pretested by 18 CBLAs from different regions of the country. The manual is forthcoming and is not yet publicly available, but will include a section on code of conduct for CBLAs and legal service providers' contact information so that CBLAs can contact them if they encounter a difficult legal problem, rather than give incorrect legal advice. The concept behind this manual is to create a "train the trainer" system whereby more experienced paralegals will be able to train newly recruited paralegals using the manual.

A 2008 needs assessment of Ugandan CBLA programs that address legal assistance for women's property rights covered 10 organizations that provide CBLA services. The analysis revealed that while CBLA training generally covers topics relevant to women's property rights, these topics are not covered in sufficient depth, which can mostly be attributed to funding and time constraints. In the Indian state of Gujarat, a Paralegal Action Research project was conducted from 2005–2006 as part of an initiative of the Working Group on Women and Land Ownership. Through this project, 25 CBLA workers were selected from 19 working group member organizations. This legal aid program used periodic reflection



workshops as a means for followup to the initial four-day training provided to CBLAs. The workshops were held on a monthly basis so that CBLAs could exchange experiences and strategies and address particular issues encountered through their work. The reflection workshops also served to motivate CBLAs to engage fully in their work, since they knew they would have to present to their peers on how many cases they had addressed (Vasavada n.d.).

The Rwanda survey of CBLA programs found that all of the surveyed organizations offered CBLAs an initial training, but that the length of training ranged from 1 day to an entire month. The majority of organizations (90 percent) felt that the initial training was insufficient and a longer training was needed to cover other topics, but identified limited budget as a major constraining factor. Forty percent of organizations offered CBLAs regular followup training, with an additional 20 percent offering followup trainings only if funding was available (Legal Aid Forum 2009).

### *Monitoring, Evaluation, and Program Effectiveness*

Historically, CBLA programs have lacked monitoring and evaluation systems, mostly due to organizational capacity, poor coordination and small program budgets (Knox et al. 2007). The Uganda legal aid assessment identified the necessity for enhanced monitoring and evaluation of CBLA programs to better track the reach of programs and attribute impact to the delivery of services (Asiimwe 2008). However, the study of Rwandan legal aid programs found that all surveyed organizations monitor the activities of their programs to varying extents, with some organizations collecting weekly monitoring data while others monitor on a monthly, quarterly, or biannual basis. The majority of the organizations (60 percent) collect periodic reports from their field offices, and some organizations also conduct field visits and evaluations (Legal Aid Forum 2009).

To our knowledge, there are no quantitative impact evaluations demonstrating the effects of CBLA programs on any outcome measures ranging from knowledge of legal rights to delivery of justice. However, some qualitative work has suggested program effectiveness. Between 2009 and 2010, the ICRW and the ULA implemented a pilot legal assistance program in Luwero district to strengthen women's property rights. As part of the pilot, 20 community volunteers from the Luwero Land Rights Activists Association (LLRAA) were trained in legal counseling and community sensitization methods. The pilot included a monitoring and evaluation component that indicated that sensitizations had been conducted in 64 villages in a nine month period between 2009 and 2010 reaching over 2,500 men and nearly 3,000 women (Jacobs, Saggars, and Namy 2011). Qualitative interviews point to success stories in conflict resolution. Community members indicated that CBLA interventions play a vital role in resolving land disputes that might have otherwise escalated into violent conflicts. The organization Women in Law and Development in Africa—West Africa (WiLDAF-WA) office implemented the project, "Using law for rural women's empowerment in 5 West African countries" in 2009, which aims at empowering women farmers in Benin, Burkina Faso, Côte d'Ivoire, Ghana, and Togo. One year into the project, 250 women farmers had been trained as CBLAs and had worked to form 135 village-level committees to support the project objectives. The project has collected stories to document the impact that the training has had on women farmers. One of the highlighted lessons learned

from the selected stories and case studies is that a culture of violating women's rights can be changed by reaching community members, both individually and collectively. The case studies are also used as evidence that the presence of CBLA workers and community committees is a deterrent to violations of women's rights (WiLDAF-WA 2010). The findings of these studies strongly support our own research to evaluate existing programs, with the aim of gaining a better understanding of the elements that constitute successful CBLA program design and implementation.

## **2. THEORETICAL FRAMEWORK: THE ROLE OF CBLA IN LEGAL EMPOWERMENT RELATED TO GENDER AND LAND RIGHTS**

The use of legal empowerment as a tool in international development processes is increasingly gaining traction among civil society organizations, policymakers and donors. Golub (2010) asserts that recent focus on legal empowerment was borne of the realization that many legal and judicial reforms in the global south remained out of reach of the most economically, socially, and politically disadvantaged members of society. In short, the people who stand to benefit the most are the ones least able to access these services either because disadvantaged groups remain ignorant of relevant laws or because they may be unable to access these systems due to structural constraints, such as lack of resources or time. Golub emphasizes that legal empowerment should include (1) a more comprehensive view of access to justice that promotes access to the formal legal or justice system, but also access to paralegals and informal dispute resolution mechanisms that may be rooted in local or traditional justice systems; (2) an investigation of how the justice system can be made more accessible to those who are supposed to benefit from it; (3) a focus on the grassroots and the importance of community-driven initiatives; (4) particular attention to groups that may face special difficulties accessing justice, such as women, ethnic minorities and disabled persons; and (5) a broadened view of poverty that goes beyond measuring income alone to look at other factors that influence well-being and livelihood strategies including, but not limited to, property rights.

Our report is predicated on the assumption that legal empowerment as described by Golub and others is an effective way to assist poor and marginalized populations to improve their livelihood strategies and well-being. Specifically, we strive to explore the mechanisms through which legal empowerment can be utilized to improve women's land rights in Eastern Africa. We use the term Community-based Legal Aid to encompass the different types of grassroots-level activities and services that lead to legal empowerment for rural men and women and describe both the legal aid and legal education dimensions of CBLA below:

- Legal aid: Provision of hands-on assistance to individuals or groups in the face of legal or related disputes. Legal aid may consist of guidance in accessing local justice systems or appropriate authorities, assistance in dispute resolution, provision of legal representation, assistance with legal fees, and so on. Legal aid activities are "reactive" in the sense that they provide vulnerable community members with legal assistance in times of need.

- Legal education: Improving grassroots knowledge of rights, legislation, and the interworking of the justice system. Legal education may consist of community sensitization on a variety of topics, including gender and land rights, property or boundary demarcation, titling, and will writing. Legal education can also be targeted at local leaders and officials who represent the law to build capacity and legal knowledge within the formal legal system. Legal education activities are “preventative” in that they aim to improve local knowledge in a way that prevents land disputes from taking place.

Both legal aid and legal education activities can change Knowledge, Attitudes, and Practice (KAP) on gender and land dynamics across four relevant domains, including human rights, marriage, land management, and access to justice. Tables 1 detail the KAP points for each of these four domains.

There are two dominant models for dissemination of both legal education and legal aid to grassroots rural communities. In the CBLA model, local volunteers or community workers are trained in basic legal knowledge so that they will be able to provide sensitizations on the ground and assist community members in times of need. In the legal clinic model, a legal clinic staffed by volunteers and/or trained professionals provides sensitization and legal assistance, typically at a district or regional hub. Depending on the structure and resources of a given organization or program, there may be both a CBLA program and a legal aid clinic operating in the same area or there may be solely one or the other. Both CBLAs and legal aid clinics have important roles to play in the delivery of legal aid services.

CBLAs have the advantage of being located at a more decentralized level and thus are generally more accessible to villagers than legal aid clinics, which are often located at the district level or geographic equivalent. Nonetheless, there are advantages to the legal aid clinic as well. Because they are located in one place and generally have regular hours, potential clients will know where to go if they need to seek legal advice. In addition, legal aid clinics are often staffed by salaried individuals who generally have a law degree or formal legal training. This may ensure more reliable service and higher-level legal advice. Some legal aid clinics have attempted to conduct outreach by offering “mobile” travelling clinics that station in different locations. Appendix A highlights key variables for design in both of these models.

**Table 1: Relevant domains for gender and land dynamics**

<b>Human Rights</b>	
K	Knowledge that: i) women and men are guaranteed rights and equality under the law; ii) children are also guaranteed rights; iii) discriminatory practices are prohibited by the Ugandan and Tanzanian Constitutions even in areas where customary law dominates; iv) domestic violence in any form is unacceptable.
A	Belief that: women and girls should be granted the same rights as men and belief that discriminatory practices are wrong.
P	Action demonstrating: Men and women recognize and support the rights of women and children and give equal treatment to both genders, especially within the familial context.
<b>Marriage</b>	
K	Knowledge that: i) there is a difference between legal marriage and customary marriage or cohabiting unions and that this has an implication for women's legal rights to land and other property; ii) bride-price or bride wealth is not required to register for a legal marriage; iii) there are legal procedures for separation and divorce with implications for division of assets. In instances of polygamy, understating of the type of marriage regime and documented ownership of assets can help to identify which assets belong to which partners and prevent inequitable asset grabbing.
A	Belief that: i) it is acceptable for couples to register their marriage; ii) a union is still valid without the payment of bride-price; iii) husbands should be held responsible for providing for all of their spouses and children equally.
P	Action demonstrating: i) registration of marriages so that unions are legally recognized and women's rights are protected; ii) acceptance of bride-price as nonobligatory; iii) provision and maintenance of financial support to wives and children in cases of polygamy, separation and/or divorce.
<b>Land Management</b>	
K	Knowledge that: i) women are legally allowed to access and utilize family land freely and without obstacles; ii) women are legally allowed to own land, meaning they can independently buy land and/or be listed as joint or co-owners along with their husbands; iii) men cannot legally sell family land without the explicit consent of their wife and other affected family members; iv) women and girls are allowed to inherit property and there are a number of measures that can be taken to ensure this will be respected.
A	Belief that: i) women should be given unimpeded access to family land; ii) it is acceptable for women to own land either as sole or joint owner; iii) it is acceptable for women or female children to inherit land from their husbands/fathers/other kin.
P	Action demonstrating: i) women are granted unimpeded access to use and produce on family-held land; ii) land is registered (either via customary certificates of ownership or formal titles) and women are listed as co-owners or are listed as sole owners; iii) wills are created and registered that designated inheritance rights to women and girls as appropriate; iv) land lawfully inherited by widows is not grabbed by the family of the deceased.
<b>Access to Justice</b>	
K	Knowledge of: i) procedures for appeal when legal rights are violated. Depending on the circumstance this may include local police or law enforcement authorities, local law clinics, local authorities, local courts or justices; ii) illegality of brutalization or extortion from law enforcement officials.
A	Belief that: women should be able to redress any injustice by accessing justice in the appropriate manner when their rights have been violated.
P	Actions demonstrating that: women are able to access justice via CBLAs, law enforcement authorities, local law clinics, local authorities, local courts or justices when their rights have been violated.

### 3. RESEARCH DESIGN AND METHODOLOGY

The purpose of this study was to understand and document the scope and variety of existing CBLA activities in order to assess the efficacy of ongoing activities, understand challenges faced by CBLA organizations, and document opportunities and potential for scaling up at the grassroots and national policy level. The research activities were designed to meet the specific study objectives to understand how current paralegal activities are functioning and how to most effectively design and deliver future grassroots CBLA related to gender and land, assess the current knowledge and attitudes of rural men and women with respect to gender and land rights issues and assess the potential for expansion of ongoing CBLA activities in Uganda and Tanzania.

**Figure 1. Map of study area**



#### **COMPONENT 1: Listing Survey with Implementing Organizations**

The listing survey targeted CBLA and legal literacy implementers to assess the scope and extent of CBLA and other legal literacy programming, both recent and current, in Uganda and Tanzania (for the complete listing survey, see Appendix B). The listing survey was disseminated via paper mail, email attachment, and an online survey link to implementing organizations identified by in-country contacts and other survey respondents in a “snowball sample”. Followup phone call interviews and in-person surveys were conducted in cases where respondents failed to return the survey through the other means. All information was entered into

Survey Monkey and eventually an Excel database, where it was subsequently analyzed.

## **COMPONENT 2: Key Informant Interviews with Implementers and Stakeholders**

We conducted Key Informant Interviews (KIIs) in Uganda (n = 24) and Tanzania (n = 16) with stakeholders at both the national and district level. KIIs were intended to help us understand the context of existing CBLA activities, including legislative and policy context, the role of civil society network organizations and additional actors and the key issues, challenges and stakeholder opinions on the efficacy of current programming. Key informants were chosen following the listing exercise, based on consultation with local experts regarding who would be best informed or most appropriate to speak on these issues. At the national level we spoke with government administrators, advocacy groups, CBLA implementing organizations, judicial staff, academic researchers, and donors in Kampala and Dar es Salaam. District-level KIIs were conducted in the case study community district seats of Mbale and Apac in Uganda and Dodoma in Tanzania with District Lands Board officials, members of the Area Land Committee, local justices, and other relevant stakeholders to gain perspective on views of gender and land rights at the local level and understanding of CBLA activities on the ground. For a complete list of the organizational affiliation, position, and type of key informants, see Appendix C.

We used a semi-structured key informant interview guide to direct the flow of discussion and ensure that key topics of interest were covered. All KIIs were digitally recorded and subsequently transcribed. Qualitative analysis was based generally on Glaser and Strauss' Grounded Theory Method (Glaser and Strauss 1967). Following fieldwork, interview checklists were developed on parallel themes for all informants. All data from transcripts and field notes were coded using NVivo 9 qualitative data analysis software. A hierarchical coding scheme was developed to reflect the key research questions and was shaped and refined by themes that emerge from the data.

## **COMPONENT 3: Case Studies of CBLA Activities**

We conducted case studies of four different CBLA programs, two in Uganda and two in Tanzania. In Uganda, we studied different models of ULA programs in two different districts, Apac and Mbale, in different regions of the country. In Tanzania, we studied WLAC and TAWLA programs in the same region. We selected Dodoma as the study region in Tanzania because of the presence of two prominent legal aid programs that could be compared through the case study activities. The goal of the case studies was to better understand the issues from the view of rural populations being served by CBLA programs and those communities without access to CBLAs. Each case study consisted of two different components, which allowed us to gain perspective on the situation on the ground. In each site, activities included:

- FGDs: Three FGDs in a beneficiary community and three in a non-beneficiary community for each study location, giving a total of 12 community member focus groups in Uganda and 9 in Tanzania. Each FGD included 10–12 community member participants and were grouped by gender and marital status (men, married women, and

single/widowed/divorced women) in each beneficiary and non-beneficiary community. Key themes explored in these FGDs included perceptions of land, property rights, and threats to land rights; opinions on women and land rights; knowledge about CBLA activities; opinions about CBLA activities. At the end of each FGD, we conducted a short legal knowledge assessment with 5–7 members of the FGD on an individual basis to briefly assess legal knowledge. Four additional focus groups were conducted with CBLA workers in each of the beneficiary communities in Uganda and Tanzania. All FGDs were conducted in local languages by trained FGD facilitators.

- CBLA case studies: A multimedia journal activity was conducted by select CBLA workers to document case studies of their work through audio recordings and photos. CBLA workers were selected to participate in this activity by the implementing organization’s district-level office staff. Three CBLA workers were selected to participate in the journal activity from each case study site in both countries. Selected participants were provided training on the equipment and instruction on data collection. This activity was designed to provide a first-hand perspective on the nature, type, and frequency of legal aid encounters.

Analysis of FGDs and multimedia journals was done using the same methodology as for the KIIs under Component 2.

**Table 2: Overview of all fieldwork activities**

Activity	Location	Number respondents
Listing Survey	Uganda	30 organizations
Listing Survey	Tanzania	16 organizations
Key Informant Interviews	Kampala, Apac, Mbale (Uganda)	24 key informants
Key Informant Interviews	Dar es Salaam, Dodoma (Tanzania)	16 key informants
Focus Group Discussions	Mbale (Uganda)	7 FGD with 10–12 respondents
Focus Group Discussions	Apac (Uganda)	7 FGD with 10–12 respondents
Focus Group Discussions	Dodoma (Tanzania)	11 FGD with 10–12 respondents
Multimedia Journals	Mbale (Uganda)	3 participants
Multimedia Journals	Apac (Uganda)	3 participants
Multimedia Journals	Dodoma (Tanzania)	6 participants

Source: authors

The boxes below provide a brief overview of the case study regions and the organizations that we worked with for this component of the research.

**Case Study 1: ULA in Mbale District, Uganda**

Mbale district is in eastern Uganda, close to the Kenyan border. The region is characterized by ethnic diversity and has seen recent increases in migrant populations from other parts of the eastern region. At present, a number of different ethnic groups reside in Mbale, including the Bagishu, Banyole, Bagwere and Basoga. The Bagishu are the tribal group indigenous to the district. The Lugisu language is the dominant language, although all the

aforementioned groups speak languages that are part of the Bantu language family. In addition, there are sizable populations of Ateso and Karamojong (Nilotic language family) and Japadhola. Although the region is predominantly Christian, there is a sizable population of Muslims in urban and peri-urban areas.

Most land in rural Mbale is customarily owned. Land is owned by the family (as opposed to the clan) and is typically passed down through the male line. Due in part to the high population density in eastern Uganda, land in Mbale is highly fragmented and land disputes are quite common, given the central role land plays in subsistence agriculture and other livelihood activities. Dominant crops grown in the region include maize, beans, potatoes, cassava, and matoke (plantain) in some areas. In addition, some smallholder farmers living in the hilly areas surrounding Mount Elgon grow coffee.

Given the prevalence of land disputes, the CBLA programs in Mbale were started by FIDA-Uganda in 2003 in 8 of the 14 subcounties of Mbale District. At this time, approximately 17 male and female CBLAs (1–2 per subcounty) were selected and trained by FIDA to provide grassroots legal assistance and education on land and property rights, will writing, and human rights. When FIDA support ended in 2008, these CBLAs saw an ongoing need for assistance in their communities and decided to continue providing services. To facilitate their activities, they came together to form an association of CBLAs, which they named the Elgon Community Civil Rights Activists Association (ECCRAA, also referred to as the “Mbale paralegals”). ECCRAA was granted office space by the district in Mbale Town and has been able to establish an advice service based at the headquarters office and staffed by experienced CBLA volunteers. Since 2008, ULA has provided some support to ECCRAA for additional CBLA trainings, exchanges between CBLAs from different regions, sponsorship to ULA’s National Paralegal Conference, and other events of interest.

In 2010, ULA started a second CBLA program in Mbale district called the Women Land Rights Advocates Program. This program is located in six subcounties in Mbale with approximately 8–10 women’s advocates per subcounty. All of the women advocates are female and they are trained specifically on women’s rights issues, including land and property rights, reproductive rights, marriage rights, and children’s rights. The women’s advocates were given an initial training in 2010, refresher training in 2011, and attended both a CBLA workshop in Kampala and a CBLA conference. Although the women’s advocate program is separate from the ECCRAA paralegals, both associations work closely together on the ground and often interact and share the office at the district level.

## **Case Study 2: ULA in Apac District, Uganda**

Apac is a district in northern Uganda dominated by the Langi ethnic groups. Although Apac was not directly affected by the decade long conflict between the Lord’s Resistance Army (LRA) and the Ugandan Government in northern Uganda, the district experienced high levels of in-flow of displaced persons from neighboring districts. As in other parts of northern Uganda, land conflicts have increased dramatically since the end of the conflict and the return of numerous displaced people from Internally Displaced Peoples (IDP) camps. Traditionally, land in northern Uganda is customary and held by a clan that acts as custodians of the land for future generations. Although individual families manage and control given plots, land is ultimately said to be the property of the clan and major decisions about sale or transfer of land must involve clan consultation.

There has been a good deal of interest in the northern Uganda conflict and the resettlement process from both foreign and national donors. As a result, a number of different organizations providing legal assistance are active in the area. This includes Land Equity Movement of Uganda (LEMU), Foundation for Peace and Development (FAPAD), the Norwegian Refugee Council, ULA, FIDA, and others. Although there are many activities ongoing in the area, we focused particularly on the activities of ULA.



The CBLA program in Apac started in 2004 under Volunteer Efforts for Development Concerns (VEDCO), with additional support from ULA. An office was established at the district level, with a legal officer who could provide technical assistance, provide representation in court, conduct refresher trainings for paralegals and provide trainings in advocacy, budgeting, and so on. In total, 45 volunteer CBLAs were trained as part of the program. They originally trained about 20 CBLAs in 2006/7 who work in 6 out of 11 subcounties in Apac. Since then, one of the originally trained CBLAs has died and three have gotten jobs in the local government and stopped working as community volunteers. ULA has identified and taken on an additional one to two CBLAs every year, starting in 2009, as replacements. There are no set criteria for selection of these CBLAs; however, they must have good English skills, background in community work (or have influence in the community), and be motivated to be a CBLA. Original training was for one week in Kampala, and since then, there have been two short trainings, which were three to four days each. The CBLAs meet monthly to discuss cases, share information, and to turn in their monitoring and evaluation forms, which are centralized reporting forms from the Kampala office, and gather information on sensitization and dispute resolution efforts.

The original 20 CBLAs were given bicycles to help facilitate their work; since then, they have been paid small allowances for transport contingent on submission of their monitoring and evaluation forms. They have also been considering their ability to continue operating when ULA funding ends. For this purpose, the CBLAs have registered as a CBO in Apac under the name the "Apac Human Rights Network." This allows them to open a bank account. ULA serves as a microlender for them, so if needed, the CBLAs can take out a loan.

Gender is not a specific focus of the program, but it is well recognized as an issue in their work. Gender is part of the decision making model for dispute resolutions, and since the Land Acts have gender provisions, they address these. They also try to use the Gender Training Toolkit developed by ULA called the "Land and Family Relations" book in training. Currently, 6 out of the 20 CBLAs are women.

### **Case Study 3: WOWAP and TAWLA Case Studies in Dodoma Region, Tanzania**

Dodoma is a region in central Tanzania composed of six districts, including Dodoma Urban, Chamwino, Bahi, Mpwapwa, and Kondoa. Dodoma town is located in Dodoma Urban district, the most populous district of the region, and is the administrative capital of Tanzania. The region is ethnically diverse: in the districts of Dodoma Urban, Chamwino, and Bahi, the Wagogo tribe is dominant; in Mpwapwa, the Gogo tribe is dominant; and in Kondoa, the Arangi tribe is dominant. Although all of the tribes have their own vernacular language, most of the population also speaks Swahili with relative fluency. In general, religious composition of the tribes is a mix of Christians, animists, and Muslims. A number of NGOs have arisen in the region to work on women's rights issues, including several with a focus on the provision of legal aid, such as Women Wake-Up (WOWAP), TAWLA, and National Organization for Legal Assistance (NOLA). In the case study we focus explicitly on WOWAP and TAWLA.

WOWAP was founded in 1996 with support from WLAC and was registered as an NGO in 1998 with the mandate of ending harmful cultural practices against women and children in the Dodoma region. WOWAP works in all six districts of Dodoma, with a headquarters office in Dodoma town and satellite activities in Tanga region. The focus of WOWAP has consistently been advocating to local men, women and government for attitude change on a number of key issues, including gender-based violence, female genital mutilation, inheritance, certification of customary marriage, certification of land and early child marriage, among others. WOWAP activities include research, advocacy, legal aid capacity building, and popular education of gender issues through publications, media campaigns,

and community theater.

In 2001, members of WOWAP underwent WLAC's intensive training on legal and human rights of women and children and started their own CBLA unit under the guidance of WLAC. Initially WOWAP trained 20 of its members as CBLAs, although some dropped out of the program. Over the past 10 years, WOWAP has trained 200 male and female CBLAs across the region and established 14 CBLA subunits. At present, they have active CBLA subunits in Chamwino and Bahi districts and a number of less active CBLA subunits in Kondo district. WOWAP has plans to assist these subunits in registering as independent CBOs. CBLAs facing complicated or difficult cases are encouraged to come to WOWAP headquarters in Dodoma town and, if problems persist, they are referred to NOLA or TAWLA legal advice clinics in Dodoma town, which offer advocate services. WOWAP offers active CBLAs yearly refresher training courses. WOWAP members were involved in the development of the new standardized CBLA curriculum and plan to integrate it into their training as soon as it is finalized and disseminated for public use. In addition, when a new bill or law that is relevant to WOWAP's work is passed, legal aid providers, including WLAC, provides a training of the Dodoma-based staff, who then train CBLAs. All CBLAs are asked to keep a report of issues that they worked on and cases they handled in a records book, which is shared with the Dodoma office.

The TAWLA office in Dodoma town was established in 2005. The office houses a legal aid clinic, which provides legal aid services two days a week free of charge. At present there are six full time staff at the Dodoma office, including one advocate, two lawyers, one project officer, one secretary, and one driver. Most of the clients of the legal aid clinic are women and they address issues with marital law, divorce, child support, land, inheritance, criminal issues, and labor. Depending on the case, the legal aid clinic assists with reconciliation between parties or provides legal representation in courts. In addition to the legal aid clinic, the Dodoma office has provided training and sensitization to ward tribunals, village tribunals, and CBLAs.

In Dodoma, TAWLA started a CBLA training program in 2005 in Bahi District. In Bahi, TAWLA works in 18 villages across six wards and trained one CBLA from each village. In June of 2011, they started a new project in Chamwino district and trained an additional six paralegals across six villages (three wards). CBLAs are selected by village councils based on a number of criteria, including literacy, age, and confidence engaging with community members, among others. After selection, they receive training from TAWLA, lasting between two days and a week, depending on the budget allowance, with occasional refresher trainings. Topics covered in trainings include laws in Tanzania such as land laws, inheritance, matrimonial issues and criminal laws. TAWLA emphasizes the role of their CBLA workers in education and community sensitization (either during village meetings, church gatherings, or on a daily basis) and if there is a complicated legal problem, CBLAs refer beneficiaries to the legal aid clinic in Dodoma town for professional legal advice. The focus of much of the work is on women and children's rights, although CBLAs engage with a variety of different community members. CBLAs are required to submit monitoring reports tracking the number of clients helped and what types of cases they handle on a monthly basis. CBLAs are given a small honorarium for their work to help support their activities, by allowing them to buy materials (pens and exercise books).

## 4. RESULTS

### Assessing the Scope and Scale of CBLA Activities in Uganda and Tanzania Results from the Listing Survey

In both countries the listing survey was sent to all identified organizations that reported to provide legal aid services related to gender and land rights. Table 4 provides an overview of the survey response rates in each country and a complete list of respondent organizations is presented in Appendix B. Overall we found fewer organizations offering legal aid services in Tanzania compared to Uganda, which is reflected in the number of organizations contacted for the listing survey and the number of respondent organizations. However, the prominent service provider organizations in Tanzania have a wide reach, with several satellite offices. We compared our listing survey organizational response numbers to other recent listings of legal aid programs. The 2008 Needs Assessment of Paralegal Programs in Uganda included 15 organizations with CBLA programs (Asimmwe 2008). The Legal Services Facility baseline survey conducted in 2011–2012 identified 79 organizations with CBLA programs, but only reached 20 of these in the survey. LSF had a broader inclusion criteria compared to this study, as they were not limited to looking only at programs with a gender and land rights focus (Legal Services Facility 2012).

**Table 3: Listing survey responses**

	Uganda	Tanzania
Number of organizations contacted	46	22
Number of respondent organizations	30	16
Response rate	68%	73%

Source: authors

Respondents were asked to indicate whether they participate in a range of specific legal service activities and to describe additional activities or programs not mentioned on the list. Table 4 presents the complete list of activities provided in the listing survey and the percent of organizations involved in each activity for each country. The activities that most Ugandan organizations reported engaging in included programs for domestic and familial violence, other activities for vulnerable women and widows, dispute resolution for property rights and media outreach with information on property rights. Most organizations in Tanzania also reported engagement in activities for vulnerable women and widows in addition to activities for children’s rights and working with local leaders to strengthen land rights. Few organizations in Uganda and Tanzania reported provision of economic or monetary grants for legal aid service and land titling activities. In part, this may be reflective of the fact that land titling is a lengthy and arduous process that may be beyond the scope of community volunteers. Additional activities that were not listed in the survey included litigation, research, more broadly defined activities around community activism and the promotion of human rights issues and activities for targeting individuals infected with HIV/AIDS.

**Table 4: Legal service activities**

	<b>Uganda</b>	<b>Tanzania</b>
Average number of legal service activities engaged in by organizations out of the 14 listed options	8.5	9
Percent of organizations involved in each activity		
CBLA programs or activities	80.0	82.4
Lobbying and political activism	56.7	41.2
Domestic and marriage law activities	60.0	52.9
Housing rights and other asset ownership programs	46.7	58.8
Training or legal education for other professionals	33.3	76.5
Will writing activities	56.7	41.2
Domestic and familial violence activities	80.0	70.6
Other activities for vulnerable women or widows	83.3	76.5
Children’s rights activities	76.7	76.5
Economic or monetary grants for legal aid services	20.0	17.6
Land titling activities	26.7	52.9
Media or other outreach for property rights	80.0	52.9
Working with local leaders to strengthen land rights	73.3	82.4
Dispute mediation for property rights	80.0	58.8
Other	33.3	41.2

Source: authors

While there is a wide range in the organizational structure and scope of these programs, a number of key themes emerged in examining the characteristics of the largest CBLA program in each organization (see Table 4). CBLA activities specifically related to land appear to be relatively new. In both Uganda and Tanzania, at least two-thirds of organizations who provided a CBLA program start date reported their largest CBLA program had started within the last four years. In fact, the oldest program mentioned in Uganda was the Mifumi Domestic Violence Program, established in 1994, and in Tanzania, the Legal Aid and Human Rights Center has an ongoing program that was established in 1996.

Through survey responses we found that training is an integral part of most CBLA programs, although the length and intensity of training varied between organizations. In Uganda, all but one organization offered an initial training course for CBLA workers and all but five implemented refresher courses. Of the organizations that provided training, the initial training lasted an average of 7.1 days (ranging from four days to two weeks). Refresher courses in Uganda are commonly offered for a few days on an annual basis, although four organizations report biannual refresher courses and one organization reported trainings every four months. In Tanzania, fewer organizations offered initial training and refresher trainings; however, of the organizations that did report that they provided trainings, it appears that they may offer more comprehensive trainings as compared to their Ugandan counterparts. The Zanzibar Legal Service Center CBLA program stood out as having a unique training program design, as they provide ongoing training four days per month for the first two years.

**Table 5: Characteristics of organization’s largest CBLA program**

	<b>Uganda</b>	<b>Tanzania</b>
Average age of CBLA program (years)	5	3
Average number of national program staff members	5	6
Average number of CBLA workers	182	99
Percent of organizations with intention to expand program in 2013	70	75
Percent of organizations that offered initial CBLA training	97	80
Average length of initial training (days)	7	9
Percent of organizations that offered a refresher training	83	75

Source: authors

Organizations participating in the listing vary considerably on the extent of compensation provided to CBLA workers. Half of the respondent organizations in Tanzania and just over half of the respondents in Uganda provide some form of compensation; however, in most cases, this is in the form of a transport allowance or honorarium. Six organizations in Uganda provide bicycles to at least some of their CBLA workers and Envirocare in Tanzania provides CBLAs with seed money to start income-generating activities. In Uganda, The Justice and Peace Commission of the Gulu Archdioceses and the Land and Equity Movement report providing CBLA workers with small stipends, while the Kapchorwa–Bukwa Human Rights Organization and the Platform for Labor Action mentioned cash incentives.

## **Assessing Efficacy, Best Practices, and Obstacles: Findings from Key Informant Interviews and Focus Group Discussions**

### **1. Impediments to Women’s Land Rights**

#### *1.1. Access and ownership rights.*

Among key informants (KIs) and FGD participants in both Uganda and Tanzania there was a consensus that women typically are able to securely access land through their roles as mothers or wives. However, the overwhelming opinion is that women face considerable challenges owning land or even controlling land. KIs from both Uganda and Tanzania emphasized that women generally contribute the majority of labor toward food production activities, yet have little decisionmaking power over land management or the sale of produce. Beyond agricultural work, women are also expected to perform numerous household duties, including cooking, cleaning and caring for children, leaving little time for engagement in income generation necessary for economic empowerment. In Uganda, several respondents reported that even in instances when women are financially stable, prevailing attitudes mean women often purchase land under the name of a spouse or male relative. These perspectives are largely in line with the broader literature detailing women’s constraints to ownership rights in eastern Africa (Meinzen–Dick et al. 2011; Bomuhangi, Doss, and Meinzen–Dick 2011; Behrman and Bomuhangi 2011). One exception is in urban areas where women in both countries are perceived to have greater levels of landownership due to economic mobility and changing sociocultural norms.

Perspectives gained from community members in Uganda and Tanzania FGDs helped to elucidate some of the differing views held on women's landownership rights. In general, women view access to land as necessary for fulfilling their duties in feeding and providing for their children. Women strongly believe that landownership provides security in case a woman is widowed or the husband takes on additional wives, which can introduce intra household conflict over land resources. Men generally agree that it is suitable for a woman to own land; however, some stipulated that this should only happen under certain circumstances, such as when widows inherit from their deceased husbands. Some men expressed concern that if women were given ownership of land they would sell the land, return to their natal clan or remarry into a different clan, and the land would no longer remain in the clan.

*"In Uganda, ladies are still very behind. And ladies are our mothers. And if these ladies can be assisted, can be empowered then problems can be reduced so much. In most cases in Uganda its women who keep children, go for food, take care of the garden. Almost three quarters of the work is done by the mothers. If these mothers can be assisted, have ownership of land, have income then we can be the best country in the world."—KII, local government official in Mbale, Uganda*

Understanding why women continue to face obstacles in landownership is essential for understanding how CBLA activities should structure their programming or concentrate their resources. Respondents in Uganda and Tanzania have a variety of opinions on why women continue to face challenges in landownership, which are presented below.

**Culture:** The most frequently named impediment to women's landownership was "culture." In Uganda, about half of KIs (54 percent (n = 12/22)) named culture as a key impediment, and in Tanzania, just under half of KIs (44 percent (n = 7/17)) identified culture as an impediment. Both Ugandan and Tanzanian KIs explained that in rural society the dominant culture was typically patriarchal and patrilineal and women were not seen as owners or inheritors of land.<sup>5</sup> From the perspectives of Ugandan and Tanzanian KIs, traditional customs continue to be prioritized over the recent laws or policies relating to land.

Many KIs perceive that the root of these discriminatory attitudes are derived, at least in part, from the fact that women leave their natal homes to join their husbands' families. Therefore, women are seen as transient in their natal homes and as "outsiders" or "visitors" in their marital homes. Women are often caught in the position of being told by their natal family that they should access land through their husband, and by their husband that land should be accessed through the natal family. Often husband's families will not invest in a "visitor" who may not play a role in continuation of the family or clan line.

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<sup>5</sup> Both Uganda and Tanzania do have some ethnic groups that practice matrilineal inheritance. One Tanzanian respondent maintained that about 15 to 20 percent of the tribes in Tanzania practice matrilineal inheritance customs. However, the consensus appears to be that patriarchal norms are prevalent, regardless of matrilineal or patrilineal inheritance patterns, and depending on the culture, women may still be discriminated against in a matrilineal system.

In Uganda, some KIs explicitly equated traditional cultural practices that discriminate against women with customary practices of land administration, while others explained that the “culture problem” is indicative of a broader mindset that permeated rural communities, including local justices, law enforcement agents, and government officials involved in the formal justice system. FGD participants in both Uganda and Tanzania explained that decisions on women’s land rights and ownership are made by male household heads and by clan leaders, which indicates a strict observation of patriarchal traditions. In both Uganda and Tanzania, KIs emphasized that cultural practices and attitudes are particularly difficult obstacles to confront because they are so deeply engrained in society.

FGD participants in Tanzania generally acknowledged that both men and women hold the right to own land and reported that in recent years people’s mindsets have changed to become more accepting of women’s rights. However, when describing ownership dynamics in their communities, it was confirmed that men remain the predominant landowners, because they are the family heads and bear the power and authority in decision making. In Uganda, it is also becoming slightly more accepted for women to inherit land either from their fathers or husbands. Still, many respondents focused on women’s vulnerability to losing land, because of traditionally accepted roles and circumstances around marriage or divorce. The practice of polygamy is frequently mentioned as a driving factor in familial land conflicts. Interestingly, while many male respondents attribute cultural practices as an inhibiting factor to women’s landownership, women commonly identify men as the major obstacle.

*“In the African context they believe the woman is just the helper, the producer... Women are subordinated; they are not a decisionmaker even for income, even to decide for the number of children, the family size.”—KII, local government official in Dodoma, Tanzania*

*“In this village men own land because traditionally they are heads of households and normally remain in the same area even when they get married. But when a woman is married she is always taken away to a new family where she will find and use a land which is owned by her new husband.”—Male FGD participant from beneficiary community in Dodoma, Tanzania*

**Knowledge:** Lack of knowledge is another common barrier to women’s land ownership, cited by approximately 40 percent of the KIs in Uganda (n = 9/22) and 44 percent of the KIs in Tanzania (n = 7/16). According to respondents, lack of knowledge consists of both lack of specific knowledge regarding existing land laws and land rights, and also a more general lack of education for women that manifests itself in lower literacy rates and all around lower levels of human capital. Without education, women are stuck working in subsistence farming or informal economic activities, without a stable income. FGD participants in both countries confirm that poor knowledge of land laws specifically is an obstacle to women’s secure land tenure. However, there is some indication that knowledge of women’s land rights has improved in recent years, especially in case study communities with access to legal education services.

Poor knowledge of the law is also pervasive among the officials in charge of land administration and dispute resolution, including traditional leaders, religious leaders, local government officials, law enforcement officers and members of the judiciary. Further, a Tanzanian KI claimed that it was common for individuals serving on the Village Land Councils to lack basic literacy skills, in addition to awareness of the formal law. As a result, customary laws are often upheld to the detriment of women. Likewise in Uganda, respondents reported that local authority figures, including justices, police officers, and clan elders, remain unaware of existing law and policy. In both Tanzania and Uganda, laws are often inaccessible to local leaders, because they are written in English, rather than Swahili or a Ugandan tribal language, and use legalistic diction. However, in Tanzania, there has been an effort to translate some laws to Swahili, in order to increase accessibility for those who don't speak English.

*"Lack of knowledge on land rights inhibits many women to access and own land. But currently women are slowly getting knowledge and many people are aware of land rights that even women have right to access and own land."—Male FGD participant from a beneficiary community in Dodoma, Tanzania*

**Enforcement of law:** KIs in both Uganda and Tanzania agreed that in theory, written law is not an impediment to women's landownership, and in fact, is relatively supportive of women's rights with some notable exceptions.<sup>6</sup> On the other hand, several KIs in both countries asserted that the lack of implementation of laws is a major stumbling block to improvements in land administration and particularly women's land rights. In Uganda, respondents believe that the fundamental structures developed in the Land Act were simply never put into place, due to lack of funding and budgeting. For example, district land boards and registrars were not properly established and magistrates in remote or new districts are reported to lack adequate court facilities and housing.<sup>7</sup> Local Council Courts, which are supposed to assist with justice delivery at the local level, were either not set up or not provided with adequate resources and training. Women's rights advocates specifically point to the failure of the governments to successfully implement and enforce Section 40 of the Land Act (the consent clause) and certification of customary landownership. A similar sentiment is echoed in the Tanzanian context regarding failure to implement and enforce legal structures that are intended to improve land rights. For example, although the procedure for obtaining a certificate of customary ownership is laid out in the Land Acts, representatives from local government admit that this process is long and costly, and individuals often get discouraged and give up due to demands on time and resources. In the past, regional legal officials visited villages to educate

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<sup>6</sup> In Uganda, several KIs involved in women's rights activism lamented the failure of the parliament to pass the "Marriage and Divorce" bill, which has been stalled for over a decade. According to some respondents, the land governance framework, in general, is not adequately supportive of women's rights.

<sup>7</sup> Approximately 36 new districts have been created since 2005, for a total of 114 districts, although this number is in constant flux.



communities on legal issues; however, they are no longer able to make these visits due to tightened budgets.

Among Ugandan KIs, there is a sense that the process of decentralization allowed various government players to renounce responsibility for implementation of laws, while placing responsibility or blame on other ministries or local government officials. In addition, there is an overall perception from KIs both within and outside of the ministries that there is a lack of coordination of efforts between government bodies. For example, the Ministry of Lands establishes land laws, but it is the Justice, Law and Order Sector that often resolves land-related disputes in the court system.

*"The difficulty is that the government system was never really implemented, so a proper land administration system was never really put in place. The Land Act was meant to do it. It did it in the books, but it didn't do it on the ground. The funds were never there, so a lot of the problems that we're currently facing in terms of land administration and land justice are a result of none of the systems being put in place. The district land boards largely weren't there and registrars weren't there. So a lot of the structures that were envisaged around control and access of land were never put in place at the subcounty level. Partly NGOs came in and filled some of that space and they plugged some of those gaps."— KI, donor representative in Kampala, Uganda*

**Legal pluralism:** KIs in both countries agree that legal pluralism (the continued existence of customary and statutory law simultaneously) creates additional challenges for women's land rights. Although this point is related to issues of law implementation and enforcement discussed above, it touches on the deeper longstanding tensions between ethnic identity at the grassroots level and policy formulated at the national level, which is often thought to be influenced by "Western values." KIs highlighted several problems with the persistence of these dual legal systems. Respondents describe two "competing" systems that do not interact or acknowledge each other; under this interpretation, interventions often target only the formal system and do not engage with influential or authoritative traditional leaders who are necessary to bring about social or economic change in communities. In addition, consistent with the literature, respondents argue that attempts to transition from a customary to a statutory system have particularly disadvantaged women. Women lost traditional rights and protections that had previously been part of the traditional system, yet did not gain this protection back, because the formal system was inaccessible.

Both Ugandan and Tanzanian Constitutions stipulate that even in areas where customary law is the dominant framework, any customs discriminatory to women or vulnerable groups are considered "void and null." However, a KI in Uganda noted that this provision is subjective and that generally "discrimination" is defined and determined at the discretion of the adjudicator. In addition, at the village level, many individuals remained unaware or ignorant of this provision. Several implementers and donors in Uganda also mentioned complications, due to the fact that customary laws had never been written or recorded and thus were subject to change on a case by case basis. In Northern Uganda LEMU has started to

make a record of customary law in writing in an effort to avoid unfair discrimination.

The interactions and contradictions between the statutory and traditional systems were apparent when we asked FGD respondents to explain the actions they would take if involved in a land dispute. Tanzania appears to have more established decentralized land adjudication systems in place, as nearly all respondents from the case study communities in Tanzania identify the Village Land Council as the primary resource for land dispute resolution. In Uganda, FGD participants reported that the first action generally taken in land dispute cases is to seek council with the clan leaders, indicating that the first interface is with the customary system. The clan leaders can refer cases to the LC system, which represents the formal law, yet it is common for the formal system to refer back to the clan leaders, because the majority of the land in some regions continues to be under customary tenure. However, in some cases, respondents report that individuals take cases directly to the police or the LC “formal” system.

*"I think part of the challenge has been on the legal front because we have a dual legal system. We inherited written law as a colony of Britain but in the meantime that law went alongside the customary law and I think the two have been in tension for the longest time with the assumption that statutory law provides a bit more rights. But I think there's been also a struggle around do we understand and have we maximized the rights that women had under customary law? And, how do we marry the two? And how do we ensure that one doesn't disadvantage the other?"—KI, donor representative in Kampala, Uganda*

*"I know of cases that have gone to the courts, but in the courts still refer you back to the clan because they are the best people to settle the dispute they know the history of the land and its rightful owners."—Male FGD participant from non-beneficiary community in Apac, Uganda*

**Other constraints and facilitating factors:** Respondents in Uganda and Tanzania mentioned a number of additional constraints and facilitating factors to women's ability to own land.

- In both countries, the economic value of land is becoming more widely recognized, due to increased demands on land resources. In part, this is a result of increasing interest in large-scale land acquisitions from foreign or domestic investors, particularly in Tanzania, although increasingly in Uganda. FGD participants in Uganda also identified newly designated natural reserve land and government development projects, such as road construction, as another factor limiting land availability. With the newly recognized value of land, it has become even more difficult for women to gain ownership rights.
- In Uganda, almost 30 percent of KIs (n = 6/22) noted that women lacked the financial means required to purchase land, since they often do not have an independent income and rely largely on their husbands. This is particularly true due to the extremely expensive process of land titling, costing upward of three million shillings (approximately \$1,200) and the

restricted access women have to financial services to assist with this cost. FGD participants also identify poverty as a key factor, noting that women generally have lower incomes than men, making it unfeasible for them to purchase land independently.

- In both countries, women’s marital status, and particularly the fact that many women were not in legally recognized unions, was seen as a major impediment to secure access and ownership of land, especially in situations of spousal death or polygamy. For example, in Uganda, the laws that guaranteed women’s rights, like the Succession Act, are only applicable in contexts where the husband and wife have been legally married. Polygamous marriages are also noted as a driving factor of land disputes by FGD participants in both countries. In this case, land acquired by a couple may be “redistributed” if a man takes a new wife. Alternatively, one wife could be “chased from the land” if she is unable to produce children. In addition, there is high potential for dispute and land grabbing from and among children of co-wives when the husband dies.
- Religious laws and customs are also reported to impede women’s ability to own land. In Tanzania, the observation of Muslim Law in many rural communities takes precedence over statutory law. One respondent in Tanzania specifically highlighted the difficulty this creates for women, as the law dictates that a woman cannot inherit unless she has a son, and even then she will only benefit by being allowed to access the land of her children but will not be allowed to own the land herself. In predominantly Christian rural Uganda, several KIs mentioned the potential for church leaders to become champions of women’s rights by denouncing discriminatory practices against women, yet felt that discrimination is instead being perpetuated by the church.
- Women’s empowerment, confidence, and recognition are elements that tie together all of the factors related to women’s secure access and ownership of land discussed above. Empowerment is important both within the family and within the community. A Tanzanian KI observed that most of the women in the communities do not speak, even if they have good ideas, “because the system makes them voiceless.”

*“..when our husbands where alive we were brainwashed and we thought all land belongs to the man; women just stay secure thinking the man is there and when he eventually dies you have no voice to speak up and claim rights over this land. So now it has reached a time where we women at this moment we need it knowledge that we should also have rights on land so as a woman who is alive on earth today you must struggle hard and find you have purchased your own land and you have rights over it which everyone acknowledges that you are the owner.”—Female widowed FGD participant in Apac, Uganda*

## *1.2. Land disputes and threats to women's land rights*

In addition to the difficulties women face in gaining access to and ownership of land, land disputes further threaten women's already tenuous land rights. A number of factors, including growing population pressures, increased interest in land from foreign and domestic investors and urbanization, all contribute to increasing conflict ranging from localized confrontations among clan members to disputes that rise to the national level between rural communities and investors and/or government officials. FGD participants from all of the case study villages agree that land disputes are a prominent issue in their communities and feel concerned about the security of their landholdings.

**Dispute typologies:** Based on FGDs, the following are some basic typologies of commonly described land disputes:

Disputes that transpire at the community level:

- Large-scale land disputes experienced by the whole community when an investor (domestic or foreign) purchases "unoccupied land." Alternatively, the government may lay claim to land for various uses including sale to investors.
- Land designated by government for a particular purpose (for example, wetland reserve, national park). In one case in Mbale, a FGD participant purchased land unaware that it was designated for a road and was unhappy when a road was later constructed across her land.

Disputes that transpire between community members:

- Disputes over plot or parcel boundaries due to poor demarcation and lack of records of demarcation or titles. This is the most common type of dispute in both countries.
- Disputes where an entire plot or parcel is "grabbed" from a community member by another member, because the landholder is thought to be weak and unable to defend the land.
- Disputes arising when a single piece of land is allocated or sold to more than one party as a result of poor recordkeeping or an intentional moneymaking ploy.
- Problems of squatting, whereby poorer community members plant crops or reside on the land of others. This is especially common when the landholder is absent and includes cases where a woman may be given land by her father but leaves the community when she marries. Squatters may also occupy land that is being laid fallow for the purpose of improving soil nutrients but is mistaken as unused or abandoned.
- Disputes arising due to unclear terms of land loans whereby a landholder may grant use to another party but the land is not returned at the landholder's request.

Respondents in both countries noted that there are often gender dimensions to land disputes. One vulnerable group identified by KIs and FGD participants are widowed women who are likely to be challenged for land or property by the families

of their deceased spouses. Barren women are also identified as a group likely to face disputes over their land, because many view childbearing and caretaking as women's primary contribution to the family or "claim" to lineage.

The perception of threats to land tenure varies by gender, particularly in Uganda. Most of the male FGD participants view government as the major threat and worry that community-held land will be taken away for government development projects, including road construction, environmental reserves, and sale to investors. Even land surveying projects are viewed with mistrust, because of fear that once the land is designated, it will be taken away from the current landholders or taxed by the government. On the other hand, most of the women FGD participants in Uganda feel that their familial relationships have a direct link to potential land disputes.

*"There was a case in one of the villages where they were preparing a land use plan and then they had to allocate a certain place where they wanted to build a dam, but that piece of land was owned by a single woman. They asked her that if they could take the land and give her compensation. But then the compensation never came and she kept on asking through the village council when are you going to compensate for my land, but she was not getting concrete answers."—KI with implementing organization, Dar es Salaam, Tanzania*

**Dispute outcomes:** In general, community members from case study communities in Uganda believe outcomes of land disputes settled in court are not fair, due to biased and corrupt judges or village leaders. In Tanzania, it is recognized that sometimes the resolutions are fair, although this depends on the ethics of individuals in the particular village or ward tribunal. However, FGD participants in both countries admitted that since there is always a winner and loser, one of the parties will feel wronged by the ruling, no matter what. Although an appeal to a higher court is possible, respondents noted that generally the poor did not have adequate resources to lodge an appeal. In addition, there is lack of enforcement and negative outcomes, even when cases are mediated and settled through the formal system. FGD participants in Apac specifically mentioned the frequency of murder as a result of land disputes, even between nuclear or extended family members.

*"We don't all accept the outcomes. There are people who may feel that the leaders have been unfair. But the winning party will feel that the outcome is fair. The losing person continues to hold a grudge against you despite the fact that you have forgiven him and moved on."—Female FGD participant in Mbale, Uganda*

*It's like this when you call the elders to come and help you one of you might not be happy with the results and usually there is always mysterious death and if you trace hard it might lead you back to the land dispute."—Female FGD participant in Apac, Uganda*

## **2. Dispute Resolution Mechanisms and Women's Access to Justice**

### *2.1. Resolution mechanisms for land disputes*

Resolution mechanisms for land disputes depend on a number of factors, including the actors in the dispute, the stage of the dispute, and the availability of land-related services.

**Family and clan leaders:** In both countries, the first level of dispute resolution is frequently reported to be consultation with family or neighbors before reaching out to local level officials, especially for intra-family disputes. In Uganda, the clan leaders or elders played an active role in the resolution of land disputes outside the formal justice system and FGD participants reported that it was common for a district magistrate to refer cases back to the clan elders, as they are considered to be the authorities on the customs that govern land matters. In Tanzania, FGD participants identified the "cell" leaders as a common primary step for resolving land dispute cases.<sup>8</sup>

*"In fact here if it is a land issues you must first run to the clan then they are the ones to refer you if they cannot solve it. The referrals are made to the government offices because the parties might not have understood the clan decision so you are referred to government. But if you are keen and understood at the clan level the same thing that will happen as the government ruling will be what the clan had resolved because the government will still consult the clan since they are the witnesses to the land boundaries."—Married female FGD participant in Apac, Uganda*

**Alternative dispute resolution:** ADR is a method described by respondents in both countries that offers a system for resolving land disputes outside of the court system. ADR could be facilitated by a clan leader, a CBLA worker, other individual or organizational presence in the community. A number of donors and program implementers in Uganda endorse ADR as an effective and efficient method, especially in cases when both parties act in "good faith." However, one KI cautioned that in cases of land grabs, ADR may not be as effective, and another suggested that ADR is not appropriate for cases of criminal nature, which required action in the criminal justice system.

**Formal justice system:** If a dispute is not resolved using an informal mechanism, the next step is the formal justice system. As previously mentioned, both countries have attempted to decentralize the formal justice system to make dispute resolution mechanisms more accessible at the grassroots level. In Uganda, KIs report that LC courts are a "great idea"; however, in practice, they often lack resources and legal capacity. Another problem mentioned is the lack of registration of cases with the chief magistrate's office, so often, cases that should be closed could be re-opened for appeal. Another KI indicated that in many instances, the rulings and opinions of the LC courts are not respected or followed.

Most FGD participants know how to access the formal justice system at the local level and many know steps for recourse up to the district level. However, in

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<sup>8</sup> A cell is the smallest administrative unit in Tanzania and is comprised of ten households.

both countries, there are strong feelings that resolution of land disputes through the local justice system is unfair, due to corruption and favoritism. In addition, many feel there are insurmountable obstacles to reaching higher levels of justice and thus would “give up” on cases, rather than continued pursuit with low probability of favorable outcomes.

*“I remember when I lost my case at the Ward Land Tribunal the councilor told me the ruling was not fair, he advised me to appeal to the District Lands and Housing Tribunal. But I told him openly that I can’t afford the costs of travelling frequently to Dodoma for myself and the witnesses. So I kept quiet and lost my rights.”— Female FGD participant in Dodoma, Tanzania*

## 2.2. Women’s access to justice

Women face considerable obstacles in accessing justice via traditional dispute resolution mechanisms and the formal justice system. Some key obstacles are discussed below:

**Financial costs:** In both countries, KIs and FGD participants confirmed that costs associated with engagement in the formal legal system are prohibitive. Principal costs include court fees, travel to and from court (potentially many times), accommodation during hearings, fees for an advocate, and the loss of income on time otherwise spent on productive or remunerative activities. The consensus among KIs in both countries is that all of these costs can be insurmountable for poor households, and especially for women who have domestic responsibilities, limited mobility and poor access to resources. In addition, KIs asserted that corruption is rampant at local and district levels, and typically a bribe is required for a case to be settled favorably. One government official in Dodoma alluded to the persuasion power of bribes by saying “if you provide a cow to the magistrate, you win,” and then went on to explain that men are the owners of property, so it is easy for men to win.

*“You know if you are confronting someone over land there is a way they despise widows they start to say ‘such a person what can you do to me’ why don’t you take me to a higher office where this matter can be resolved and you find I have no money to go to those places, so I come to the local leaders where I am mostly tossed around. You know you can start with the LC1 or LC2 then you come back to the clan leader then LC3 the subcounty chief then back to the clan saying they are the best to resolve the issue. You see in the end they are taking you round in circles like they are ‘mingling millet’. Then there is no way forward no one wants to help you because you have no money.”—Female unmarried FGD participant in Apac, Uganda*

**Social constraints:** KIs in both countries mentioned the considerable social challenges women face in taking a stand and pursuing justice via the formal system. In Uganda, it is especially difficult for women to discuss cases involving gender-based violence as these are taboo topics and public discussion is considered to be “airing ones dirty laundry.” In many instances, women are ostracized by family and community members for demanding their rights. A donor in Uganda argued that a woman may find herself in a worse-off position even if she wins the disputed land case, because she may lose her social network in the community.

*“The legal programs always have one core difficulty, and the difficulty they have is that largely when you are dealing with women’s land rights is that woman are a part and parcel of the community and her social network and her support structures are all tied up in that community. Going the adversarial route in a legal court case puts a lot of that [social network] in jeopardy and that is always a problem for a woman.” —KI with donor in Kampala, Uganda*

**Length of cases:** KIs in both countries emphasized that the legal system did not have the capacity to handle the number of cases that are brought forward each year. As a result, it can take years for a case to be settled (several Ugandan KIs from the local government estimated that cases can drag on for three to six years). Other factors contributing to the length of cases include lack of lawyers to represent clients in courts, problems of key witnesses or parties in the lawsuit dying or relocating, and the lack of key court personnel (including magistrates, legal secretaries), particularly at the district and local levels. According to a Ugandan implementer, “cases drag on until people withdraw or they die.”

*“To me the court system needs a lot of strengthening and certain structures to be put in place for this policy to operate. As long as cases are still dragging in court, justice delayed will be justice denied.”— KI with implementing organization in Kampala, Uganda*

**Knowledge:** In both countries, KIs maintained that rural populations are ignorant of relatively basic aspects of the legal system, including distinguishing between civil and criminal cases; between the role of judges, magistrates and police officers; and between judge, lawyer, and advocates; basic knowledge of what rights are, what the law is, and how to secure their rights within the system. Even when women are able to access the formal system, they may not understand rulings. For example, one KI in Tanzania noted that often a woman would think the village-level resolution was a final ruling.

*“The outcomes are not fair, especially to women; we are always losing our rights. We are marginalized because we have little knowledge of land rights.”—Female FGD participant from Dodoma, Tanzania*



**Other factors:**

- Both Ugandan and Tanzanian KIs and FGDs mentioned corruption within the formal legal system as a major constraint to access of the formal justice system. Corruption is said to permeate all levels of the justice process from local to district-level courts.
- The complexity of the legal system and bureaucracy of legal processes is also noted as a constraint in both countries. Court cases require proper representation from an advocate, appropriate witnesses, and appropriate documentation, all of which can be difficult and costly to obtain.
- Capacity within the formal system is another obstacle that can hinder women's access to the justice system. In both countries, local- and district-level officials are reported to lack adequate capacity and training in relevant laws. In Tanzania, there are particular gaps in filling magistrate positions for the primary-level courts.

*"Corruption is very big, mostly in primary courts. There is a very big problem of corruption in our country. In most cases the one who pays the money wins."—KI with government official in Dodoma, Tanzania*

*"[Courts require] documentation, evidence, witnesses, and so on. And of course it is also corrupt so the powerful have the upper hand. If someone has grabbed your land and that person is an MP you are mostly likely not to have any headway. And of course also the justice system is not women friendly, not poor friendly. It is not really usable by the poor without social networks and so on. Now the local system would have been an opposite to all of those. It is not formalistic, it is not very expensive, but the institutional framework is not clear, it is also riddled with corruption."—KI with academic in Kampala, Uganda*

**3. Community-Based Legal Aid Programs**

CBLA activities provide a promising option to address issues of both access to land and to the justice system for poor, rural women. In Section 2 of this report, we developed a conceptual framework of CBLA activities and provided a full description of the range and scope of CBLA activities. The results of our listing survey provide a comprehensive overview of the different organizations involved in legal aid activities in Uganda and Tanzania. However, there remain questions as to how effective programs are at achieving knowledge, attitude, and practice change in rural communities. In our case studies we assessed opinions of a wide range of individuals with experience in CBLA activities, to try to better understand some of the qualitative questions around motivation, experience, of CBLA activities and their functioning on the ground.

**3.1. Selection of CBLA workers**

CBLA activities rely upon the work of CBLA volunteers, legal officers, lawyers and advocates all of whom dedicated time and energy to activities often for little or no compensation. Understanding the motivation behind why people chose these roles or career paths is essential to understanding the functioning of CBLA activities. In

the case of legal aid officers, lawyers and advocates who often run legal aid clinics, challenges are faced getting law graduates to forsake more lucrative career paths for public interest law. In both countries, KIs from implementing organizations agreed that CBLAs are motivated to volunteer because they are truly passionate about serving and improving their communities. In Uganda, some implementers mentioned that women who had experienced injustice firsthand became CBLAs in order to prevent future rights violations. CBLAs confirmed this sentiment by explaining that motivation for becoming a CBLA was based on a desire to help impoverished community members. Further, CBLAs felt the knowledge they gained through the training is valuable and they could share this knowledge with others.

There is an overwhelming consensus among implementing organizations that in selecting CBLAs, it is essential to work through local community groups, religious organizations, CBOs, officials, and government structures in order to correctly identify individuals who are already active in their communities and gain buy-in or cooperation from local authorities. A number of KIs from Tanzania focused on the importance of selecting individuals who are well respected and accepted in the community. One implementing organization in Tanzania holds local elections to select CBLA workers from a list of eligible candidates.

In discussions of CBLA selection, many implementers brought up that gender balance of CBLAs as an important part of the selection process. In both countries, perception is that men would be more comfortable seeking council from a male CBLA and women would look to confide in a female CBLA. There is also the perception that male CBLAs are considerably more effective at reaching and changing the mindsets of male authority figures and leaders. Although most implementers championed selection processes driven by the grassroots, high drop-out rates of CBLAs are reported during and after training in both countries. One implementer in Uganda suggested that it took a period of months to get down to the core, dedicated group of CBLAs. A donor in Tanzania raised the issue of re-selection of already trained CBLAs. This occurred in one of the Uganda case study locations where a ULA program adopted CBLAs who were trained by The Uganda Association of Women Lawyers (referred to as FIDA for their affiliation with Federación Internacional de Abogadas) after the FIDA office closed in that district. This can be a useful way to build on the knowledge and practice of experienced CBLA workers.

*"I was very happy to be selected to participate in the training because I wanted to assist people who are facing legal problems in our community and have no knowledge of land rights. In fact I like to be a peacemaker. In the past I used to attend court sessions and I was much convinced with the way the magistrates conducted the sessions. However, I was not happy to see other people losing their rights due to lack of knowledge of various laws and court procedures."*—CBLA in Dodoma, Tanzania

*"Most of the people become paralegals because they've found out there is a problem in the society and there's no one to help if they don't. So those that become paralegals decide that they are ready to help others. That's the motivation for most of them. There are few that hear of this and think that they might get money out of it and those are not sustainable and do not continue."*—KI with implementing organization in Dar es Salaam, Tanzania

### 3.2. Training of CBLA workers

CBLA trainings are a critical program component, especially because CBLAs typically had little or no experience working in the legal sector prior to selection. However, the vast majority of implementers in both countries admitted that trainings are often too short or infrequent to give CBLAs the depth of information needed to optimally perform their duties, a reality that is largely attributed to both time and funding constraints. Among implementers there is some disagreement as to whether or not CBLAs should be trained primarily in legal issues or in a broader array of rights-based and community sensitization topics (this related back to the debate on whether CBLAs are best suited to provide legal aid or legal education). However, respondents generally agreed that trainings need to cover a large range of topics, including law, psycho-social counseling, communication, relationship management, conflict resolution, and office management (including fund management, grant writing and reporting). Several KIs discussed the challenge of keeping the CBLAs' knowledge up-to-date, especially as new legislation is passed. One implementing organization described the importance of sensitizing CBLAs on gender, recognizing that this is often a challenge, because the CBLAs generally share the same dominant cultural beliefs espousing traditional gender roles.

CBLA training is clearly an area where significant improvements are required and KIs had a number of ideas on how to go about implementing improvements. First, there is a consensus that CBLA trainings should have a practical or learning component either as part of the training or in between trainings. In addition, a donor in Tanzania encouraged implementers to experiment with provision of shorter trainings over the long-term, instead of a week-long one-time training. Several organizations in Tanzania already reported doing followup trainings with CBLAs upon the passage or implementation of new laws. Although most organizations report some extent of variation or specialization in training as identified through community needs assessments, standardization of training across programs is also said to be an important step to ensure quality and consistency of training. In Tanzania, efforts have been made toward this end. The TLS worked with well-established implementing organizations to produce a standardized training curriculum that would cover basic legal aid topics. The training is designed to last 24 days, but the training time can be broken up over the course of a year. The

training is currently estimated to cost approximately \$1,200 per CBLA worker, which is significantly higher than the shorter trainings that have historically been offered by implementers. Although completion of this new training curriculum is projected to be a requirement for legal aid service providers in the future under the forthcoming legal aid policy, there is question whether the high cost is feasible for implementing organizations. A separate initiative to developing a legal aid training curriculum in Tanzania with an academic focus is being lead through a collaborative between the George Washington University College of Professional Studies and the Legal and Human Rights Center in Tanzania. In Uganda, there is little reference to standardization of training, although the LAPSNET has identified this as an area of need.

Among CBLA workers in Uganda, there was general agreement that training is useful to their work; however, consistent with previous views from KIs, most felt that trainings are too brief and that there is need for additional followup trainings. Not only is there interest among CBLA workers to gain more in-depth knowledge of the law, but there is also interest in being trained on project management principles and fundraising strategies, so that CBLAs can function more autonomously as a CBO, whereby reducing dependence and improving sustainability. In Tanzania, a number of the CBLA workers described how at the time they were trained, they felt that the information was adequate, but once they began providing services, they encountered issues that they did not feel prepared to handle.

*"We first have to sensitize them on gender issues so that they know from the very beginning what they are entering into... In the beginning you see they are very tense when you touch on gender issues, but with time they relax and understand the concepts better and go to the fields to share with their fellow community members."*—KI with implementing organization in Dar es Salaam, Tanzania

*"Initially the training was adequate because we had enough training material for example; leaflets and fliers but later on we have been facing many challenges. For example, the population is now increasing and the number of land disputes is also increasing which requires additional knowledge and skills."*

—Male CBLA in Dodoma, Tanzania

### 3.3. Compensation

Compensation is a component of CBLA programming where there is considerable variety in opinion. Many organizations argued that voluntary contributions from beneficiaries of services are essential to keep programs sustainable in the long run by keeping program costs low. In addition, promoting volunteerism is seen as an essential component of the CBLA design, which is predicated on the spirit of community service and giving back to the community. These implementers argue that the volunteer spirit creates ownership over programs and helps spark grassroots social change in communities. However, a counter argument was raised by a donor in Tanzania who expressed the opinion that the voluntary approach is unsustainable, because of high drop-out rates. From a rapid field assessment performed by this donor organization, it was estimated that approximately 70

percent of the CBLAs being trained in Tanzania drop out because they are unable to commit time to the work without compensation. Therefore, it would be more cost-effective to pay CBLAs modestly for their time than to continually repeat the training with new CBLAs. Further, when CBLAs are paid for their time; they are available when the need arises for their services in the community. Although few organizations offer CBLAs a salary, many do recognize the operational costs incurred by CBLAs, by offering compensation of some sort, including transport allowance, bicycles, or motorbikes. A representative from a well-established CBLA implementing organization in Tanzania noted that in his experience, CBLAs become more effective when they are compensated.

Although the volunteer model for CBLAs is well accepted, community members feel that additional funds would enable CBLAs to reach more remote areas and facilitate community mobilization to help broaden the influence of CBLAs. CBLAs themselves also identified transportation costs as a barrier to the delivery of services. A CBLA in Dodoma explained that even though TAWLA provides a monthly allowance, the amount is not sufficient to cover the costs of their activities, and requested an increase in the stipend.

*"...they work in a very challenging environment, they have to use their own resources to work, which I think is really unfair. Some of them are retirees; some of them are civil servants who earn minimum wage. Taking resources out of their houses to support community work is unfair. Maybe that's why some of them decided to drop because it really becomes a burden. Some managed to persevere and continue to offer their time. And sometimes they follow up on a case and they pay for the transport of the client and their own transport. I think this is a big challenge for making paralegal programs sustainable."—KI with implementing organization in Dar es Salaam, Tanzania*

*"I would not be able [to serve as a paralegal] because nowadays, the word voluntary has lost meaning. Because voluntary means you must work without pay. And the work you are going to do or the place you are going to requires transport, you need to eat, you need something just like we are seated here. So, without assistance, you find that, you can fail and give up when people still need assistance. Otherwise as far as am concerned, unless there is assistance otherwise, I can't."—Male FGD participant in Mbale, Uganda*

#### *3.4. Community opinions of CBLA workers*

FGD participants from beneficiary communities report appreciation for the services offered by CBLA workers and feel that their advice on legal issues is generally respected by the community. Communities without access to CBLA services strongly expressed the need for legal aid. In Tanzania, FGD participants insist that the need is urgent, and even pledged that the community would be willing to make contributions to support CBLAs. In Uganda, some non-beneficiary communities pleaded for programs that would help to increase individuals' legal knowledge on land rights and help to guide those facing land disputes through the resolution process. However, a CBLA worker in Dodoma felt that some individuals did not

respect his position, because they misunderstood his role providing legal advice and guidance, as providing representation in court.

It is also evident that men and women, in general, have diverging opinions on CBLA activities. Some men believe the services offered by CBLAs target women and therefore avoid participating in outreach services. However, CBLAs feel this is a misconception as their work promotes equal rights, relevant to both men and women. Men may feel their authoritative power is threatened by this focus on gender equality. In general, women are more enthusiastic about CBLA services because they view the services as an opportunity to improve their rights and status in the community.

*"Men and women have different opinions like that men on one side feel that the services are mainly for women, and on the other side women see the services are their opportunity to fight for their rights. That's why more women attend the meetings."—Male FGD participant in Dodoma, Tanzania*

*"Women see that these activities are very helpful to them while men believe CBLA activities have come to open the eyes of women so will be more powerful and disrespect their husbands."—Female FGD in Dodoma, Tanzania*

### *3.5. Effectiveness of CBLA activities*

Both CBLA and legal aid clinics are reported to be an effective way to reach rural communities that otherwise lacked access to these legal services:

**Changing norms and attitudes:** Implementers and donors agree that CBLA activities help raise awareness and create commitment to women's equality and rights among lawyers, advocates, community leaders, and rural men and women. Several implementers in both countries asserted CBLAs are effective at changing mindsets of community members over the long term and generating widespread awareness about rights. FGD participants in Uganda with access to CBLA services appreciated that CBLA services had helped to forward gender issues related to land access in their community and bought "harmony to the home." In Tanzania, beneficiary communities acknowledge that legal aid services have helped to create awareness and improve knowledge on land rights and build confidence of women in accessing her own land.

*"I think the biggest strength is in some ways is the access it provides in terms of knowledge. At that level they won't be able to do anything about the formalized structure that I explained. They won't be able to move the courts nearer, they won't be able to deal with the case back log, but at least in terms of enabling an awareness of the rights one has. I think that is very critical. Because then at least you're changing mindsets, you're opening a different point of view where it becomes more acceptable for women to own property. I think that mind shift is very crucial and is something they contribute to a lot. And then it has to be another structure that deals with the processes, the actual justice delivery."*

*—KI with donor organization in Kampala, Uganda*

*"I am very thankful for their trainings. The good thing is that they don't only train us but also train men. Because other groups target only women which would make it difficult for us to convince the men as they would not believe us. But we are thankful that they decided to train both men and women so that men also get to know that a woman has such and such rights and responsibilities in a home."*—Female FGD participant in Mbale, Uganda

**Improving accessibility of services and information:** Respondents emphasized the improved accessibility of information CBLAs provided for vulnerable community members. Provision of legal aid within the community dramatically reduces the cost of travel and advocates fees that rendered legal counsel prohibitively expensive to the poor (several key informants noted that even legal aid clinics located in district centers were often too far away for poor rural women to reach). Additionally, the presence of a known individual in the village who is easily accessible and who does not charge fees for services is seen to be a tremendous advantage. A respondent from the Tanzania Bar Association mentioned that CBLAs, in particular, are needed, because many legal professionals are not interested in going and "sitting in a community." A number of implementers view CBLA programs to be effective at preventing long drawn out legal disputes in the courts. It is clear that beneficiary communities have higher access to legal aid services and information as FGD respondents from all four beneficiary case study communities identified the CBLAs as a source of information on land rights and a resource for helping to resolve disputes. In contrast, respondents from the four non-beneficiary case study communities often did not know where to seek legal counsel in cases of land disputes or felt that they did not have the means for accessing the formal legal system.

*"We are getting legal services free of charge, we don't incur any costs. We can get services anytime because the workers are close to the community."*—Male FGD participant from a beneficiary community in Dodoma, Tanzania

*"The CBLA services are widely known to the people in my village because of the least cost incurred. Usually they don't pay anything when they consult the CBLA worker for assistance. So whenever they face any confrontation they opt to go to the CBLA worker because they are aware the services are provided free of charge."*—CBLA worker in Dodoma, Tanzania

**Socially/culturally acceptable service delivery:** According to KIs, the fact that CBLAs are locally-based and trusted community members contributes to the effectiveness of service delivery. Implementers emphasized that reliance on local people who are already respected by the community means that they are “listened to” more than an outsider. In addition, many women are reluctant to take personal and familial matters to a stranger, yet often felt more comfortable confiding in a trusted community member. This is particularly important because culturally, it may be difficult or seen as taboo to go outside the community with a problem.

### *3.6. Challenges faced by CBLA activities*

Although there are many elements of CBLA activities perceived to be positive, KIs and FGD participants note the numerous challenges faced by key actors on a variety of levels.

#### *3.6.1. Challenges at the national level*

**Coordination with other CBLA organizations:** At the national level, there is reported to be little coordination between legal aid service provider organizations in both countries. Some attempts have been made to promote networks or platforms for collaboration, including LASP-NET in Uganda and the TLS standardized CBLA curriculum in Tanzania (see the Listing Section for a full overview). Nonetheless, many organizations expressed thin knowledge of the operation specifics of other CBLA providers and collaboration appeared to be largely reserved to action on policy or legal issues.

There are a number of ramifications to lack of coordination. First, a donor in Tanzania lamented that the lack of coordinated approach resulted in the duplications of services in some areas, while others are left without access to services. The example of northern Uganda illustrated a case, with overlapping coverage as a result of high donor interest due to the influx of land conflict cases as IDPs left camps after two decades of conflict in the region. Second, respondents in both countries perceive the lack of coordination between service providers has resulted in uneven quality of services, due to the absence of standards with respect to training, material development, and service delivery. Third, poor coordination has resulted in the legal aid service sector remaining largely unrecognized by the formal legal sector and other relevant government branches. Even at the local level, it is acknowledged by CBLA program implementers in Tanzania that local officials sometimes view CBLAs as a threat to their authority. Particularly in Tanzania, KIs strongly called for the enactment of a CBLA law to better define distinction between different levels of CBLAs and give formal credibility.<sup>9</sup>

However, coordination is perceived to be difficult, due to the fact that many organizations have different philosophies and priorities about legal aid and education. This is further complicated by the fact that organizations often compete

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<sup>9</sup>A KI from the Tanzania Bar Association made the specific distinction between professional “paralegals” and CBLAs, explaining that there is a clear educational difference between the two. The informant made the point that CBLAs are not supposed to perform the duties of an advocate because they cannot appear before certain courts of law. This respondent highlighted the need for enactment of a law in Tanzania to better define these distinctions.



for funding from similar sources. In Uganda, respondents reported additional linguistic difficulties in efforts at standardization; given that there is no one dominant tribal language and many CBLAs have poor English skills.

*"...coordination between legal aid providers is almost absent. They are all operating on an individual basis almost because the donor architecture allowed them to do so. So they all went individually to donors and they got their money for this thing they proposed and they started doing that. In addition you have in Tanzania his agreement between donors and civil society organizations that their funding is for core funding so organizations can do with it what they want basically. That's all very nice and idealistic, but it doesn't really work toward coordinated approaches between civil society organizations and we need coordinated approaches if we want to cover Tanzania with legal aid."—KI with donor organization in Dar es Salaam, Tanzania*

**Coordination with government at local and national levels:** In both countries, coordination between government and CBLA organizations is often lacking. Many government officials involved in land issues in Kampala could name only one or two organizations working on these issues and lacked awareness of the intricacies of activities on the ground. In addition, it appears that government agencies often do not work with or coordinate with one another. In Tanzania, local government officials note little interaction with CBLA workers and suggest that CBLA activities could be improved if NGOs were to collaborate with local government rather than working in isolation of one another. In both countries, donors and implementers believe that legal aid should be the responsibility of the government. In Tanzania, one donor noted that there are a number of international treaties and national declarations of intent in Tanzania that indicate the government accepted responsibility of providing legal aid for its citizens. However, in practice, this is not happening, due to lack of resources and other government priorities. This respondent argued that it is within the interest of government to work with NGO partners to ensure that legal aid coverage is standardized, with sufficient coverage across the country.

*"First of all I would like to appeal to the government particularly the Ministry of Justice of Constitutional Affairs to officially recognize the presence and the services offered by CBLAs. We are not recognized by the government and also we have no official permit from the government which authorizes us to practice as Legal Aids."—Male CBLA worker in Dodoma, Tanzania*

**Bureaucracy of the legal system:** As previously mentioned, other issues involve the bureaucratic, complicated, and low capacity of the legal systems. Government budgets do not adequately support the establishment of courts in rural areas and as a result, courts are often understaffed or poorly set up.

**Funding:** Many organizations in both countries report difficulties in accessing program funding. Respondents note that donors change their priorities periodically

and that contributions to legal aid decreased in the last decade. Several implementers from Uganda note the large amounts of money going to high interest areas and issues (for example, post-conflict land issues in Northern Uganda); however, it remained challenging to gain funding for issues or regions that are not considered high profile by donors. Furthermore, implementers acknowledge that it is difficult to get donors to commit funds to projects or activities that cannot show impact in the short term. Because CBLA activities often target long-term changes, for example in community norms, results are difficult to demonstrate in the short term. To further complicate matters, implementers report that funding is generally only guaranteed under short-term contracts and unreliable for long-term initiatives like CBLA programs. In addition, a respondent from a donor organization in Tanzania explained that the donor community is divided on the best way to support legal aid. Some donors believe that all support, even funding for CSOs, should be channeled through the government, while others believe that CSOs must remain independent from government particularly in legal aid because cases may be brought against the state. Another challenge described by a donor organization in Uganda is that many CBOs do not have the capacity to meet the granting requirements of donors such as monitoring, funds management and reporting. As a result CBOs are generally at a disadvantage in competing for donor funding with national-level NGOs and INGOs. As many implementing organizations ascribe to the model of establishing legal aid centers that can eventually become independent CBOs, the question of appropriate funding mechanisms for CBOs could become an emerging issue as legal aid establishments of this scale proliferate.

### *3.6.2. Challenges at the organizational level:*

**Communication between headquarters and CBLAs:** Communication between branch offices and CBLAs often deteriorates over time, particularly when program funding ends. Inadequate coordination introduces problems with reporting and program monitoring. In one organization in Tanzania, CBLAs expressed frustration in maintaining communication with the program organization and staying up to date on training and new legislation.

*"Our working relationship with WOWAP nowadays has gone down when the project ended; they don't communicate and we have stopped sending them monthly reports."—  
Male CBLA worker in Dodoma, Tanzania*

**Lack of resources at the grassroots:** Many programs do not have funding to provide CBLAs with the resources required to effectively perform their role. Without established office space, office supplies, and transport allowances, CBLAs sometimes have to rely on their own resources to facilitate their work, resulting in high drop-out rates. Ugandan stakeholders noted that there can be gaps in understanding between expectations of volunteers in the level of support they will receive from the implementing organization and the organizational capacity of implementers to provide support. Further, technical and financial capacity is generally not sufficient for the establishment of monitoring and evaluation systems to track program effectiveness and the use of program funding.

### 3.6.3. Challenges at the grassroots level:

**Appropriate targeting:** There is a perception that it is very important to target a wide range of community members, including women, men, and local authorities, if changing attitudes are an ultimate goal. Respondents noted that ignoring men and traditional authorities often led to backlash, whereas including them could produce powerful allies. Further, respondents in both countries reported that law enforcement officials (for example, police officers) and local justice officials and magistrates are often ignorant about relevant laws and procedures. Because CBLAs are often instructed to refer clients to these services, it is essential that they be sensitized and educated about relevant gender and land law. It is also necessary to engage with local authorities because, at times, they believe their authority or jurisdiction is challenged by the presence of CBLA workers. One implementer in Uganda critiqued CBLA programs for not adequately targeting religious leaders who are influential people in most local communities.

**Community awareness:** Some community members from beneficiary areas lament that CBLA services are not better publicized. There is also some concern that communities may believe CBLA services are only for women; however, some CBLAs report that some individuals, especially men, refuse to participate in educational activities or seek out legal aid services. It is suggested that CBLAs could try and take a more active role when initiating services by introducing themselves at village assembly meetings to improve awareness of their services.

*"In this group we are not aware of the services offered by the CBLA workers. This is our first time to hear about CBLA workers. May be other people know them, but we don't."— Male FGD participant from a CBLA beneficiary community in Dodoma, Tanzania*

**Scale of CBLA activities:** KIs and FGDs both feel that legal aid service providers; including advocates, lawyers, and CBLAs remain few and far between compared to the demand for services. An academic at the Makerere University Faculty of Law in Uganda reports that part of the problem is that universities have only recently begun to produce a sizable number of lawyers and advocates, many of whom go to commercial law for financial reasons. In addition, it is difficult to incentivize lawyers to work in rural areas, where pro-poor needs are greater. Gaps in coverage are also a concern at the community level, where CBLAs are thought to have unreasonably large geographical areas to cover and little time to devote to activities.

*"I think there's a very huge demand for legal services in this country and what these organizations are doing is just a drop in the sea."—KI with Academic in Kampala, Uganda*

*"Because there is only one worker in our village sometimes it is difficult to reach him. Our village is big and there are many people."—Male FGD participant from a beneficiary community in Dodoma, Tanzania*

**Costs to beneficiaries:** Even though services are provided for free or minimal cost, respondents report that beneficiaries still faced a number of costs in accessing legal services. Beneficiaries often must travel to access legal aid clinics or CBLAs and faced difficulties paying transport costs. In addition, seeking services reduced time for household and income-generating activities. Furthermore, one KI reported that it is difficult for respondents to pay affiliated costs, including registration of domestic violence, reporting cases, court fees, and registration of official documents, including land titles and wills. As previously mentioned, there may also be social costs to the beneficiaries for seeking out legal aid services, especially in the case of domestic disputes; women may experience scorn or condemnation for their participation in CBLA activities.

*"There are men who don't want their women to take part in these meetings. Last time the people from Uganda Land Alliance were here, he told the wife not to come back. They fear that the woman will get advice from here. So, it's a problem."—Female FGD participant from Apac, Uganda*

**Costs to CBLA workers:** Costs to CBLAs often make service delivery difficult, including transport and airtime costs, mobilizations and other documentation duties. In addition, the time spent on activities often detracted from other personal or professional commitments. Other CBLAs report that the costs they incur, as they had to pay out-of-pocket, are one of the drivers behind program drop out.

*"The most challenge which I am facing in my village is lack of the working place. I am doing tailoring at home so I don't feel comfortable when people come to my house to ask for legal assistance. Sometimes when they find I'm busy I normally ask them to wait which is very embarrassing in my view. I would suggest one room from the village office building could be allocated for legal aid services."—Female CBLA in Dodoma, Tanzania*

### **3.7. Sustainability:**

Sustainability of CBLA programs is an issue of primary importance as services target long-term attitudinal and change in slow moving legal processes. In cases of legal aid clinics, regular funding typically comes from organizational structures at headquarters to maintain office functions and salaries of branches. However, for stand-alone CBLA programs, the model of many organizations is to train CBLAs with some initial support, but to gradually pull out with the understanding that CBLAs will continue to effectively function independently. Accordingly, many implementers believe that CBLA activities under this model are fairly sustainable, especially since CBLAs are selected among well respected individuals in local communities. In addition, nearly all CBLAs express a high level of commitment to their work, even if funding and program support were to end. However, community

members had mixed views regarding sustainability, citing high demands on time and expenses, which may force CBLAs to reduce or discontinue their services. In addition, implementers recognize that programs often experience high drop-out rates, and that activity levels among CBLAs vary. Organizations have a number of ideas to ensure that activities are sustainable:

**Development of CBOs:** Implementers in both countries discussed strategies to encourage CBLAs to form their own CBOs at the outset of the program or gradually over time. Establishment of a CBO not only allows CBLAs to take ownership and direction over a structure, but also provides a community of like-minded individuals united around common goals. However, development of CBOs requires more investment in trainings in organizational management, grant writing, as well as securing office space. A number of organizations in Tanzania suggested that an appropriate funding source for local CBOs would be contributions from community members. Once a legal aid center is established and the community recognizes the value of the services, it is assumed that there would be willingness among community members to provide financial support to sustain legal aid activities.

**Building local connections:** It is important to connect programs to village leadership structures and build capacity of local government legal structures, so that CBLAs are valued and supported by communities. Implementers noted the value of building connections between CBLAs, district-level officials, and other community groups working on related issues to ensure constant dialogue and support for activities.

**Income generation in CBLA programming:** Another approach to ensure financial sustainability is for CBLAs and legal aid centers to generate income to offset costs. Cost sharing is one model whereby beneficiaries are required to pay for a share of the cost of services. Another model is combining commercial legal services with traditional CBLA activities, since there is demand for commercial legal services at the district level. One implementing organization in Tanzania provided seed money for income-generating activities, such as purchase of dairy or buying and selling agricultural outputs, which could be applied to program operations.

**Standardization:** Implementers in Uganda believe that increasing the quality of CBLA trainings through standardization of curriculum and training materials may improve CBLA retention rates and sustainability. However, as previously mentioned, the large number of languages and lower levels of English in rural areas are barriers to standardization. In Tanzania, standardization of curriculums is undertaken by the TLS with the assistance of a number of other organizations.

**Support and follow-up:** Continued support, follow-up, and monitoring from “parent” organizations is perceived to be essential to ensure sustainability. Examples of follow-up activities include short trainings and updates on new policies and legislation or on management topics; sponsorship of CBLAs for conferences or exchange visits to other sites; and regular monitoring activities.

**Looking beyond ownership:** Respondents in both countries note that programs are mainly focused on giving women ownership of land, without providing assistance on how to use land or other important assets productively. These respondents argue that it is important to consider a spectrum of livelihood development and income-generation activities within service delivery.

*"I think CBLA activities will prevail even when funding ends –and for your information we have continued to implement CBLA activities for more than three years now without any remuneration. TAWLA stopped to pay in 2008 but we continued to assist people. I can't refuse to attend somebody who comes to my home to ask for assistance simply because I'm not paid."*—Female CBLA worker in Dodoma, Tanzania

*"I do think that one thing is inevitable that we have to start departing from the idea that legal services are free. Legal services cannot be free and all this nonsensical conversations that the poor cannot pay. The poor can pay. They spend huge amounts on marriages... We had the same discussions in the '80s and '90s on healthcare. Now cost-sharing on healthcare is common all over the world. The same needs to happen in the legal sector."*—KI with Donor in Dar es Salaam, Tanzania

## **Results of the Knowledge Assessment**

Following each FGD, five to seven participants were randomly selected to take part in a brief ten-question knowledge assessment to better gauge basic knowledge of land, marriage, and property issues. The questions in the assessment varied slightly between Uganda and Tanzania to reflect differences in legal structures. In Uganda, a total of 87 respondents, 53 women (60 percent) and 35 men (40 percent), completed the assessment. Respondents are split evenly between the two case studies locations. In Tanzania, a total of 58 respondents; 41 (70 percent) women and 17 (30 percent) men in Dodoma completed the assessment.

In Uganda, 94 percent of respondents (n = 82/87) recognize the legal right for women to own property, 97 percent (n = 84/87) recognize the rights of married women to access and utilize family owned land, and 95 percent (n = 83/87) recognize the right of widows or widowers to inherit land from their deceased partners. There is little difference between districts control and "treatment" communities in responses to these questions. However, only 88 percent of men believe that the law grants women the right to own land compared to 98 percent of women; similarly, 88 percent of men believe that widows or widowers can inherit land from their deceased partners compared to 100 percent of women. Interestingly, the right for married women to access and use family land is in accordance with Ugandan customary rules, while passing land to a widow runs counter to common customary practice, where the family of the deceased reclaims the land. In alignment with this, only 27 percent of men (n = 9/33) compared to 40 percent of women (n = 22/54) think that statutory law dominates over customary law on land matters in rural areas, according to the constitution. A greater proportion of respondents from exposure communities (44 percent) compared to the comparison communities (30 percent) believed incorrectly that the constitution allows customary law to dominate over statutory law on land matters in rural areas.<sup>10</sup> The fact that women are more likely to think that statutory law dominates

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<sup>10</sup> The law stipulated by the Ugandan Constitution states that "If any other law or any custom is inconsistent with any of the provisions of the Constitution, the Constitution shall prevail, and that other law or custom shall, to the extent of its inconsistency, be null and void (Chapter One, Article 2)."

over customary law or that both laws could be observed simultaneously suggests that women may be more aware of laws specifically protecting women against discriminatory customary practices.

In Tanzania, nearly all respondents (98 percent,  $n = 56/57$ ) recognize the Tanzanian law allows women to own private property. However, 14 percent of respondents ( $n = 8/57$ ) did not know the law requires spousal consent before a sale of property and 25 percent of respondents believed that customary law dominates over statutory law or that both systems could be used in deciding land disputes in rural areas. However, all but one respondent ( $n = 56/57$ ) understood that customary laws that discriminate against women's land use and ownership are nullified by the Land Laws.

The relationship between customary and statutory law also relates to marriage and domestic law. Nearly 80 percent of respondents in Uganda ( $n = 68/87$ ) incorrectly believe bride-price must be exchanged for a marriage to be legally recognized, which suggests that respondents believe customary law dominates statutory law. Similarly, 38 percent of respondents in Tanzania ( $n = 22/57$ ) incorrectly believe bride-price is necessary to legitimize a marriage.<sup>11</sup> One interesting note is that in both countries, approximately 60 percent of men believe that bride-price is required; however, 90 percent and 25 percent of women think bride-price is required in Uganda and Tanzania, respectively.

Cohabitation is not recognized in either country as a legal form of marriage under statutory law. Approximately 87 percent of Ugandan respondents are aware of this distinction, with little variation by study site, gender, or exposure to legal aid services. However, in Tanzania, only 28 percent of respondents indicate understanding this distinction, with a greater proportion of women (35 percent) compared to men (11 percent) understanding the legal implications of cohabitation. Approximately 83 percent and 80 percent of respondents in Uganda and Tanzania, respectively, correctly identified the minimum age of 18 for marriage and this percentage is lower for women (74 percent and 76 percent in Uganda and Tanzania, respectively). In Uganda, fewer respondents from comparison communities (71 percent) compared to respondents from treatment communities (91 percent) know the lawful minimum age for marriage, while, in Tanzania, the situation is reversed, with more respondents from comparison communities (90 percent) compared to those from treatment communities (73 percent) providing the correct answer. Interestingly, in both countries, respondents that answered this question incorrectly more frequently thought that the legal minimum age for marriage to be older than 18 rather than younger.

To assess perceptions of beneficiary costs, we asked respondents to estimate the cost of a CBLA consultation and similar activities, such as will creation. We expected that the respondents from communities with CBLAs would estimate costs to be lower, on average, compared to the comparison communities as CBLAs provide services free of charge. The mean estimate for cost of legal services is approximately \$25 in Uganda and \$3.80 in Tanzania. In Uganda, respondents in comparison communities, on average, estimate that CBLA services cost 60 percent

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<sup>11</sup> In Uganda, this area of law remains ambiguous in the formal system since the Domestic Relations Bill of 2008, which prohibits marriage gifts as a requirement for marriage, has yet to be enacted by the Ugandan Parliament. Since there is no mention of bride-price in the Tanzanian law, by default, bride-price is not required by law.

more than respondents from beneficiary communities. In Tanzania, all respondents from comparison communities indicate that they did not know the cost of CBLA services, so we were unable to compare estimates between the exposure and comparison communities. In Uganda, there are differences in estimates by district and gender, where costs in Mbale are estimated to be 3.5 times higher than costs in Apac, and estimates of men are, on average, 5.9 times higher than estimates of women. In Tanzania, men also give higher estimates for cost of services, with women's estimates averaging 90 percent of men's estimates. As CBLAs often target women, women may be more aware of associated costs, while men may more likely know the cost of alternative legal consultation, and thus estimate a higher cost.

In Uganda, the average estimate for the cost of creating a will is approximately \$28. In Tanzania, 70 percent of respondents indicated they did not know, and of those that provided a response, 94 percent estimated the cost to be zero. Again, the responses from Uganda indicate a regional difference in cost, where estimates in Mbale are 2.5 times higher than cost estimates in Apac. Respondents from comparison communities in Uganda estimate the cost of creating a will to be five times greater than respondents from treatment communities. However, the gender differences are by far the greatest, with the average estimate of men 38 times higher than the average estimate of women. The cost estimate differences by gender and exposure suggests that individuals with access to CBLA services may believe or have experience that will creation can be done at no cost.

## 5. DISCUSSION

### Lessons Learned

Although CSOs have stepped in to fill a vacuum in legal service provision at the grassroots level that has been left vacant by the government, lack of coordination between organizations and with local and national governments has led to the uneven distribution of services, inefficiency in donor resource allocation, and low levels of information sharing and standardization in training curricula.

The evidence from KIIs and FGDs clearly demonstrates that the goal of strengthening women's property rights via CBLA programs requires much more than simply improving knowledge and delivering justice to rural populations. CBLA activities will only be successful if they also succeed at changing the mindsets and attitudes surrounding women's rights. In fact, in the opinion of most KIs "culture," not "knowledge" is the primary impediment to women's secure land rights. Attitude change is a long-term process and requires targeting multiple actors. There are a number of programmatic implications for targeting cultural and attitudinal systems:

- **The relationship between legal aid and education:** Legal aid needs to go hand-in-hand with legal education and sensitization efforts; one cannot succeed without the other. The effort that CBLAs should devote to education versus other activities is a subject of contention. Currently, CBLA workers may be less effective at conveying intricacies of legal provisions or sophisticated understanding of law, and more effective at conveying basic principles of human rights and justice. However, CBLAs can leverage the sensitization efforts by creating a grassroots network of



community members supportive of women's rights to spread and reinforce messages.

- **CBLA empowerment:** Empowerment of CBLAs themselves is a by-product of programs and may be an effective way to begin changing attitudes by putting women in leadership positions and challenging dominant gender norms.
- **Traditional institutions:** Traditional institutions are one of the biggest challenges to the implementation of CBLA activities focused on women's land rights; however, they are also one of the greatest opportunities to change attitudes and mindsets if programs appropriately integrate and gain buy-in from traditional structures. Partnerships with traditional leaders should be fostered to develop strategies for promoting women's land rights in the context of legal pluralism.
- **Target audience:** Legal education and sensitization activities must target all community members, including government officials, clan leaders, and male household members, who may impede the realization of these rights. Children and youth are also important targets for sensitizing on values of gender equality, as they form the agents for change in the next generation.

There is a clear demand for larger geographical coverage of CBLA services. However, there is also need to mainstream gender and property rights awareness through different types of development interventions and programming and gains to encourage law students to enter public interest law to fill shortages of lawyers, advocates, and magistrates.

It is of importance to work through structures and organizations already in place at the national level (for example, LAPSNET, TAPANET and Legal Aid Service Fund).

### **Opportunities for an Impact Evaluation**

This study allows us to categorize key design issues in CBLA programming and to identify ideas and innovations as to what might improve CBLA activities focused on gender and land rights in the future. There are a number of different program elements that could inform future CBLA program design and planning if included as the focus of an impact evaluation:

- **Variations in service delivery model:** The general perception among stakeholders is that the most successful model is to have a legal aid clinic at the district level (or equivalent) that interacts with and supports CBLAs at the grassroots. However, it is not clear if the supported model delivers higher impacts or is more cost-efficient in terms of resources spent, compared to alternative models. Alternative models might consist of one national office that provides support to CBLAs at the grassroots through regular visits, trainings, and phone communication, or might entail establishing more offices even closer to the grassroots level (for example, at the subcounty level). Variations in key characteristics, such as gender, age, and level of education of CBLAs themselves, may also have an impact on how they are received within the community and, as a result,

how effective they are in their work, depending on the target group(s) within the community.

- Variations in training: Training is clearly an integral part of programming and there are a number of variations that would be interesting to explore in order to provide guidance on training plans. For example, (1) training length and intensity: is it more effective to offer short intense training periods (such as ten days initially) or less intensive trainings over a longer period of time (such as one day per week over six months)? (2) content of trainings: should trainings focus on skills needed for provision of legal aid or legal education? (3) extent of standardization: are trainings that use standardized curriculum (more likely to be of higher quality) more effective than customized area-specific trainings? In Uganda, standardization is less straightforward, due to differences in tenure systems and in local languages, while in Tanzania, the opportunities are less complex, due to a unified tenure and shared language.
- CBLA Compensation: There is significant attention to the issue of CBLA compensation. Variations on impact and cost-effectiveness between the pure volunteer model, limited compensation (or provision of equipment to assist with transport), and full compensation or salary (either from the implementing organization or community members) are a prime concern for managers, CBLA, donors, and other stakeholders. Compensation is not only thought to affect CBLA motivation and ability to complete their work, but also longer term sustainability of programming and cost-effectiveness of service delivery.
- Geographical focus: Given the widespread demand for CBLA services, the most promising geographical focus for impact evaluation we believe to be in Tanzania. The number of organizations, and attention to CBLA programming is reduced in comparison to Uganda; however, there is more push for innovation, standardization, and flexibility in organizational structures. In addition, given the larger geographical area, there is greater opportunity for expansion into nonprogram areas. Finally, given the heavy continued interest in Uganda in the postconflict northern regions, Tanzania offers a context where results may be more generalizable to other countries in East Africa.

### **Opportunities and Obstacles for Scale-Up**

There is clear demand for enhanced CBLA services that focus on gender and land rights issues in Uganda and Tanzania; however, scale-up efforts must be focused both on improving the coverage and quality of CBLA services. Below we identify a number of opportunity areas for scale-up efforts:

- Improve CBLA worker training: There is overwhelming agreement from CBLA workers and community members that the training received by most CBLAs is not sufficient. Improved training would help to equip CBLA workers with the tools they need to be successful at delivering legal aid in the communities. More frequent trainings and refresher courses would help CBLA workers to gain in-depth understanding on relevant laws and stay aware of new laws when they are passed. Distances between training

facilities, legal provider offices, and communities can reduce incentives for CBLA workers to take advantage of additional trainings. Mobile training clinics appear relatively ineffective and cost-prohibitive. Providing additional information via mobile phones can potentially address these two issues and have been deemed effective in the delivery of information in other rural settings. Improving the access to training materials at the community level would provide CBLA workers with reference resources when they encounter difficult cases. To tailor information toward the specific needs of communities, legal providers might also offer a hotline for CBLA workers to seek additional advice.

- Standardization of training materials and integration of land rights issues: Standardization of training across CBLA implementing organizations would help to improve consistent quality of legal aid services. In Tanzania, funding is made available under the Legal Sector Reform Program to create a standard CBLA training manual. Six implementing organizations were involved in drafting the manual, under the coordination of the bar association. The concept behind this manual is to create a “train the trainer” system, where more experienced CBLAs will be able to train newly recruited CBLAs, using the manual. In addition, many CBLA programs do not explicitly focus on land rights, yet may address land issues through other element on women’s rights or human rights focused programs. CBLAs serving in these types of programs should receive training on laws related to land rights and hold an understanding on the interaction between the customary and statutory laws. This could be addressed through standardization of training curricula.
- Support land registration efforts: Land registration is a proven means to reduce conflicts over land. However, the registration process can be costly and arduous. In areas where most of the land is held under customary tenure, legal aid efforts should focus on improving the process for obtaining customary titles. This process should involve local government officials and clan leaders to demarcate and record landholdings, so that boundaries formally recognize the landholders. In the case of married couples, CBLA workers can advocate for co-registration on land documents to protect women’s rights to the land.
- Expand use of media: Many CBLA programs already use radio to inform community members about their legal aid services. Media use could be expanded to sensitize community members who are not reached through other sensitization efforts and increase publicity for CBLA programs. Additional resources for the CBLA worker to “advertise” his or her availability and services in a way that would reach all members of the community (men and women) could improve service use and increase equitable access to those services.
- Support changing attitudes: Landownership is a sensitive issue and gender dynamics are often deeply rooted in cultural tradition. Concentrated effort sustained over a long period of time will be required to change attitudes around women’s role in owning and managing land. This will require long-term program commitment to continue sensitization

activities among all community members. It is important for CBLA workers to believe in the principles of gender equality that they are intended to promote through their legal aid work. They can also directly take actions to serve as a role model in their communities, such as creating a will or including a spouse on land title documents.

- **Improve coordination:** Coordination efforts between legal aid service provider organizations could help to formalize the legal aid sector through legislative action. Coordinated advocacy for recognition by government could also lead to the establishment of formal certification systems, which would help to standardize legal aid services across organizations and improve consistent national coverage. Lastly, improving the coordination efforts at the community level between the CBLA worker and existing community leaders (for example, clan leader) could reduce the duplication of efforts and solidify the accountability of the CBLA worker within the village.
- **Conduct additional comparative studies:** It is important to have as complete an understanding as possible on the different aspects that may have an impact on national scale-up efforts. Additional comparative country studies may elucidate some factors that may be relevant in different contexts, such as existence of a national legal aid framework, level of decentralization of the court system, and the level of implementation of laws that protect women's land rights at the local level.

## APPENDIX A: MODELS FOR DISSEMINATION OF LEGAL AID SERVICES

	<b>CBLA model for legal aid and education: Key program design components</b>	<b>Legal clinic model for legal aid and education: Key program design components</b>
Geographic location	<p>CBLA programs are generally implemented by organizations with a headquarters office either at the national or regional level.</p> <p>Some organizations have staffed satellite offices, which serve as a hub for CBLA workers for training, reporting and general support.</p> <p>CBLA workers are situated at the grassroots level and provide legal aid and education within their communities.</p>	<p>Clinics are generally centrally located at the district or regional level.</p> <p>Some organizations offer mobile legal aid clinics that travel from location to location on a rotating basis in order to meet the needs of clients with limited means or time to travel to a district or regional center.</p>
Needs Assessment	<p>Prior to establishing a new CBLA program, many organizations conduct a needs assessment within the community for the planned program to better understand needs on the ground and how to cater services accordingly. Components of the needs assessment may include identification of potential CBLA workers, identification of key issues and identification of other programs offering similar services in the same area.</p>	<p>Needs assessments are frequent in the establishment of legal aid clinics as the demand for legal services from trained professions is quite high. However, knowledge of specific issues in the region and potential barriers to accessing the services can help clinics better target their services to address the needs of their potential clients.</p>
Staffing	<p>Implementing organizations often employ at least one staff member to administer legal aid programs from the headquarters office and may have a paid staff member at a regional or district level office.</p> <p>Most CBLA programs depend largely on volunteer CBLAs for direct client contact at the grassroots level. Volunteer CBLAs availability to provide services varies depending on the demands of their domestic and income generating responsibilities.</p> <p>CBLA selection may be based on individuals' existing experience as a community leader, respect from other community members, knowledge of the legal system and education/literacy level.</p>	<p>The staff at a legal aid clinic may consist of trained legal professionals, trained volunteers and administrative staff. Staff members may include advocates, lawyers and other programmatic staff.</p> <p>There may be variations between different program models on whether the staff is mixed gender or female only, since some programs find it beneficial to consider gender around sensitive issues.</p>

	<b>CBLA model for legal aid and education: Key program design components</b>	<b>Legal clinic model for legal aid and education: Key program design components</b>
Training	<p>Most organizations offer training to CBLAs at inception and some provide periodic followup trainings.</p> <p>There is considerable variation between organizations in how trainings are constructed and carried out. Varying factors include the length of the initial training course and whether it is concentrated over a few days or spread out over a longer time period, teaching techniques used for the training and the language of training and training materials, focus of the training curriculum and frequency and duration of refresher training.</p>	<p>Advocates will have completed legal training at the graduate level and are capable of representing clients in court in addition to providing advice and guidance.</p> <p>Lawyers will have received legal training at the undergraduate level and are capable of providing legal advice and guidance to clients.</p> <p>Other programmatic staff will generally be trained by the implementing organization in law, human rights, domestic violence and other relevant topics and may provide advice and support to clients.</p>
Compensation	<p>There is also variation in whether CBLAs are compensated for their services. Most commonly, CBLAs work on a volunteer basis, although there are a few organizations that have program models which compensate CBLAs directly for their services.</p> <p>There are some mechanisms that organizations use to provide minimal support to CBLAs, which include reimbursement for project related expenses such as travel costs or airtime needed for mobilization or counseling, in-kind transfers for project activities such as bicycles or motorcycles to facilitate travel and gifts such as t-shirts or bags to promote the project and give CBLAs recognition in the community.</p>	<p>There may be variation among the staff working at legal aid clinics as to whether they are working on salaries or on a volunteer basis. Generally legal professionals will receive a salary, although in some contexts legal aid clinics are able to recruit advocates or lawyers looking to gain work or internship experience on a volunteer basis.</p>
Services	<p>CBLA activities that fall under the dominion of legal education include organizing, conducting and leading community sensitization events to spark community engagement on gender and land rights issues, conducting door-to-door visits to sensitize community members on rights and responsibilities related to gender and land rights issues and promoting services in communities to strengthen women's claims to land through will writing, land demarcation and land titling or obtaining certificates of customary ownership.</p> <p>Activities under the legal aid function of CBLAs include conducting dispute mediation, providing legal or logistical advice and referrals to support vulnerable community members, engaging with relevant local authorities or justice system representatives to resolve disputes and following up on cases.</p>	<p>Legal aid clinics generally offer a number of legal services including support and guidance on dispute resolution and provision of court representation. In addition, legal aid clinics may support in other ways such as assisting with legal fees or providing safe housing for women at risk of domestic violence.</p> <p>Legal clinics may also fulfill some legal education functions through the promotion of services in communities and by coordinating CBLA programs to expand legal aid coverage at the village level.</p> <p>Some services may be offered free of charge, while other services may only be available for a fee.</p> <p>Clinic may have set hours for walk in appointments or offer more formal appointment structures.</p>

	<b>CBLA model for legal aid and education: Key program design components</b>	<b>Legal clinic model for legal aid and education: Key program design components</b>
Targets	<p>Typically legal education activities are targeted to a wide range of community stakeholders in order to promote general recognition and acceptance of women’s legal land rights. Specific targets might include law enforcement agents and judges, political and traditional leaders, community groups and different subsectors of the community such as men, women and youth.</p> <p>Legal aid is generally targeted directly to individuals who stand to benefit from the services, namely women without recognized rights to land.</p>	<p>Some legal aid clinics may be specifically targeting women whereas others may offer services more generally to economically disadvantaged communities.</p>
Sustainability	<p>A number of factors will determine the success of CBLA programs and their ability to continue functioning after ‘parent’ organization phases out support.</p> <p>Parent organizations may facilitate CBLA sustainability in a number of ways including supporting CBLA groups to register as a community-based organization (CBO) to help in independent fundraising efforts, providing training in office management skills, securing office space, providing start-up funding, assisting in the development of a monitoring system and providing continued trainings on new legislation.</p>	<p>Legal aid clinics generally require substantial operational budgets to cover the salaries of legal professionals. Sustainability largely depends on the source of program funding. Heavy dependence on donor support reduces sustainability, while models that integrate a fee-for-service model to subsidize free or reduced-fee services for economically disadvantaged clients have the potential for longer term sustainability.</p>

## APPENDIX B: LISTING SURVEY RESPONDENT ORGANIZATIONS

Uganda	Tanzania
<p>Acholi Leaders Religious Peace Initiative            Action Aid International Uganda            Advocats Sans Frontieres            Agency for Cooperation and Research and Development Uganda            Association of Human Rights Organizations            Center for Domestic Violence Prevention            Center for Reparation and Rehabilitation            Facilitation for Peace and Development            Foundation for Human Rights Initiative            Gulu Women Economic Development and Globalization            Human Rights and Democracy Link Africa            Human Rights Focus            Inter Church Organization for Development Cooperation            Justice and Peace Commission            Justice and Reconciliation Project            Justice and Rights Association            Kaguma Broad-based Integrated Childcare project            Kamuli Community-based Paralegals Association            Kapchorwa-Bukwo Human Rights Organization            Land and Equity Movement in Uganda            Legal Aid Clinic, Law Development Center            MicroAid/NAKA            Mifumi Project            Platform For Labor Action            Teso Legal Aid Project            Uganda Association of Women Lawyers            Uganda Community-Based Association for Child Welfare            Uganda Gender Resource Center            Uganda Land Alliance            Uganda Law Society Legal Aid Project</p>	<p>Center for Widows and Children's Assistance            Dar es Salaam Coalition of Districts Networks of People Living with            Environmental, Human Rights care and Gender Organization            Haki Ardhi            Legal Aid Services for People Affected with HIV/AIDS            Lawyers Environmental Action Team            Legal and Human Rights Centre            Morogoro Para Legal Center            National Organization for legal Assistance            Tanganyika Law Society (Strengthening Access to Justice in Eastern            Program)            Tanzania Network of Legal Aid Providers            Tanzania Women and Children Welfare Center            Tanzania Women Lawyers Association            Tanzanian Women of Impact Foundation            Women's Legal Aid Center            Zanzibar Legal Services Centre</p>



## APPENDIX C: KEY INFORMANT INTERVIEWS

### Key informants in Uganda

Organization	Position	Type
Parliament of Uganda	MP- Vice chair for the committee on gender, labor and social development	Government
Uganda Land Alliance	Executive Director	Implementer/Advocacy
Uganda Women Parliamentary Association (UWOPA)	Program Coordinator	Government
Ministry of Lands, Housing and Urban Development	Principal Training Officer/ Gender/ HIV/AIDS Focal Person	Government
Ministry of Gender, Labor, and Social Development	Commissioner of Gender and Women Affairs	Government
Uganda Legal Aid Service Providers Network	Director	CSO
Wellspring Advisors	Uganda representative	Donor organization
Kabarole Research and Resource Center	Capacity Building Officer, Human rights and Good Governance Department	CSO/Research
Makerere University Department of Gender Studies/Center for Basic Research	Senior Lecturer/Senior Research Fellow	Academic
Foundation for Human Rights Initiative	Legal Officer	Implementer/Advocacy
Trocaire (Irish Catholic Agency for World Development)		Donor/Research
MUFUMI Project	Senior Program Manager	Implementer/Advocacy
FIDA Uganda	Legal Aid Clinic Manager	Implementer/Advocacy
Action Aid International Uganda	Program Coordinator for Women's Rights and Gender Equality	Donor/Implementer
Land and Equity Movement in Uganda	Executive Director	Implementer/Advocacy
Makerere School of Law Public Interest Law Clinic	Associate professor and PILC Coordinator	Academic
Oxfam GB	Deputy Country Director	Donor/Implementer
Democratic Governance Facility Fund	Rights Justice and Peace Program Officer	Donor
Justice law and Order Sector Secretariat	Technical Advisor, Land and Commercial Justice	Government

## Key Informants in Tanzania

Organization	Position	Type
Tanzania Women Lawyers Association	Program officer, Land rights	Implementer
WLAC		
HAKIARDHI	Executive director	Implementer/research/advocacy
Envirocare		Implementer
Legal and Human Rights Centre	Executive director	Implementer
ActionAid	Land Rights Advisor	Donor
Women Fund Tanzania/Wellspring/Gender Land Task Force	Executive director	Donor/advocacy
Rural Research on Poverty Alleviation	Researcher	Research
Legal Services Facility	Fund Manager	Donor
Equality for Growth/WLAC	Executive director	Implementer/advocacy
Commission for Human Rights and Good Governance	Commissioner	Government
Tanganyika Law Society	Project Officer	Bar association/ implementer/advocacy
Women Wake Up (WOWAP)	Director	Implementer
Dodoma local government	Town planning officer	Local government (land)
Dodoma local government	Community Development Officer	Local government (gender)
Dodoma local government	Legal Officer	Local government (justice)

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