



Chronic Poverty
Research Centre

Women, Marriage and Asset Inheritance in Uganda

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Paper presented at the CRPC/ ODI Roundtable 'Inheritance and the Intergenerational Transmission of Poverty', ODI, London, 11 October 2010.

First draft, for comment

(please do not cite without permission)

**Chronic Poverty Research Centre
October 2010**

This document is an output from Chronic Poverty Research Centre (CPRC) which is funded by UKaid from the UK Department for International Development (DFID) for the benefit of developing countries. The views expressed are not necessarily those of DFID. The CPRC gratefully acknowledges DFID's support.

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It is increasingly being recognized by researchers and donors that access to and ownership of assets is critical for increasing productivity, especially agricultural productivity, and for enabling people to move out of poverty. Most of these analyses have used the household as the unit of analysis. However, households are not static, but are formed and dissolved, in part, due to economic circumstances. Thus, it is important to look both beyond and within the household as the unit of analysis to understand the relationships between poverty and asset ownership. In particular, because women's access to assets is often tied to their relationships within the household and community, they are particularly vulnerable to losing this access when the household dissolves, either through divorce, desertion or death. Household level analyses of asset ownership may not capture women's particular vulnerabilities.

Inheritance is a key means of acquiring assets. Yet, we have relatively little information available on the patterns of asset inheritance disaggregated by sex, (Deere and Doss, 2006) especially in Africa. In much of Latin America, inheritance is the primary means through which women acquire land, although men are much more likely than women to inherit land. (Deere and Doss, 2006),

¹ This paper is an output from the Chronic Poverty Research Centre (CPRC) which is funded by UKaid from the UK Department for International Development (DFID) for the benefit of developing countries. The views expressed are not necessarily those of DFID. The CPRC gratefully acknowledges DFID's support. The broader project on Women's Access to Land and Other Assets was funded by USAID through the Assets and Market Access Collaborative Research Support Program through USAID.

² This draft is based on work with Mai Truong (Yale University), Justine Naamalwa, and Gorette Nabanoga (School of Forestry, Makerere University) and they will be full authors on the final version, but they have not yet had the opportunity to review this draft.

This paper takes advantage of a unique data set on individual level asset ownership in Uganda combined with qualitative data on life histories to analyze the practices of asset inheritance in three districts of Uganda. The paper first examines the patterns of asset ownership and inheritance and then asks how asset inheritance impacts the rights over assets. Both of these questions are related to broader policy issues about women's asset ownership and chronic poverty. Understanding how women, as distinct from men, acquire and control assets, is critical to developing policies to increase their productivity and well-being.

Property Rights

There is increasing recognition among countries in the developing world that land reform and pro-poor property rights are integral to economic growth and poverty alleviation. Uganda in particular has been praised for being on the forefront of land reform efforts with the passage of national legislation mandating gender equitable land laws under the 1995 Ugandan Constitution and the 1998 Land Act. The Uganda Constitution "is heralded as one of the most gender neutral with regard to property rights in Sub-Saharan Africa including land rights, both in content and language. It accords both men and women the same status and rights" (Rugadya et al., 2004). In addition to the guarantee of property rights "without bias to gender or marital status," the Ugandan Constitution also decrees equal land rights for men and women during marriage and at its dissolution, with a clause on the use of "affirmative action in favor of marginalized groups based on gender or other reason created by history, tradition or custom, for the purpose of redressing existing imbalances."

Despite Uganda's progressive legal efforts to establish gender equality in property rights, there still exists a large disconnect between land reform legislation and actual reforms in practice, particularly with respect to women's rights to own and inherit land and other assets. The failure to effectively implement land reform in Uganda is in part due to the presence of "legal pluralism" in the country. Legal pluralism is the coexistence and interaction of statutory laws with "multiple legal orders such as state, customary, religion, project and local laws, all of which provide bases for claiming property rights." (Meinzen-Dick and Pradhan, 2002). In the context of Uganda's land laws, the 1995 Constitution and 1998 Land Act have enshrined legal pluralism by recognizing the customary land tenure system, which is typically patriarchal and gender biased, while defining new statutory land tenure laws that legalize the property rights of women. To mitigate the areas of conflict between the customary system and state laws, the Constitution mandates that state law prevails where it is contradicted by customary law. However, this stipulation is often unheeded, resulting in the continuation of gender inequality and discrimination in the ownership of land and other assets that is observed in many customary Ugandan communities today.

Expanding upon the issue of legal pluralism in Uganda, other scholars have endeavored to understand the specific structural factors that serve as obstacles to the implementation of equitable land reform. Joireman (2008) cites the lack of capacity and corruption as impediments to the implementation of the Land Act, both of which are a reflection of the national legal system's weak and at times decrepit ability to enforce state laws in rural areas. In addition to the country's poor legal infrastructure, Whitehead and Tsikata (2003) address the limitations of Uganda's land laws and the use of the

laws themselves for producing gender equality. They note the lack of legal literacy for women and the limited access to legal advocacy, which is often rudimentary or nonexistent in remote rural areas. Where legal structures do exist, they are mostly led by local leaders who often choose to rule in favor of customary laws, rendering state law obsolete. This serves to underscore the marginal representation of women in local governance structures as a result of the socially embedded power imbalance between the genders. While there were provisions in the Land Act to include women in the land boards at each level, there has been limited enforcement of this.

Property rights in Uganda are usually discussed in the context of land, with little written about women's rights and access to other forms of physical and financial assets such as agricultural equipment, livestock, and savings and credit. Literature from other developing countries, however, has focused on women's access to different forms of property and can provide an intuitive basis for understanding the gender gap in non-land assets in Uganda. However, much of this literature focuses on comparing male and female headed households, rather than comparing individual men and women or male and female farmers. It thus ignores the situation of the majority of women residing in male headed households.

When it comes to agricultural technology, inputs, and tools, many studies³ have found that female-headed households have less access to and lower usage of modern inputs, such as fertilizer and improved seeds, in many different countries. This may be related to their lack of ownership of land and agricultural equipment. In a study on a Gambian irrigated rice scheme, von Braun et al. (1989) found that less than one percent

³ See Peterman et al. (2009) for a review of this work.

of women owned a weeder, seeder, or multipurpose cultivation implement, while 12-27 percent of men did. In addition, all of the ploughs were owned by men.

Livestock are key productive assets and are much more likely to be owned by men. Dillon and Quinones (2009) estimated the value of men's livestock holdings in Northern Nigeria to be about twice that of a women's. Over time, they argue, this disparity widens wealth inequality between men and women, because livestock values appreciate faster than the value of other assets typically owned by women, such as household durable goods. Kossoudji and Mueller (1983) observed a similar disparity in Kenya, finding that male household heads own three times as many cattle as female household heads. Among pastoralists in Northern Kenya, McPeak, Little and Doss (forthcoming) find that male heads of household are more likely than female heads of household to own all types of livestock and within the household, sons are more likely than daughters to own camels, cattle or goats, although an equal number of sons and daughters owned sheep.

Women also are less likely to hold financial savings. This gender disparity can be observed in Tanzania where Ellis et al. (2007) find that only about 5 percent of women have bank accounts compared to 11 percent of men who do. Ellis et al. (2006) also find in Uganda that women entrepreneurs receive only 1 percent of available credit in rural areas. And Doss (2006) finds that in Ghana, women hold savings in only 12 percent of households, while men do so in 19 percent of households. The median savings level is over twice as high for men than women.

Beyond research concerning property rights for women in Uganda, which has focused heavily on the right to land, there is little understanding of how different marital

regimes in Uganda influence the practice of inheritance for land or other assets. Work elsewhere on marriage and inheritance has focused on the impact of inheritance during marriage on the persistence of poverty across the generations. For example, Quisumbing (2007) concludes from her research on the intergenerational transfer of assets in different countries that “in an environment where asset accumulation takes time and is particularly difficult for the poor, assets brought to marriage play a paramount role in shaping the lifetime prosperity of newly formed households”(10).

Methodology

This paper is part of a larger project on Women's Access to Land and other Assets in Uganda and Liberia, funded through the Access to Markets and Assets CRSP of USAID. Both quantitative and qualitative data were collected in eleven communities. Initially, focus groups and key informant interviews provided information on the assets held by men and women in these communities and the patterns of acquisition and social norms around asset ownership and inheritance.

The second phase was a household and intrahousehold survey. About 735 individuals were interviewed in 350 households. There were 35-40 households interviewed in each of 11 communities. We interviewed up to three adults in each household. These adults include male and female household head (if both are present) and one or two other adults, including adult children, parents or siblings of the heads.

One household member was asked about all of the household assets, and then each of the individuals surveyed was asked about his or her own assets. Sixty percent of the primary respondents who were asked to list all household assets were women.

For the dwelling in which they live and all of the land farmed by anyone in the household, each individual was asked about their rights and decision-making power with regard to that asset. If a deed or other ownership document was held for the land or dwelling, we asked whose names were listed on the deed. For a long list of other assets, including consumer durables, agricultural equipment, financial assets, and livestock, each individual was asked about the assets that they own, either individually or jointly. The owner(s) of each asset were asked about how the asset was acquired. Thus, we have extremely detailed data on individual ownership of and control of the range of physical and financial assets currently owned.

The survey contains additional modules on marital and inheritance regimes, asking about the rules under which the individual was married (if married) and his or her perceptions of the rights that they have over assets within the marriage. Details about whether the individual had ever inherited any assets were also collected.

Using the quantitative data collected from the initial survey research conducted in the three focus districts, four distinctive categories were identified for further qualitative study. The designation of individuals in these four categories centered around two specific variables: land ownership (either individually or jointly) and asset inheritance. To gain a richer understanding of marital regimes and asset inheritance in Uganda, three women from each of these four combinations of land ownership and asset inheritance were randomly selected for a second interview from those for whom we had a completed questionnaire. These semi-structured interviews aimed to capture the life histories of women who represent the various land ownership and asset inheritance regimes present in Uganda. Of the twelve women initially selected, the life histories of

seven women were collected – three in Kapchorwa, two in Kibale, and two in Luwero. These qualitative interviews centered around each woman's perceptions of their relative welfare over the course of their lives, from childhood to adulthood, with a focus on inheritance patterns and asset ownership. These additional qualitative data provide a much greater and more nuanced understanding of the quantitative findings.

Study Locations and Characteristics

Uganda is divided into four regions, which are then divided into 80 Districts. For this study, one district was chosen from each of three regions: Kapchorwa district in Eastern Uganda, Kibale district in Western Uganda, and Luwero district in Central Uganda. (The Northern region of the country was excluded from this study because of the ongoing conflict in the area.) In each of these three districts, four villages were chosen for comparative study on the basis of the unique terrain, history, populations, culture, and land tenure systems that distinguish each district⁴.

Situated in Uganda's Eastern region on the border with western Kenya, Kapchorwa district is a mountainous highland region that covers an area of 1,739 square kilometers. Mt. Elgon National Park comprises over one third of the total land area of the district. Although the area has steep hillsides, the red clay soils are rich. The majority of land in this district is under customary tenure with some leasehold land in urban areas. Although four villages were selected for study, one was dropped due to conflict in the area.

⁴ We will add a couple of paragraphs discussing the various land tenure systems in Uganda.

Kibale district lies in the Western region of Uganda approximately 215 kilometers from Kampala. Situated in Uganda's Central Plateau, forests, savannah and swamps are all plentiful. The district's land is governed by both *mailo* and leasehold land tenure systems. This area has a history of conflicts over land. During the 1970's, the government resettled a number of people in this area and the rights of people under the settlement scheme have been contested. There are a number of absentee landlords as well, which adds potential for land tenure insecurity.

Luwero District lies in the Central region of Uganda about 75 kilometers to the north of Kampala. Luwero's total area spans 5774 square kilometers, most of which is characterized by savannah land with some forests in the south. The soil in the southern area of the district is generally fertile and able to support a diversity of crops, while the northern soils are strongly acidic with low organic content and more suitable for cotton and cereal production and cattle rearing. Most of the land in Luwero is under the *mailo* land tenure system, with some leasehold and freehold tenure systems also prevalent.

All three of the districts are predominately rural with agriculture as the primary economic activity. Due to its proximity to Kampala, Luwero is the most urban of the districts, with nien percent of the population residing in urban areas.

Marriage Patterns

Marital patterns are important to the issue of asset inheritance in Uganda because of the different types of social norms and laws present that influence inheritance patterns for Ugandan women in unique ways.

The majority of men (58%) and women (55%) reported that they were currently married. While we asked about the specific types of marriage for those who were married, the vast majority were married under the customary marriage system. About ten percent reported that they had a Christian marriage, which involves adding a church wedding to a customary marriage. Less than two percent of respondents were married under statutory law or had Muslim marriages. Seventeen percent of both men and women reported that they were in consensual unions.

Only ten percent of women and 14 percent of men reported that they had never been married. These were usually adult children who were still living with their parents. Higher numbers of women reported that they were widowed (21% of women and 6 % of men) or divorced (6 % of women and 2% of men).

Customary marriage is typically guided by traditional norms and practices of a community and ungoverned by national legal statutes on marriage. According to Birabwa-Nsubuga (2007), customary marriage in Africa broadly “provides a framework for attaining wider objectives, beyond the interests of the two parties getting married. These interests include the continuation of the lineage group, the establishment of alliances and the provision of domestic services by a wife. Individual interests are viewed within the wider interest of the community... As a consequence, marriage is considered more a social rather than legal institution” (p. 20).

Customary marriages are legally recognized by the Customary Marriage (Registration) Act whose sole stipulation is for customary marriages to be registered by the government; however, the lack of registration of a customary marriage does not invalidate it as (Birabwa-Nsubuga). The Act does not specifically address the rights and

responsibilities of each party to the marriage and is silent on the law and procedures concerning the dissolution of customary marriages (Birabwa-Nsubuga 19).

In addition to the Customary Marriage (Registration) Act described above, Uganda's Marriage Act of 2000 is the general law that governs all marriage in Uganda. It provides for civil marriages of all religions and gives legal recognition to customary marriages while making it illegal for an individual customarily married to contract a civil marriage. In relation to property rights, the Act unfortunately "does not spell out any rights and duties that accrue to spouses contracting a marriage, including any mention of spouses' rights to property before, during or at the dissolution of the marriage" (Birabwa-Nsubuga 18).

The shortcomings of the Marriage Act of 2000 and the Customary Marriage (Registration) Act on the issues of divorce, property rights, and inheritance in Uganda are addressed by the Domestic Relations Bill (DRB), which was introduced in 1965 and has remained in contentious national debate over the decades, without being passed. One of the main points of contention in the Bill is its broad mandate to "change and enforce all laws and practices that impact on the rights of the family in order to ensure that they conform to the Constitution," which entitles equal rights to both men and women in marriage, "and to ensure that all barriers to equal justice within the family unit is confronted and challenged by active participation in the legal processes so as to uphold gender equality and respect for human rights, especially women's rights in the family" (Birabwa-Nsubuga, 16). With respect to property rights, the Domestic Relations Bill provides legal recognition of a cohabitating couples' (those in a consensual union) joint rights to property.

Inheritance of assets by women in Uganda

People acquire assets through a number of different means. Assets may be inherited, received as gifts or transfers, purchased, or distributed by the state.

Preliminary evidence suggests that men and women obtain assets through different channels. Inheritance is both a way that individuals acquire assets and that wealth is transmitted across generations. In addition to financial assets, the physical assets that could be important are dwellings, land, livestock, businesses, agricultural equipment and consumer durables.

In our Ugandan sample, very few assets other than land were reported as having been inherited. In rural areas, dwellings are generally located on the primary agricultural land of the household and are not considered separate from the land. Thus, they would be inherited with the land and not separately.

While among some communities, livestock may be an important source of wealth and may be inherited, we did not find this to be the case among the communities that we analyzed. Similarly, very few individuals reported inheriting any business assets or consumer durables. For business assets, women who owned assets were actually more likely than men to report that they had inherited the assets. Six percent of women and only 3 percent of men business owners reported inheriting assets. It should be noted that these businesses are in predominately rural areas, and the business assets are limited. But they are primarily acquired through purchase, rather than inheritance.

Patterns of land ownership and inheritance

Land is the most important asset in rural areas. Many different definitions of ownership for land could be used.⁵ For the purposes of this paper, we will use definitions of ownership as understood by the primary respondent. We asked each primary respondent (one per household) to list all of the parcels of land owned by anyone in the household and to list the owner(s) of the parcels. Sixty percent of the primary respondents were women.

Seventy percent of men and 58 percent of women were recorded as being owners of land. In the majority of cases, the first plot of land⁶, which included the dwelling, was listed as belonging jointly to the husband and wife. Thirty-two percent were listed as being owned individually. Very few parcels were listed as owned jointly with someone outside the household (See Table 1).

Land ownership is related to marital status. For women, marriage is key to land ownership. Compared to never married women or divorced women, married and widowed women had higher rates of land ownership. Many of the married women acquire land rights through their husbands and thus, we would expect to see that married women are more likely to be landowners than women living in consensual unions. Without the formal ties of marriage, women have more tenuous claims on their partner's land.

The high proportion of widows who own land may be somewhat misleading. Widows who have independent claims to land or who inherit land from their husbands

⁵ In other work based on this project, we are exploring the different definitions of ownership.

⁶ At times, we report the statistics on the first plot on land, which is almost always the largest parcel and the one which includes the dwelling. Since households reported owning up to five plots of land, in other instances, we report the statistics on any of the parcels of land; for example, whether a woman owns and land and whether she inherited any land.

may remain unmarried after they are widowed and remain in the community. Those without claims to land may return to their natal home. If they are young and their deceased husband had land, the tradition is that they would be married to the brother of their deceased husband. Thus, although they have been widowed, they would report their marital status as married. Very few men report their marital status as widowed or divorced; most men, especially men who own land, remarry if they are divorced or widowed.

Men who own land are more likely than women who own land to report that they acquired their land by inheritance. Of those who are reported as owning land, 39% of the men and 25% of the women said that they acquired at least one parcel of land through inheritance. Other options were that land could have been acquired as a gift/transfer or by purchase. Of the individuals who reported that they had acquired any land through inheritance, 61% were men. While the inheritance patterns are clearly biased in favor of men, a surprising number of women report inheriting land.

In several of the life histories, women discussed the social norms that did not allow them to inherit land. Interviewee (G42) did not inherit land from her parents. She and her husband farmed a small parcel of land that her husband purchased and had five animals that he had inherited. While they were still young, her husband was killed. She followed the customary practices in her community and became the wife of her husband's brother. This brother then became the owner of her husband's land and animals.

Similarly, interviewee (G32) did not inherit land. When her father became ill, his wife and children decided to sell half of their land to seek medical care. When her

father died, her mother continued to farm the land until she and her brothers were adults. At that time, her parents' farm was divided among her mother and six brothers. The respondent gained access to land by marrying a man who inherited land from his parents. In addition, she was involved in organizing a communal women's farm on a parcel that a women's group bought by pooling their resources. This women's farm served as a means to provide additional income for the women involved. She says that most of the women had husbands who supported their participation. With the money she has earned, she has been able to purchase a small plot of land. She hopes to continue to purchase land and livestock so that her children, both boys and girls, will receive an inheritance. Thus, through marriage to a man who received an inheritance and has remained healthy, and through participation in a women's group, she has been able to obtain land and she plans to bequeath it to her children.

In a separate section of the survey, we asked if the respondent had ever inherited any assets, including land. If the answer was yes, then we asked who they had received it from. As expected the majority of men inherited land from their father (76%). Similarly, women also inherited land from their father (49% of those who inherited land). But 28% percent of women said that they inherited land from someone other than a parent, aunt or uncle or grandparent. No men reported inheriting from anyone other than these relatives. Similarly, the majority of women who reported that they had ever inherited a dwelling (57%) said that they had received it from someone other than a parent, aunt or uncle or grandparent. The qualitative evidence suggests that most of these women inherited from their husbands. In addition, the respondents were asked if they still owned the land that they had ever inherited. There is a striking

gender pattern in the responses: 8% of men but 20% of women, said that they no longer had land that they had inherited.

Impacts of land inheritance

It is challenging quantitatively to demonstrate the impact of land inheritance on the lives of men and women. We would certainly expect that parents who bequeathed land to their daughters are different in many other ways from those that did not. In particular, we would expect that parents who bequeathed land to their daughters also may have given their daughters higher levels of self-esteem and other intangible benefits than those who did not.

Yet the qualitative evidence suggests that there are benefits to women to owning land, one of which is that it provides them with security if their marriage dissolves. One of the interviewees (G11), had inherited a substantial amount of land (15 acres) from her father when he died when she was 18 years old. When she married, she moved to her husband's smaller plot within the same village. When her marriage disintegrated, she was able to return to the land that she inherited. Over the years, she has increased her assets, including cattle and goats, more land, and two motorcycles which she rents out to drivers as taxis. She proclaims that her own story should serve as concrete evidence for the paramount importance for women's land rights.

A second woman, G31, inherited an eighth of her father's one acre plot. This parcel was too small for farming, but could be used for a dwelling. While she currently lives in a nearby village with her husband, she sees her land as a form of security that

she can turn to if her marriage does not go well. While her marriage is strong, she expresses great comfort in knowing that there is land belonging solely to her.

In contrast, one woman, G41, described the situation of her natal family. Her parents owned land, but when her father passed away, the custom in their community did not allow her mother to inherit the land. Because the mother had a male child, she was allowed to manage the land until the son was old enough to claim ownership rights. The respondent and her eight sisters received no inheritance and were expected to rely on marriage as a means to acquire land. The respondent is now married; she manages the farm that she and her husband purchased. However, she has no ownership rights over the land, although she is the primary farmer, and she will not be able to bequeath the land to her daughters. Her husband has the ownership rights. While ownership of land is important for women, when men and women are asked about the rights that they have over land, the patterns clearly differ by gender and by how the land was acquired. Respondents were asked whether or not they had the right to sell, bequeath or rent out each parcel of land that they owned. If they had the specific right over the land, they were asked whether or not they could do this independently or whether they had to consult with someone else. (See Table 3).

For each set of rights, women were significantly less likely than men to say that they had the right, regardless of how they had acquired the land. For inherited land, a higher percentage of women said that they had the right to take these actions alone, but a much smaller percentage said that they had the rights in consultation with someone.

If there were significant differences between the rights on land that was inherited in contrast to land that was purchased, fewer rights were held over inherited land.

Thus, land that is inherited comes with a smaller bundle of rights. It is worth noting that even for purchased land, a substantial number of both men and women say that they do not have the right to sell, bequeath or rent out the land.

Conclusions and Policy Implications

Patterns of ownership, inheritance, and rights over assets are all embedded in relationships within the household and the community. Many women gain access to land – and even claim ownership – through their marital relationships. Both husbands and wives often indicate that land is owned jointly. However, the rights over land differ for men and women, with women having a smaller bundle of rights than men.

Women do inherit land, both from their fathers and from their husbands, although it is much more common for men to inherit land. The bundle of rights over land does vary depending on how the land was acquired, with inherited land usually including fewer rights.

While women may successfully access land through their husbands, the problem is that the access then depends on the stability of the marriage. Under most customary systems, a widow can only claim that land that belonged to her husband if she has a son. The land will be inherited by the son and the mother can continue to farm it until the son is grown and can claim it. Women without sons are at risk of losing access to the land, depending on their relationship with their husband's family and the community.

Policies need to work to strengthen women's claims to land that they farm and that they retain as security in the event of the dissolution of their marriage. The various rights over land do not always coexist, so it will be critical to treat them separately. The

right to farm the land and keep the proceeds is not necessarily the same as the right to sell or bequeath the land. And it may be important to distinguish between inherited land and purchased land. While strengthening women's formal ties to land may be important, it will not be sufficient to provide women with security from land.

The life histories indicate that health shocks to men in the family have a large impact on the well-being of the women and children. Stories included both shocks to the respondents' fathers and to their husbands.

As Uganda continues to move from a subsistence based agricultural economy to a market economy, assets other than land may gain in importance. The history of the ownership patterns in Europe and North America suggests that women gain a greater share of the wealth once land becomes less dominant as a form of wealth. Business assets, livestock and financial assets can both be bequeathed to daughters with fewer changes in the structure of social and community norms. Thus, it will be important for development policy makers to consider how to grant women secure property rights over a wide variety of assets.

Table 1. Mode of Land Ownership, by Sex.

	Men	Women
Individually owned	19%	19%
Owned jointly with spouse	46%	36%
Owned jointly someone other than spouse	1%	1%
No land owned	34%	42%

Table 2. Percentage of men and women owning land, by marital status.

	single never married	married	Widowed	divorced	consensual union
Men	13	80	39	38	85
Women	11	66	67	52	53

Table 3. Rights over Land, by Sex and Mode of Acquisition.

		Inherited Land		Purchased Land	
		Men	Women	Men	Women
Right to Sell	Alone	2%	8%	6%	6%
	In Consultation	54%	15%	61%	33%
	None	44%	76%	33%	61%
Right to Bequeath	Alone	11%	15%	10%	4%
	In Consultation	62%	19%	62%	31%
	None	27%	65%	27%	65%
Right to Rent	Alone	6%	11%	5%	6%
	In Consultation	61%	19%	63%	41%
	None	33%	69%	32%	53%

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