

SOCIAL EMBEDDEDNESS OF LAND

A Case Study of Intra-familial Land Disputes in Mbarara District, Uganda



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MSc International Development Studies

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Abstract

This thesis present a case study of intra-familial land disputes in Mbarara district, Uganda. Land disputes within families take place within parent-child relations, marital relations and generational relationships. Land disputes form a threat to tenure security in Uganda. It appears that many of these disputes occur within families. These disputes do not only represent a struggle about resources, they are also a struggle about issues regarding control, authority and decision-making regarding access to land within families. Intra-familial land disputes have severe consequences for community stability and agricultural productivity. This research is based upon a three-months research in Kagongi sub-county, Bugamba sub-county, Rubaya sub-county and Mbarara municipality. For this research we made use of several research methods as observations, in-depth interviews, focus group discussions and questionnaires. The aim of this research is twofold. One, to gain insight on intra-familial land disputes and pathways to resolution. Second, to contribute to the debate on land disputes within families and come up with practical recommendations and strategies. This research is based upon previous research by Van Leeuwen (2012) in cooperation with MBADIFA, Mbarara District Farmers' Association.

Keywords: Uganda, Mbarara district, land disputes, intra-familial relationships, dispute resolution.

Preface and Acknowledgement

As part of our MSc International Development Studies we had the chance to do our own field research on a topic of our interest. When a possibility came by in January 2012 for a research in Mbarara district, Uganda on intra-familial land disputes we both eagerly applied. For this research, the WUR and the Mbarara District Farmer's Association (MBADIFA) asked for a student with experience in conducting fieldwork in Africa and with knowledge of land tenure issues or local dispute mediation. This was the perfect combination for both Imke and Eva. We found love on the African continent and the topic of land disputes within families is a combination of both our specializations: development of sociology and development economics.

From May to December 2012 we went through a process of gathering data in the field, analysing our data and writing a thesis. The research collaboration between the two of us has grown to a friendship that will last. Looking back on our time in Uganda and the writing process, we must say that we are proud of our achievements.

We want to show our gratitude to our friends in Uganda. First of all, thanks to all the staff members of MBADIFA. A special thanks to Caroline, Baseeta and Moses. Caroline, we will never forget your warm welcome on the first day we arrived. Baseeta, thank you for an introduction to the field and trainings by MBADIFA. Moses, thank you for your supervision, guidance and contributions to this research. We loved spending time with all of you, also outside the office.

Second, we are so grateful for our host families in Nyaruhandagazi, Ruhunga and Kagongi. A special thanks to our host family in Kakoba. Joseph, Clare, Jovin, June and Kush Kush, we learned many Ugandan customs and cultural aspects from all of you. Eating roasted pork with Clare, drinking wine with Joseph, playing with Jovin and Dutchy (the puppy), celebrating June's birthday and Kushi who was always smiling or crying. We will never forget your kindness.

Furthermore, we would like to thank our interpreters: Agatha Karungi and Matasia Kwesiga. We had some good times in the field.

To all our friends in Mbarara district: Mukama akuwe omukisa, mwebare munonga!

At the WUR gratitude goes out to our supervisors – Gemma van der Haar and Mathijs van Leeuwen – who kept being positive in times of difficulties and change of plans. Gemma, thanks for bringing this project for the both of us to a good end. Mathijs, thanks again for the Skype session in the field.

And last, but not least, we would like to thank our families, lovers and friends in the Netherlands for their encouragements and endless support on our way to a new and prosperous future.

Enjoy reading this thesis and remember a Nigerian Chief said once: “Land belongs to the vast family of whom many are dead, few are living, and countless members are still unborn” – Lawrence, 1966 in Batungi, 2008.

Wageningen & Utrecht, December 2012

List of Acronyms and Figures

MBADIFA – Mbarara District Farmers’ Association

GoU – Government of Uganda

LCs – Local Councils

UNLP – Uganda National Land Policy

JLOS – Justice, Law and Order Sector

Mzee / Wazee – wise, old men within a village or community according Ugandan culture

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Figure 8 – photo: interviewing several members of one family

Figure 9 – land tenure systems of Uganda

Note:

All photos are from the authors.

Names of the persons who participated in this research are fictitious in order to protect the persons involved and to do no harm in their way forward to resolve land disputes within families.

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1 Introduction

“Officially we are still married. We married in 1996. We made a very big party and we even called all people we knew. I went to Buhwezu, the place where my husband is born. We made a big party in Buhwezu. We lived there for almost one year. After one year we moved from Buhwezu to Tyandahe. Then my husband started changing. He could sell our harvest and take the money away. He wanted to commit suicide. I called my father and my father-in-law to counsel him. Then he became okay again. So my brother bought a piece of land for us. That is where our house is right now. After building the house, my husband started to change again. That is when he started committing adultery. My parents tried to advise my husband. Does he want us to die of AIDS? My husband works very hard, he is a good working man. But I don't see where he puts the money. So it's up to me to work hard and take care of our children. After he sold two pieces of land, he left and told me he would never come back” – Mrs Topista, wife to Mr Moses

This research is about “intra-familial land disputes” in Mbarara district, Uganda. Intra-familial land disputes are initially disputes about land that occur within families. This research will show that there is more at stake within families than disputes about land as a resource. Intra-familial land disputes are disputes that arise between, for example husband versus wife, brother versus brother or father versus son. Disputes can also arise between generations. So, this research focus on land disputes between parent-child, marital or generational relationships.

This thesis is the result of a three months research in Mbarara District, Uganda in cooperation with Mbarara District Farmers' Association (MBADIFA). It is a follow-up research based on previous research by Van Leeuwen (2012) on tenure insecurity and land disputes affecting members of MBADIFA. The aim of this local organization is to unite farmers in one local organization to have a voice to access better agricultural advisory and extension services, marketing services and lobby and advocacy to improve farmers' livelihoods. Also, MBADIFA has the ambition to help its members acquire more tenure security.

The problem statement of this research is therefore based upon the research by Van Leeuwen (2012) in cooperation with MBADIFA. Namely, land disputes form a serious threat to tenure security in Uganda. This affects the members of MBADIFA in daily life. It was noticed that in the most cases the land disputes occurred within families on issues related with the control, authority and decision-making of the land and other available resources. Hence, this research focus on the understanding of intra-familial land disputes , as well as pathways to resolve land disputes within families.

The introduction of this chapter is a quote by Mrs Topista, the wife of Mr Moses. Their story and experiences of a land dispute within their own family will be the guide for this thesis. Their land dispute is paradigmatic for the key theme of this research. Using this case study within this research enables us to unravel the different dimensions of land disputes within families and the chosen pathways to resolution.

In this chapter the context of the research is introduced. Section 1.1 concerns background information on this research. It shortly discusses the history and culture of Uganda and Mbarara district. Section 1.2 gives an outline of the case and describes what is going on in the family of Mr Moses and Mrs Topista. Section 1.3 gives the organization of this thesis.

1.1 Setting the scene

To understand the context in which this research takes place this first paragraph provides general background information to Uganda.



Figure 1 - a map of Uganda

1.1.1 Uganda's history and culture in a nutshell

Since 1908 Uganda is known as the "Pearl of Africa". The country is situated in East Africa on the equator. The country is landlocked, but it has several lakes. Lake Victoria is the largest and most important lake of the country, because the river Nile finds its source there. It is a fertile and bio diverse country. English is the official national language and the majority of people in Uganda is Christian (The World Factbook Online).

Colonization and independence

In 1884 Uganda became a colony of Great Britain. This was stated during the Berlin Conference that same year. In 1952, the Ugandan National Congress (UNC) is founded to set the beginning of the end of Uganda's colonization. During the colonial time the wide range of ethnic groups with different political systems and cultures was grouped together by the British. The Baganda, the largest ethnic group in the country, together with the British signed an agreement in 1955 stating that the Baganda people can take part in parliament. In 1960, the Uganda People's Union (UPU) is formed, led by Milton Obote. Uganda gained its independence from Britain on October 9, 1962. Sir Walter Fleming Coutts was installed as governor-general and Milton Obote became the first prime minister. The following years were a restless period for Uganda due to civil wars were many refugees entered the country. The development of a political community did not work after independence. In 1966 Obote gains power and commits a coup with his army chief Idi Amin. Obote proclaimed himself president of Uganda and the constitution was rewritten (Watt et al., 1999; Richard, 1995).

Idi Amin and Milton Obote

The dictatorial regime of Idi Amin starts in 1971, when he commits a coup. In the eight years that follow, Idi Amin is responsible for the deaths of approximately 300.000 people. Asian people are banned out of the country. In the meanwhile the economy collapsed, industrial activities decreased till zero, medical services became scarce and other public facilities faced the same destiny. Many Ugandans flee out of the country. Uganda got bankrupted and the only supporter of Idi Amin was Colonel Gaddafi, together they equipped the army. Tanzania intervened successfully. Idi Amin escaped to Saudi Arabia and died in 2003.

After the regime of Idi Amin Uganda was in chaos and bandits were killing and looting. Nevertheless, exiled Ugandans came back to their home country to reconstruct Uganda. The pressure for general elections became stronger. In 1980 Milton Obote has his second term as president and his goal is to "clean" the country from Idi Amin's supporters. However, just like Idi Amin, Obote favoured certain ethnic and religious groups above others. The Obote II regime

lasted till 1985 and was characterized by a guerrilla war and human rights abuses and claimed again a 100.000 lives (Watt et al., 1999; Richard, 1995).

“In Uganda, the Land Reform Decree of 1975 under President Idi Amin declared all land to be Public Land; made all *mailo* and other freehold land owners tenants of the state, and effectively worsened the position of customary landholders by permitting alienation of their land by the state without consent. The nationalization of land created a great deal of uncertainty and tenure insecurity. By the late 1980s, problems had arisen from the parallel operation of various land tenure systems and confusion as to their status, especially in urban and densely populated rural areas” (Adams & Turner, 2005: 7).

President Yoweri Museveni

In 1986, the National Resistance Army (NRA) managed by Yoweri Museveni comes to power. Museveni brings relative stability and economic growth to the country by foreign investments and tourism. He selects a broad-based government for all and introduces the rule of law, human rights commission, freedom of the press and return of exiles. During the 1990s the NRA was criticised because, they did not shift to a multi-party democracy. Their argument was that they did not want to have ethnic atrocities again in the country. As a result, the NRM remained the only political party until 2005. In February 2006 Uganda held legislative elections whereby Museveni gained 59 percent of the votes. The situation in northern Uganda is still turbulent due to Joseph Kony and his Lord's resistance Army (LRA).

Uganda made progress under the rule of Museveni. In 2007 the country hosted the Commonwealth Heads of Government Meeting and Queen Elizabeth II attended. The images went all over the world and people noticed Uganda was developing. In 2011 Museveni again won the elections with 68 percent of the votes. Museveni has gained another five year elective term. Which means he will be Uganda's president for almost 30 years. Democracy is developing and to show the country is progressing every family has a photo of President Yoweri Museveni hanging on their wall in the living room. It does not matter if you live in the north of Uganda or the south, every family should have a photo of the president (The World Factbook Online; Watt et al., 1999; Richard, 1995).

Uganda's politics and economics

The political structure of the Republic of Uganda can be explained shortly. There is the chosen president who rules over the military forces and is head of government. The NRM, is a movement in which all people or political opinions can have a place. Representatives can be chosen on basis of religion or background. The NRM movement has representatives from national level till local level. The general system of Uganda is governed top-down and the

national government pointed out a local government. To make this more visible, there is a composition of levels within the country to govern structure: country, region, sub-region, district, sub-district, county, sub-county, parish, village and cell.

Uganda's economy is based on natural resources and has many industries as well, such as sugar, brewing (Bell and Nile beer and local liquor Waragi), tobacco, cotton textiles, cement and steel production. However, agriculture is the backbone of Ugandan economy. Agricultural products are coffee, tea, cotton, tobacco, cassava, potatoes, corn, millet, flowers, beef, goat meat, milk and poultry. Over 80 percent of the Ugandan people are engaged in agricultural activities. Mainly, subsistence farming. Families use their land to grow cash crops, such as coffee, but also food crops, like matooke which is the national staple food of Uganda. Since 1990 economic reforms were guiding economic growth based on investments in infrastructure, improved incentives for production and exports and the exiled Asian and Indian-Ugandan entrepreneurs are being welcomed. The infrastructure is of importance due to the export commodities to Sudan (15 %), Kenya (10 %), Rwanda (8.3 %), DRC (7.6 %) and other countries. Uganda's GDP growth is still strong due to the economic reforms, but the instability of South Sudan can form a risk for Uganda, as Sudan is the main export partner and many Sudanese refugees take shelter in northern Uganda. Just as the situation with the DRC as export partner and the refugees in southern Uganda (The World Factbook Online; Mbarara Town Online).

During the colonial times the British put their mark not only on Uganda as a country, but also on the territories, tradition and eventually boundaries in which different tribes build their livelihoods. The Bantoe tribes make up 50 percent of the Ugandan people, of which the Buganda (16.9 %) form the largest ethnic group. Followed up by the Banyankole (9.5 %), who live in the southwest of Uganda and . This research is undertaken in Mbarara district were mainly people from the Banyankole tribe live. This tribe has two characteristics, namely one part lives from the agriculture and the other part is cattle-breeding. There are several smaller communities in the southwest of Uganda who have a similar way of living. For the British it was hard to make a distinction between these tribes and they decided to give them all together one name: Ankole (Richard, 1995).

1.1.2 Mbarara district “The land of milk and honey”



Figure 2 – Mbarara district in the south-west of Uganda

Mbarara district is situated in the western region of Uganda. It used to be the centre of the Ankole kingdom in the 17th and 18th century. After the downfall of the Ankole kingdom in 1875, due to diseases and drought, the British took control over the Ankole sub-region. Subsequently, the Ankole kingdom regained their independence. In Mbarara municipality the Ankole history is clearly marked when entering Mbarara-town, a large statue of the long-horned cattle is welcoming you. This long-horned cattle is typical for the Ankole culture.

Mbarara district is formed by 2 counties: Kashari in the north and Rwampara in the south. One municipal county: Mbarara municipality and 16 sub-counties. This research is conducted in Mbarara municipality and 3 sub-counties. Mbarara municipality is divided into three divisions: Kamukuzi, Kakoba (residence to the researchers) and Nyamitanga. These three divisions are divided into sub-divisions, one of them being Ruharo where research is conducted amongst youngsters.

Nowadays, the district is governed by a local government council under the management of a district chairperson. Mbarara-town is the municipal, commercial and administrative centre of Mbarara district.

As mentioned before, the Banyankole are the main tribe in Mbarara district. Their livelihoods consist of agricultural activities or cattle-breeding. Therefore, Mbarara district is characterized by quality meat and milk production. As a result of these livelihoods activities the importance of

having land is not only historically embedded, but also creates status nowadays. However, not every family depends on agriculture for their daily income. The exception is related to land shortages near Mbarara municipality and has forced families to think of other forms of income generating activities (Leliveld, 2008). The population of Mbarara district is estimated at 445,600 which is a grow of +2.16 % per year, according to the Uganda Bureau of Statistics. Since the 1950s migrants from neighbouring districts are coming to Mbarara district to settle and build a livelihood. As well as, migrants fleeing from Rwanda during the 1994 genocide (Lelivel, 2008). Since the early 1970s, Mbarara has experienced continuing in-migration of cultivators from the districts of Rukungiri and Kabale near the Rwandan border (Watt et al., 1999; Richard, 1995; Mbarara Town Online).

1.1.3 Land tenure systems in Uganda

The 1995 Constitution of Uganda and the 1998 Land Act recognises four land tenure systems: mailo, freehold, leasehold and customary land tenure. Land tenure systems refer to ownership, occupancy, land use and dispose of land within a community.

The mailo tenure system of land holding was introduced in 1900 by the Buganda agreement, the term mailo is a Luganda term for the allocation of land which, under the 1900 Buganda agreement, was expressed in multiples or fractions of a square mile. The term came to donate a form of absolute ownership and is applied land held irrespective of area and method of acquisition.

Freehold tenure systems were first allocated in Toro in 1900 where 255 square miles were allocated to private individuals and 122 square miles were given out as official estates to the Omukama and his chiefs. The same process was followed in Ankole, by the 1901 Ankole agreement. Later however, the colonial Government granted selective freeholds on Crown Land for agricultural and industrial development.

The Leasehold tenure system is a system under which a tenant holds an estate less than a freehold for example, for a period of 99 years. A viable rent is nearly always payable and the owner has the power to determine the lease if the tenant does not fulfil the conditions of the grant. In Uganda most of the leases have been granted under former public land, basically because the Public Lands Act of 1969 had vested this land in the state. Mailo owners and freeholders were also entitled to lease out part or their land if they wished.

Customary land tenure systems are the most common. Most of the land held under the Public Lands Act of 1969, which had not been delineated either as freehold or as leasehold, is held under Customary Law. Customary tenure refers to a system of land holding governed and regulated by customary principles and in the majority of cases sanctioned by customary authorities, such as Council of Elders, Village Chiefs, Village Headman etc. Under this, the owner has user rights. The owner may be an individual or a community, in the latter case, the land is then set to be held on a communal basis. With the exception of Buganda and a few areas in Ankole, Toro and Bunyoro where titling took place, most of the land in Uganda is held under customary tenure (Mugambwa, 2006: 4-5).

1.2 The case study

This paragraph provides a picture of the land dispute's public hearing and is a description of the event that took place in Kagongi sub-county. It describes the nature of this research setting as "an opportunity arises to investigate an interesting situation or group of people" (Hammersley & Atkinson, 2007: 22). A basic case study entails "... the detailed and intensive analysis of a single case. Case study research is concerned with the complexity and particular nature of the case in question" (Hammersley & Atkinson, 2007: 20). Our case study focuses on a single event. We will describe what happened during the event and what actions were undertaken. As this is important in the way the conflict developed. After the event, we interviewed people who attended the hearing and their rationalities on the dispute.

Picturing the case study

This paragraph gives an outline of the case study's public hearing of the land dispute between Mr Moses and Mrs Topista. The public hearing follows upon two previous hearings within the eight years of intra-familial land dispute. Drawing the outline of the hearing will develop the image as described within this research. The aim of this outline is to situate the context of all involved parties and the family. It illustrates where every single individual is seated and it strengthens the analysis of peoples' behaviour. This description is drawn up by close observation and extracts from field notes.

The public hearing of Mr Moses and Mrs Topista took place on June 21st in Kagongi sub-county. During lunchtime in a hotel at the trading centre we – Imke, Eva and our interpreter Agatha – met a man and started talking about our research and what we were looking for. The man was interested in our research and started to ask questions on the content – if we ever experienced a land dispute and if we had similar cases back home in the Netherlands. The man introduced himself as the sub-county chief and told us he was on his way to visit a family with a land dispute. The family asked for his help to settle the dispute, because two earlier settlement

meetings did not contribute towards resolution of the dispute.¹ It was the third time for the sub-county chief to visit this family. The sub-county chief told us he was on his way to a public hearing of an intra-familial land dispute. We asked him polite if it was possible for us to join him that afternoon.

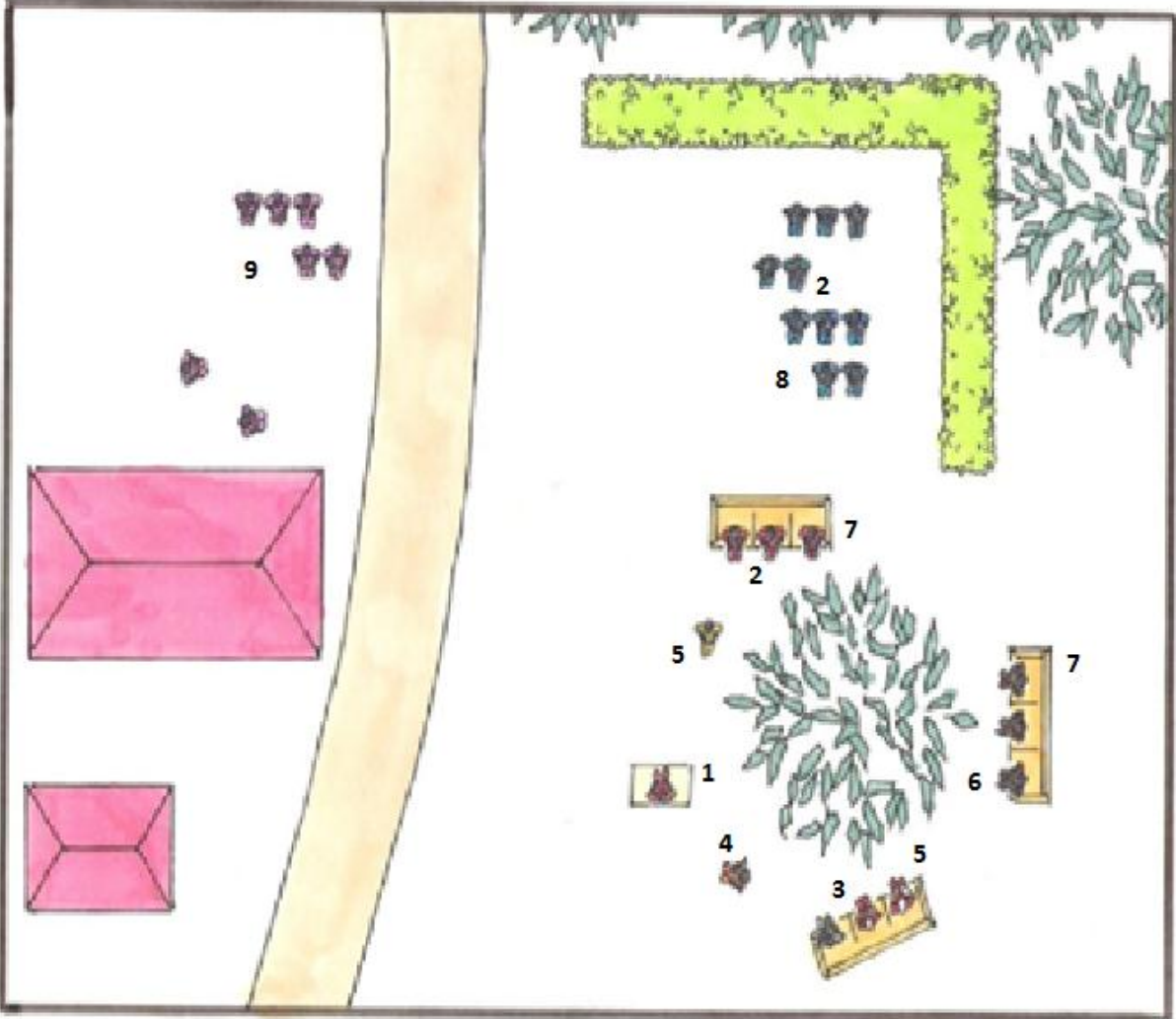


Figure 3 – A map of the public hearing

¹ We do not know when the previous meetings took place, what conclusions were drawn up for a possible resolution or what other people or representatives were present during these previous meetings.

1. Mrs Topista: she sits on a coloured rug on the grass. She wears a blue flowered dress. At certain moment she stand up and walks around towards the tree. She puts more strength in her statement.
2. Mr Moses: at first he sits between the men near the bushes. His appearance is sober. When Mr Moses starts talking, he stand up and takes place on the bench between the wazee and other witnesses. The researchers are not introduced to Mr Moses.
3. Researchers Imke and Eva: we sit on a bench in the shade of the tree. We sit next to the sub-county chief. In our hands we have a notebook and pen. When different people are talking one of us stands up to keep the voice recorder close.
4. Interpreter Agatha: she sits on the grass. She keeps the voice recorder in place and makes notes in Runyankole in a notebook.
5. The sub-county chief: leads the public hearing. He sits next to the researchers on a bench in the shade of the tree. Some moments the sub-county chiefs walks around among the people present.
6. The son Paschal: the eldest son of Mr Moses and Mrs Topista sits on a bench behind the banana tree.
7. Wazee and Local Council members: they all sit on benches in the front.
8. Male witnesses: they sit near the bushes, on the picture the right-hand side of the path.
9. Female witnesses: they sit on the left-hand side of the path.

After lunch, together with the sub-county chief we took a boda-boda, paid and arrived at the family's property. This property consisting of a plot of grass, a banana plantation and a path leading towards two red-clay houses, was situated a little distance from the trading centre of Kagongi. Mrs Topista lived in these houses together with her children – four sons and one daughter, except for the eldest son Paschal who lives in Mbarara-town where he attends University. Our first impression was that the plot looked maintained, little weeds here and there but overall the garden was green and behind the bushes the matooke plantation was flourishing. For us, as researchers, this plot seemed no different than any other plots we had seen so far in Mbarara district.

The sub-county chief lead us towards the house, and we followed him over the path towards the houses. The family was already expecting the sub-county chief and other people attending the hearing, as the garden was set-up with several benches in the shade of the big banana tree. Mrs Topista noticed us arriving and came walking towards the sub-county chief. Her faced showed some question marks when she became aware of the two “muzungu” entering her property and walking next to the sub-county chief. Mrs Topista greeted the sub-county chief and he introduced us, as student researchers, to Mrs Topista. She welcomed us to her house and family. Again, we followed the sub-county chief and Mrs Topista told us to take a seat in the shade on one of the benches. We did what she asked us. The sub-county chief took a seat next to us. Mrs Topista entered her house.

In the meantime, more people entered the property and took a seat in the shade. The sub-county chief told the other persons present who we were, and what our purpose of visit was. "They are students from the Netherlands and want to attend this case settlement meeting for their research on land disputes." People were smiling and started talking with each other. Mrs Topista came out of her house again with a special gesture. She offered us a local drink of millet from a calabash. We accepted the drink. As Mrs Topista, her family members and other people present smiled to use we assumed this was a sign that we could stay for the hearing. The sub-county chief asked for their permission to let us stay and they confirmed by nodding and saying "yes, yes, you're more than welcome." When all neighbours, witnesses, wazee and Local Council 1 and 2 members were present and everybody found a place to sit in the shade the hearing started.

Once more the sub-county chief asked if everybody who was expected to be here was present and he introduced all of us again, including himself. Although it seemed that people already knew who he was, probably because the people present still remembered him from last time. Likewise, with a sub-county chief status a certain reputation is set-up that people are aware of, a sub-county chief comes into the picture when Local Councils 1 and/or 2 need help from a Local Council 3 level. Therefore, the sub-county chief was the person entitled to take the lead during this hearing, as he was the highest in rank during this hearing. The sub-county chief mentioned this was the third time they all gathered on this plot to discuss the future of this family. The sub-county chief enlightens us about this intra-familial land dispute and points out the different parties that are present, males as well as females; neighbours, witnesses, Local Council 1 and 2.

Mrs Topista is seated on a small colourful rug on the grass and starts this hearing with her description and arguments within this dispute. She wears a long dress with flower design. Mr Moses sits between the neighbours on the grass. The male neighbours and witnesses who are present are seated on the right side of the path, on the grass. The female neighbours and witnesses took a seat on the left side of the garden. According to us, the female neighbours and witnesses seemed excluded from this hearing. The attending males were more involved. The women sit too far behind to interfere if they want to. This difference in gender – due to the place where the males and females are seated – becomes clear when every person present had to write down his or her name on the attendance list. A pen and piece of paper was passed on through the group and everybody wrote down their names, except all the female neighbours and witnesses at the back of the garden. When the Local Council 1 noticed, he walked over towards the women and asked them to write down their names and so they did. Why would it be that those women only wrote down their names after asking? Could it be that they do not want to be connected with this hearing or this family land dispute? Maybe, due to our presence as researchers they were having their doubts?

Now, it is Mr Moses turn to speak out and name his point of view of this dispute. To make his words come out more powerful Mr Moses is standing up and walking to the front. He is facing his wife, Mrs Topista, but she does not answer his looks. In doing so, it seems that Mrs Topista is not acknowledging Mr Moses presence and attaches no value to his side of the story. During Mr Moses' description of the land dispute he handed over a small piece of paper to the sub-county chief. This piece of paper lists eleven plots of land with names attached to whom the plots have been sold. Occasionally, the sub-county chief was turning to us and makes a comment in English, this time the sub-county chief was telling us that many divorces occur in this place. The content of the public hearing takes place in local language, Runyankole.

Agatha, our interpreter, is seated in the middle of the garden next to the banana tree. She was writing notes in local language and the voice recorder was lying next to her – helpful to transcribe the hearing at a later stage. We were mainly observing and writing notes in Dutch. Sometimes we noticed a word or sentence in English instead of Runyankole. For instance, the sub-county chief was saying “... He should not greet other ladies, the women [Mrs Topista] denied him these greetings...” and again he continued in local language.

After Mrs Topista and Mr Moses made their opinions clear, the sub-county chief summarized their arguments. Somebody else who was present this whole time and listening was Paschal, the eldest son of Mr Moses and Mrs Topista. Paschal wanted to be involved as well during this hearing, therefore he raised his voice to share his point of view with the persons present. However, the sub-county chief told him to be quiet and that he had to wait for his turn. Paschal reacted upset and started kicking the banana tree in front of him. What reasons could Paschal have to kick the banana tree? Could this mean a feeling of frustration? This will be part of the analysis in section 3.2. After several moment it is Paschal's turn to speak and share his point of view on the intra-familial land dispute. Again English words passed by, such as responsibility, neglecting and school fees. One after another, neighbours, witnesses and wazee gave their reactions and perspectives on the land dispute of Mr Moses and Mrs Topista and how to move forward. When all persons present shared their points of view, again the women in the back were somehow excluded and did not take part in the hearing. Meaning, those women did not give their point of view on the intra-familial land dispute. We noticed the sub-county chief saying in English: “... very free to distribute his land amongst his family members, if he says this belongs to the children.” The hearing continues “He owns two pieces of land. He gave a list to the Local Council with the data of today and which plots of land he owns.”

From that moment on Mr Moses, Mrs Topista and the sub-county chief started talking disorderly. Mr Moses, while walking around had a serious facial expression. In the meanwhile,

one of the witnesses had an argument with Paschal and the sub-county chief has to intervene by raising his voice, "Let me tell you!" and he pointed towards Paschal. Their argument continued in Runyankole. Mrs Topista walked towards her husband and it seemed she wanted to do something to him – maybe beating, however people present started laughing. Paschal was shouting and Mrs Topista yelled "family land!" She walked back into her house without saying anything and came back with what we noticed to be her phone. Mrs Topista rolled up her rug, by indicating that for her this public hearing was over. The sub-county chief said: "All the children should be here. I am going back, going to make a report...if you want to continue...", Mrs Topista shouted: "Yes, you go!" The sub-county chiefs made a start to finish the hearing and concluded by mentioning he had to write a report to the Local Council 3. Paschal started to shout to the sub-county chief "You are ignoring!." Now, the people present all start to talk disorderly. The sub-county chiefs walked towards the centre of the garden and put his hands in his pockets. He seemed at ease, although his face said something different. He fiddled with the paper he received from Mr Moses and he ended this hearing by telling the persons present that he will write a report, "...that's all."

During this entire hearing a police officer had been waiting to keep the situation safe and secure. He explained: "people can attack or fight each other!" Paschal walked away from the garden towards the police officer for a private chat. We are wondering what is being said. After some commotion all the persons present left the property to go home. In the times we waited for a boda-boda something noteworthy occurred. From behind the matooke plantation Mr Moses walked back towards the property and sets course towards Mrs Topista, who was standing in front of her house. What could be the meaning of this "secret meeting" between Mr Moses and Mrs Topista?

At the beginning of this public hearing the ambiance was neutral, and for us as researchers, even welcoming. Somewhere in the middle of the hearing the atmosphere changed and became more sensitive and tension raised. For us, as researchers, language formed a barrier and we had to ask for clarification. However, independent clarifications can be somehow different than what the used to be during the hearing itself. After the hearing interviews were conducted with the sub-county chief, Paschal, Mrs Topista, Local Council 1 information chairperson Brian, neighbour and witness Frank and family friend and witness Akiiki. Unfortunately, we were not able to conduct an interview with Mr Moses.

1.3 Thesis overview

Chapter 2 provides the theoretical framework for this research. Including four perspectives or glasses we shall put on to analyse the problem of land disputes within families in Mbarara district. One, property relations and accessibility. Two, legal pluralism and land governance. Three, intra-familial relationships and finally, conflict resolution. The first perspective, property relations and accessibility, will underlie all other perspectives in this research. This perspective is pertinent to this research and thesis. Each perspective highlights several concepts that will come across in the research.

Chapter 3 explains the methodology. It starts with an introduction of the research field and the reasons for selecting three sub-counties in Mbarara district. Also, the research design and the methods we used in the field will be explained. And some of the research limitations.

In the following chapters we will present the analysis of data collected during this research. Chapter 4 analyses property relations and access with a focus on intra-familial relationships. Social relations are important in considering causes and consequences of intra-familial land disputes. At the same time, social relationships are important to see why individuals make choices to resolve land disputes. Hereby, the case study will be put the source of illustration. This chapter will answer the following questions: how is access arranged within families? What are the different conventions regarding access? What are these land disputes about? How are land disputes and family relations interconnected?

Chapter 5 focuses on the research from a legal pluralism and land governance perspective. Aspects that are part of this are hierarchy, acceptance and power, also marriage and selling of land, Local Councils and the visions of youngsters to this problem. This chapter will answer the following questions: Which regulations and authorities play a role in land disputes within families? What considerations are being made regarding rules, conventions and ideas about family relations? What is the diversity among families regarding rules and rights?

Chapter 6 reviews conflict or dispute resolution. Different pathways to resolution will be discussed. What choices do individuals make to resolve land disputes? What practicalities do they undertake towards resolution? This chapter will give certain patterns or strategies and outcomes of how people cope with the disputes. What do people think, and in what way are the outcomes of the disputes appreciated?

Chapter 7 is the final chapter. It gives the conclusion of this research, which will be followed by a discussion. The conclusion presents a summary of main findings. Recommendations are mentioned for further research and practical insights for the work MBADIFA is doing.

2 Theoretical Framework

This chapter provides different theories and concepts to explain and understand this research on intra-familial land disputes. These theoretical insights will guide us to analyze the data from the field. First, intra-familial land disputes are explained. In this introduction family relations are key for understanding the following concepts of property, access, legal pluralism and dispute resolution. This theoretical framework is used as basis to develop the research design of this research.

2.1 Intra-familial land disputes

In this research we use the term “intra-familial land disputes” to indicate land-related disputes between family members. By this we mean, disputes that occur between husband and wife, brother against brother, sister versus brother, son versus father, son versus mother or co-wife versus co-wife (for example in case of a polygamous marriage). This term “intra-familial land disputes” is used by John Kigula (1993) in a research paper prepared for the Makerere Institute of Social Science and the Land Tenure Center. In the context of this research, we chose this term to stay close with Ugandan ways of speaking about land disputes within families. Thereby, we decided to broaden this term from Kigula by focusing not only on the homestead itself, but also on the generational aspect of it. So, “intra-familial” in this research may indicate grandfather versus grandchildren as well. In this context the family is a direct or indirect connection through parent-child relationships and/or marital status. According to Kigula (1993: 13), “the most frequent causes of disputes are land inheritance, boundaries of fields or residential sides and right to oversee land management on a homestead.” In general, Kigula (1993: 6) believes land disputes amongst family members are characterized “...where succession rights are predominant.” The Succession Act of 2011 (Byamukama, 2012) says that the main practice of acquiring land is through inheritance. This is supported by Mugambwa (2002: 8) “Land is a gift from God, a common national heritage and asset, to which everyone is entitled by reason of birth and citizenship.” So, every single individual in Uganda is authorized to ‘receive’ land.

Land can be seen as vehicle for investing, expanding of wealth or transferring it between generations, according to Deininger and Binswanger (1999: 247-248). However, there are structural limitations to agricultural production considering access to land, property rights, ownership and dispute resolution. These limitations influence subsistence farming and a social or economic status within families or communities (Ibid). Relationships between family

members over natural resources can become highly tensed. In the research by Van Leeuwen (2012) on tenure security and land disputes, he noticed that land disputes may turn violent and “murders at community level are very often related to land.” Resource-related conflicts are common all over the African continent (Turner, 2004: 1-2). According to Turner “resource-related conflict is social conflict (violent or non-violent) associated with both struggles to gain access to natural resources and struggles resulting from the use of natural resources” (Ibid). For this study, this means that land-related disputes are social disputes.

Within this research the words “conflict” or “dispute” may be used interchangeably. According to Spangler and Burgess (2003), disputes indicate a short-term disagreement and are rather easy to resolve and conflicts on the contrary, are long-term and deep-rooted problems which seem to be non-negotiable and are resistant to resolution. However, disputes and conflicts may be connected. “In fact, one way to think about the difference between them is that short-term disputes may exist within a larger, longer conflict” (Ibid).

Conflict can be defined as disagreement about something, though there is awareness about this disagreement. In the case of conflicts related to natural resources there is more than just disagreement over the resource itself. Generally, these resource conflicts are about other interests as well, such as authority, power and belonging (Van der Haar & Roth LAW-31306; Berry, 2009: 24). This forms the fundamental basis of this research. Concepts as property relations, access and their linkage with intra-familial relationships are addressed. Thereafter, legal pluralism and land governance are discussed.

2.2 Property relations

Property relations form a relevant concept to analyze intra-familial land disputes. To understand more of the property relations that are at the core of this study, we use Hann’s (1998: 2-5; 2007) concept of the embeddedness of property. Property relations are social relations. It structures relations between people and shapes behaviour. Property is not just about a ‘thing’, but it can be seen as network of social relations. We agree with Hann that “property relations build people’s social identity by holding and using ‘things’” (Hann, 1998: 3). This theory by Hann can be combined with the work of Sabeen (1990, as mentioned by Van der Haar, 2001: 18). Sabeen sees the “entangledness of family and property relations as starting point to look at patterns of identification.” For the analysis of our data it is important to notice that property relations can be seen as social relations and can be used as means to order and structure society. According to Sabeen, “society and property are constituted in the same act” (Sabeen, 1990: 17 cited in Van der Haar, 2001:18).

Property relations are not between people and things, but between people *about* things. These relations include regulations of entitlements, power and the production of difference to people. The social complexity of property relations are about ordering society or social relations within society and they are based upon ownership and entitlements, natural rights and their use, transfer or possession. This social complexity of property can be linked to conflict. Peters (2004) explains it as competition and conflict over land in Sub-Saharan Africa “call into serious question the image of relatively open, negotiable and adaptive customary systems of landholding and land use and instead, reveal processes of exclusion, deepening social divisions and class formation” (Peters, 2004: 270). Property is all about inclusion or exclusion and unequal effects on different people. Exclusion can occur at different levels, e.g. resources, rules and rights. According to Peters (2004) customary systems or customary tenure is no safeguard against exclusion or inequality because of different entitlements, rights or obligations on basis of gender, generation, ethnicity or religious class. However, what does matter are power and control, especially the ability to control the use of productive assets when renegotiation of e.g. land rights.

Customary tenure

A majority of resource users in rural Africa gain access to land through local systems of land tenure, such as customary tenure systems. Those tenure systems evolve all the time and adapt to changing circumstances. Generally, they provide “unwritten arrangements, providing access to land on basis of kinship and status, and relying on ‘customary’ authorities to manage land rights” (Kanji et al, 2005: 3). Hence, customary tenure is an important way for local communities to safeguard their rights to land (Ellis, 1993). Property rights are divided by Von Benda-Beckmann (2001) into four categories: private or individual ownership, state or public ownership, common or communal and open access. Hann (1998) sees private ownership as the ideal, because private property is vital in forming social identities. This is agreed upon by Von Benda-Beckmann as they state that “Property is always multifunctional. It is a major factor in constituting the identity of individuals and groups. Through inheritance it also structures the continuity of such groups” (Von Benda-Beckmann, 2006: 2). The latter aspect on inheritance is important within the succession rights we previously mentioned, because this shapes property rights and social relations within families. At the same time ownership is about the structure of social relations, it is about access to material livelihoods and not merely about land control (Njonjo, 2002 in Batungi, 2008). According to Obol-Ochola (1969 in Okema, no date), customary land tenure refers to traditional landholding rights. These rights are a result of the relationship between indigenous people and land. Land rights are controlled and managed by customary law, which in many cases is oral and not written. According to Fitzpatrick (2005 in Okema, no date), a personal land-title in areas subject to customary tenure have generally failed to sustain land security and reduce conflict. “While customary tenure arrangements may be less than ideal in

social, economic and environmental terms, the fact that they are fundamentally embedded in complex social processes means that any attempt to change or replace them may itself involve prohibitive costs and risks” (Von Benda-Beckmann, 1995 in Batungi, 2008).

The wider social and cultural context of property relations is intertwined with dynamics of customary land tenure, claims of ownership, rights over ‘things’ and access to resources by using social relations. In this research social relations are analysed from the position of family relations.

2.3 Access

In this section the theory of access is used to define access to land. Access to land and the use of land and other resources are governed by rights and institutions within “land tenure systems” (Maxwell & Wiebe, 1999: 825). Land tenure security, however, refers to the “degree of confidence held by people that they will not be arbitrarily deprived of the land rights enjoyed and/or of the economic benefits derived from them. It includes both ‘objective’ elements (nature, content, clarity, duration and enforceability of the rights) and ‘subjective’ elements (landholder’s perception of the security of their rights)” (Lavigne Delville, 2003; Place et al., 1994 cited in Kanji et al, 2005: 3). Securing access to land is crucial, because people depend their livelihoods on it and it helps them to develop more equitable relationships with the rest of their society. Thus, contributing to justice, peace and sustainable development (IFAD, 2008: 4). The board of MBADIFA is aware that many of its members experience land disputes. According to them, these land disputes have an impact on the agricultural livelihoods of the members.

In this research access and land tenure issues are linked. Access is of particular concern and we base our theory upon Ribot and Peluso (2003). Who define access as the “ability to derive benefits from things.” The ability of access is more akin to “a bundle of powers”, which includes a “wider range of social relationships that constrain or enable benefits from resource use than property relations alone” (Ibid: 153). Within this study the access theory is used to define access to land and use of that land by families and individual family members. When focussing on land and intra-familial relationships “a bundle of power” is important to explore. The ability of access and exercise of power is created by mechanisms, processes and social relations. Ribot and Peluso make notion of different mechanisms. One, is rights-based access which is stated by law, custom or convention and includes illegal access. Two, structural and relational access which shape how benefits are gained, controlled and maintained. This includes technology, capital, markets, labour, knowledge, authority, identities and social relations (Ibid: 161-162).

Access mechanisms and the additional benefits shaped through identities and social relations are of main importance for the analysis of our data from the field. Access and social identities influence each other as well as the arrangements of benefits from things. "Access is often mediated by social identity or membership in a community or group, including grouping by age, gender, ethnicity, religion, status, profession, place of birth, common education, or other attributes that constitute social identity" (Ibid: 170-171). Some individuals may be subject to the law, while others are subject to identity-based groups. According to MBADIFA, in Mbarara district, access to land and the way people make use of their land is being decided upon within families and other available household resources. For example, children want access over land that is owned by their parents. In this case, sharing of land is at stake. When a father leaves no will behind after his death, his children and wife may fight over the property. As this land generates income and gives every individual social identity within their community and within their family. This example is deepened by Ribot and Peluso (Ibid: 171) "... or in the transformation of land use from one type of production or protections to another, who is included / excluded in the flows or benefits and duties from the transformation is frequently dependent on identity." In the worst case scenario, the family does not know how to handle their father's death and inheritance issues for example, because they do not have access to information over property rights. Besides, it is difficult to understand property rights and laws in practice or what they mean in daily life. Unequal power relations and cultural understandings of, for example gender also play a role in whether an individual would stand up for his/her rights. As Ribot and Peluso (Ibid: 158) mention "Thus, like property, we see access relations as always changing, depending on an individual's or group's position and power within various social relationships. Generally, people have more power in some relationships than in others, or at some historical moments and not others."

In a later stadium we will speak about resolving disputes on access to land in family relations. Therefore, it is of importance to notice that a social division can be made into *access control* and *access maintenance*. "Access control is the ability to mediate others' access. Control refers to the checking and direction of action, the function of power of directing and regulating free action" (Ribot & Peluso, 2003: 159). They agree with Berry (1993) that maintaining access requires enlarging resources or powers to keep access open. Maintenance and control are complementary. Access relations are always changing depending on the availability of powers in society.

Gender

Relationships between family members are important to analyse land disputes that occur. Looking at the way members interact with and towards each other clarifies individual interests,

behaviour and actions. To analyse relationships within families we selected the gender concept which shape and clarify relationships among family members. By using a concept like gender within the frame of intra-familial relationships we analyse land disputes.

Gender is a crosscutting issue in this research. Gender imbalance is visible within many practices such as inheritance, property and decision-making. Research in Mbarara district has shown that even though male dominance has existed traditionally for ages, women and daughters feel excluded in many cases. The Ugandan government tries to make up a balance in the rights and laws to make men and women more equal judicially, as seen in the Uganda's 1995 Constitution. We understand gender within this context as the social meaning given to the biological differences between men and women and socially constructed roles, behaviours, activities, and attributes that a given society considers appropriate for men and women (WHO Gender Online).

“The need to legislate for gender and property rights is mostly two-pronged. One has to do with economic considerations such as efficiency—the fact that agricultural production is predominantly done by women. The second has to do with human rights. The principle of property rights entails deciding not only on disposal but also decision on in-puts and proceeds. Women are currently denied this right” (Rugadya et al., 2004: 1). Similarly, transfer of land in Uganda is limited for women. Due to cultural and historical dynamics women have been denied the right to possess property and when it comes to the responsibility over the property and benefits of the property “the meagre money earned from the sale of products is often taken by the husbands or used up on family needs” (Ibid: 2). “Customary law, practices and attitudes governing divorce, inheritance and property rights continue to place Ugandan women at a disadvantage. Women’s existing rights of access to and use of land are deeply embedded in the country’s cultural and social systems and are regulated through marriage and kinship ties. Deeply entrenched patriarchal traditions and values deny widows any right to own land properly. If a woman separates from her husband and returns to her parents’ home, she loses all rights to matrimonial land, irrespective of her contributions to its development” (Ibid).

2.4 Legal pluralism and land governance

The analysis of intra-familial land disputes in Mbarara district with concepts regarding property relations, access and family relations needs to be preceded by a discussion of the approach we take to understand legal complexity and land governance. This includes, the different rules of law, regulations and authorities since they are part of shaping and structuring intra-familial relationships and have an impact on land disputes and outcomes within these families. The implementation of policy regarding land issues forms a crucial element with respect to land

disputes and dispute resolution. Hence, the next section provide an overview of theories and concepts of institutions and authorities regarding land disputes.

Legal pluralism

Legal pluralism exists all over the world. We understand the term legal pluralism as used by Griffiths (1986). Legal pluralism is “the presence in a social field of more than one legal order.” This definition will be used to analyze the different complex legal systems and other forms of regulation that can be found on control and management of natural resources. Regulations are defined in rules, rights and obligations. These regulations “determine which social units have legitimate access to resources or how these resources can be used” (Van der Haar & Roth LAW-31306). Besides, these regulations also define what resources are and how resources are formed as objects of property rights. This indicates that regulations on land define property rights and the institutionalized procedures are a key issue to deal with “conflicts over control, management and exploitation of resources, and define authorities, persons or institutions with legitimate and sometimes illegitimate decision-making authority concerning the transfer of access rights” (Ibid).

Legal pluralism in this research focuses on Mbarara district and entails all legal orders concerning land. The most common situation of legal pluralism is where statutory law and customary law meet. “In the real world of most African livelihoods, however, customary law has proved to be tenacious. Especially in rural areas, but often in towns too, customary law has been the dominant system in such fields as family relations, economic relations and – often spanning the two – land tenure” (Adams & Turner, 2005: 2). According to the cross-cultural foundation of Uganda (2010: 4) statutory or state law versus customary or non-state law exists of different sets of values. These different values can be recognized in the property debate. Property is embedded in social life. One group hold on to customary law where individuals hold on to their property and “bring it back” to their own communities to apply cultural customs and property rights. The other group hold on to statutory laws and regulations regarding property use and access. Nevertheless, statutory law may be inspired by customary law and vice versa. And there is more diversity among these multiple overlapping bodies of law when analyzing intra-familial land disputes. Religious normative systems (Tamanaha, 2008: 398) may appear in Mbarara district as Christians and Muslims live together and religion carries a certain weight in their livelihoods. Peters (2004) mentions in her article on inequality and social conflict over land in Africa that “legal typologies (statutory, customary, Islamic) in African countries is not a neat parallel system but often a contradictory blend. Thus, ‘customary’ law and tenure need to be seen not as ‘informal’ or ‘traditional’ systems separate from and opposed to ‘formal systems’ of ‘law’ but as mutually imbricate with the latter” (Ibid: 272).

Legal systems can shift and change and is part of daily reality when managing natural resources. “In many studies, the term ‘legal pluralism’ is used to characterize the interactions between competing and conflicting official legal systems or between an official legal systems and one or more of the other normative systems. The interplay is complex and multisided” (Tamanaha, 2008: 399). Yet, rules and rights are hard to follow up on social practices. These rules and rights can guide land management; it may be used as orientation or it can impose restrictions on peoples’ way of organizing and dealing with natural resources. As an example we notice a shift in this research between youngsters versus elderly. The way youngsters make use of legal systems on the gender issue regarding inheritance is changing compared to the elderly. The youngsters prefer statutory law which says women are allowed to inherit land from their father. The elderly prefer customary law which tries to keep land inheritance within the male line of the family. This has to do with many other issues and will be elaborated upon in following chapters.

Land governance

“Land governance concerns the rules, processes and structures through which decisions are made about access to land and its use, the manner in which the decisions are implemented and enforced, the way that competing interests in land are managed” (FAO, 2009: 9). The rules, processes and structures of land governance can be made more specific by Van Leeuwen (2012) land governance is about authority, decision-making and implementing issues of access, control, management and transfer of land. Land governance is a concept that is linked with legal pluralism. According to Van Leeuwen “land governing institutions are the laws, norms, conventions, and beliefs that guide access, control, management and transfer of land, as well as the actual organizations and institutions that govern land” (Ibid: 18). In Uganda there are more land governing institutions at play within one social field, namely state institutions and non-state institutions. State institutions that govern land provide and reform the legal framework (in parliament), enforce its implementation (through its bureaucracy) and punish infringers (through the judicial system) and non-state institutions, at the same time and in the same social field, govern land by family heads, clan elders, churches or local associations (Ibid).

Intra-familial land disputes are disputes about rules, processes and structures of access, control and management of land and its benefits. Land governance in Uganda is regulated by land policies. As a former British colony, Uganda’s legal system is a mixed system of English common law and Ugandan customary law. Issues regarding Ugandan land policies are mentioned in the 1995 Constitution of Uganda, the 1998 Land Act and the Uganda National Land Policy of March 2011. With regard to land the 1995 Constitution of Uganda notifies: “In furtherance of social justice, the State may regulate the acquisition, ownership, use and disposition of land and other property, in accordance with the Constitution.” “The Uganda Land Commission shall hold and

manage any land in Uganda vested in or acquired by the Government of Uganda in accordance with the provisions of this Constitution and shall have such other functions as may be prescribed by Parliament” (UNLP, 2011: 29).

The 1995 Constitution of Uganda and the 1998 Land Act recognizes four forms of land tenure; mailo, freehold, leasehold and customary. These land tenure systems refer to ownership, occupancy, land use and dispose of land within a community.

Tenure type	Description
State land	All land vested in or acquired by the government, which is held and managed by the Uganda Land Commission.
Customary land	Between 70% and 80% of land in Uganda is under customary tenure, particularly in Northern Uganda. There is much variation as there are more than 60 ethnic groups. The 1998 Land Act recognizes that occupancy of customary land and conveys legal rights without documentary evidence. It introduces the “ <i>certificate of customary ownership</i> ”. Although possible from 1998, the first certificates were only issued in 2011. Critics have been raised as these titles are individual and not collective, which does not always fit with local realities. Moreover, people don’t know well how it works.
Freehold	The proportion of land under registered freehold tenure is much smaller and mainly located in Kampala, and in former Ankole, Toro, Kigezi, and Bugisu Districts. Transactions involving freehold land (as well as <i>mailo</i> land registration) are governed by the Registration of Titles Act.
Mailo	Central and southern Uganda is dominated by <i>mailo</i> land. This is a kind of customary form of freehold that was created under British colonial rule when mile-square blocks of land were allocated to Baganda notables in exchange for political cooperation. Today <i>mailo</i> land is largely confined to Buganda and Bunyoro, but can also be found in other parts of the country. The land is owned by (often absentee) land lords and worked by tenants, who can be evicted. This system is currently a major cause of conflict between land lords and tenants (Green 2005; Place and Keijiro 2000).
Leasehold	Either landowners and the Uganda Land Commission can provide a lease to freehold, customary or <i>mailo</i> land for a period of 49 or 99 years. The grantee of a lease is entitled to a “certificate of title”. Leases of private land often have conditions of payment of rent, while leases over public land are accompanied by conditions of use.

Figure 4 – table with different tenure systems of Uganda (LANDac, 2012; Mugambwa, 2006: 4-5)

In this context, legal complexity and land governance in Uganda shall be used to analyze the diversity of access, control and management of land. In practice, land governance entails a diversity of issues. One of these issues regards land dispute resolution to analyze what considerations families and individuals undertake to approach intra-familial land disputes.

2.5 Dispute resolution

Different levels and mechanisms exist in Uganda to resolve land-related disputes. “The use of traditional and alternative dispute resolution techniques has proven effective in dealing with land disputes in a number of countries” (FAO, 2009: 49). In Uganda, the 1998 Land Act introduced District Land Tribunals as a system to deal with dispute resolution regarding land. However, in practice these tribunals did not work out due to “problems with staffing, coverage and funding” (LANDac, 2012). An alternative would be local land court; however till today dispute resolution is done by the general local courts. “To some extent these local courts operate in competition with the customary dispute resolution mechanisms, without a clear hierarchy between them” (Zevenbergen et al., 2012 cited in LANDac, 2012).

As a previous concept legal pluralism was mentioned. Legal pluralism is related to dispute resolution as well. The Uganda National Land Policy (2011: 39) states that there is an overlap in dispute resolution institutions that have “resulted into fora shopping by aggrieved parties, without a clear hierarchy.” According to Kigula (1993), there are generally speaking two land dispute settlement fora. “A formal dispute settlement forum, whereby disputes are settled by formal courts such as the Magistrate’s courts, and an informal one, whereby disputants have their cases decided by village elders or clan heads” (Ibid: 17). Traditionally, the role of mediator to settle disputes was played by an elder or clan head. At present, local administration of justice entails various organs to handle land-related disputes. Khadiagala (2001: 56) states that President Yoweri Museveni is promoting Local Councils as tribunals of “popular justice”. She argues that “they would provide Ugandans with expedient, inexpensive and culturally appropriate justice. Most important, LCs would replace the adversarial form of justice found in formal courts with indigenous norms of conciliation and compromise” (Ibid). Local Councils are seen as popular tribunals within society, they are institutions “located on the boundary between state law and indigenous or local law” (Merry, 1992: 162 cited in Khadiagala, 2001: 63). Dispute resolution of intra-familial land disputes are based on social control and conflict management that exists within families and society (Ibid: 64).

2.6 In sum

Land disputes or conflicts are common in Uganda and appear on different levels. With a focus on intra-familial land disputes we dive deeper into the social dimension of property related to conflict. Land disputes within families may occur between a parent-child, marital or generational relationship. Property relations are social relations entangled with family relations. Access is broader than property. Disputes about land are conflicts about property relations and property rights. Land disputes are part of life and therefore part of social relationships. These disputes consider questions as who owns or use what and in what way. It is about the implementation of access, ownership, rights, rules, obligations and interests individuals have. In practice, it is about the application of rules deciding who should have what, in what way. Hence, land governance and legal complexity of land regulations and authorities dealing with issues concerning land have an influence on intra-familial relationships and land disputes within families. Regulations and authorities shape family dynamics and access to land. On account of different interests to land or different interpretations of rules and rights regarding land, disputes within families can establish. In this way, mechanisms and institutions of dispute resolution come into the picture. How can intra-familial land disputes be resolved and who decides what would be a just solution? This theoretical framework is the basis for the research design we used and therefore the methodology will be described in the next chapter.

3 Methodology

In 2012, from May 10 until July 30 we accomplished fieldwork in Uganda. We joined Mbarara District Farmer's Association (MBADIFA) in Mbarara district to conduct data for this research. This field research took place in four areas: Rubaya sub-county, Bugamba sub-county, Kagongi sub-county and Mbarara municipality (Ruharo sub-division). In these sub-counties MBADIFA is cooperating with farmers to promote sustainable market-oriented production through forming of farmers' groups by giving trainings on agricultural and marketing techniques. In total we spend 95 days in Mbarara district of which we spend 16 days and nights in the four different sub-counties. During this time in the field we organized three focus group discussions. One at MBADIFA office with the staff members, one with youngsters from Mbarara municipality at MBADIFA's office and one in Kagongi sub-county with Local Council members. We have 64 completed questionnaires with youngsters from all four sub-counties. We got hold on our main case study. Which is the intra-familial land dispute of Mr Moses and Mrs Topista. Last, but not least we acquired 25 in-depth interviews. Most of these interviews were with more than one person. For instance, an interview with husband and wife in which they both answered our questions. This results in a total of 31 respondents. Besides, during these 95 days, we collected informal interviews and conversations on the research topic.

This section describes the research methods and methodology we used to conduct and analyze our data. We discuss what choices and decisions we made in the field. First, the research design is given which contains the problem statement, the research objectives and research questions. Second, the research methods are explained from desk study to collecting data in the field. We conclude with limitations of the field research.

3.1 Our "field"

This paragraph provides an overview of the study areas we selected. We spend in total 95 days in Mbarara district and 16 days "in the field". During our time of research we lived in Mbarara municipality, in the Kakoba division together with a Ugandan family – father, mother and three children.

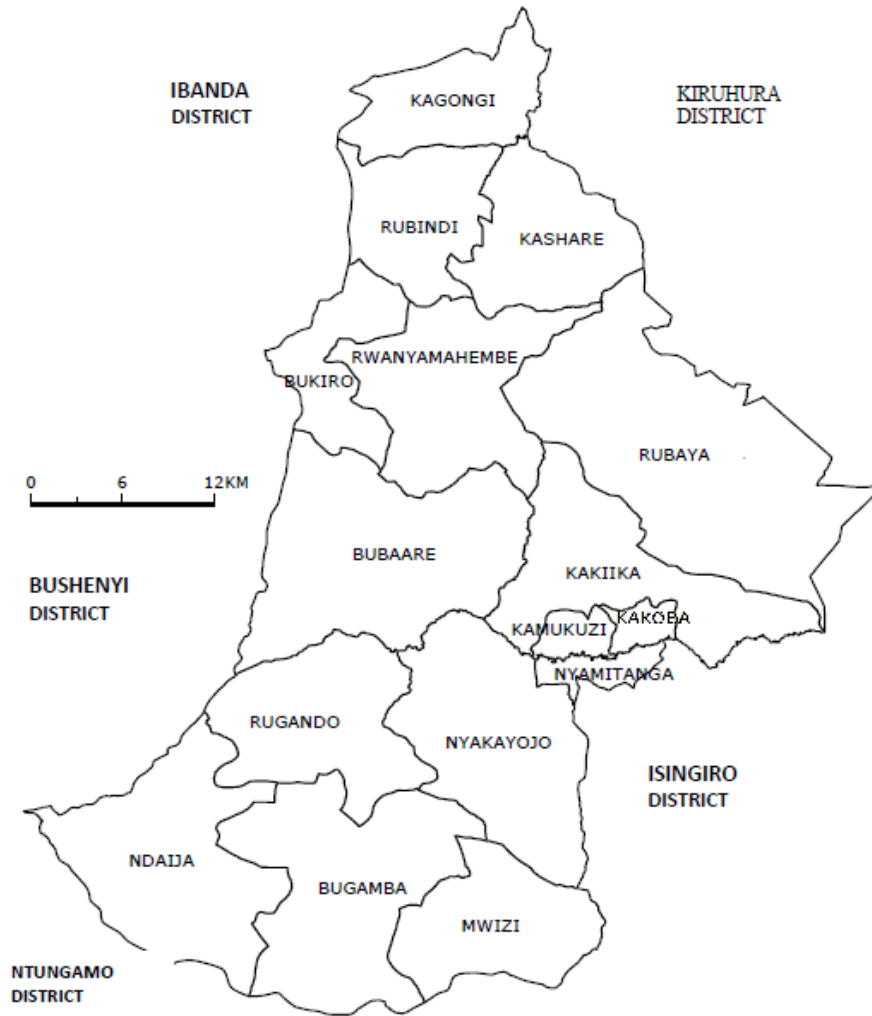


Figure 5 – Mbarara district with our three research fields: Kagongi, Rubaya and Bugamba

As mentioned before the government structure of Uganda is divided into levels. So, we selected three sub-counties and Mbarara municipality to do our research. Within these four research sites we selected three parishes and one division to conduct in-depth research. These research sites are located widespread across the district:

1. Centre of the district: Mbarara municipality – Ruharo sub-division
2. North of the district: Kagongi sub-county – Kagongi trading centre
3. East of the district: Rubaya sub-county – Ruhunga parish
4. South of the district: Bugamba sub-county – Nyaruhandagazi parish

These four selected villages became our main and formal research sites. There are also several “informal” sites where we conducted research on basis of informal visits and informal conversations. These “informal” sites were visited together with MBADIFA staff during their training sessions in the field. Those sites included: Nsiika, Ntuura, Ngango and Bwengure parish

in Kagongi sub-county, Kigaaga parish in Mwizi sub-county, Ruhunga parish in Rubaya sub-county and Nyaruhandagazi parish in Bugamba sub-county (both formal and informal) and finally Rubindi sub-county.

There are several reasons why we selected these four parishes for this research. First, by selecting more than one research site the exploring of intra-familial land disputes becomes more representative when studying individuals in their natural environment. This created in-depth research, but with widespread local knowledge. We expected that travelling back and forth from Mbarara municipality to Kagongi, Ruhunga or Nyaruhandagazi would be inconvenient for us and for the individuals we wanted to meet in the field. Also, short visits of half a day or one day can lead to a lack of information. Therefore, we decided to spend three to four days and nights in the different villages to obtain a comprehensive understanding of life in these villages, the families and issues regarding land use, land management, land disputes and dispute resolution. We repeated our visits to the villages. The first visit was observation to get acquainted with the families and the environment. The second time we visited was for in-depth interviews and the third times to conduct questionnaires with youngsters in the village and to re-evaluate our data.

The combination of these four research sites are interesting, because they are different from one another. Especially, Ruharo sub-division which belongs to Mbarara town, the other places are more rural situated. And, due to this research being a follow-up research, we wanted to conduct research in one new village compared to the previous research by Van Leeuwen (2012). To generate new information instead of a repetition of stories.

The previous research by Van Leeuwen (2012) focused on *“challenges, problems and conflicts that impact MBADIFA members’ tenure security, their knowledge of and experiences with different institutions to protect land tenure and resolve land disputes, and the impact of land governance reforms on this.”* In this research, Van Leeuwen selected several villages in Mbarara district, two of them we selected as well. Namely, Nyaruhandagazi parish and Ruhunga parish. We started in those two villages with observations and interviews. However, after these first field visits we wanted to broaden our perspectives on the issue of land disputes within families. We felt that we did not yet found what we were looking for and decided to contact Mathijs van Leeuwen via Skype. After this session and in cooperation with MBADIFA another village was selected on basis of knowledge MBADIFA staff had on Kagongi sub-county. Kagongi sub-county lies within Mbarara district, and according to MBADIFA staff most land disputes occurred in Ibanda district. Therefore, we decided that research on the border of the two districts could give us more insights.

Our choices to select these four villages are based upon the possibility of having access to host families. Within Ruharo sub-division we created access, because our second interpreter lived and worked in the area. He arranged access for us to the Ruharo Mission Hospital and the church on the compound. MBADIFA staff asked their members if we could stay with their families in the village. In every village we stayed with one host family for three to four nights. We spend the days with them and had supper together. With most of the family members we were able to communicate in English. When this was not possible, Agatha our female interpreter, could help us out.

3.2 Research design

This research design provides the framework of this research. We focus on qualitative research in which we collect, analyse and interpret data from the field by using several methods. Research methods as observation, focus group discussions and in-depth interviews are used. In this qualitative research we aim to find meaning, characteristics and description of individuals on the phenomenon intra-familial land disputes. We made use of the *“ethnographic approach in which the researcher participates, overtly or covertly, in people’s daily lives for an extended period of time, watching what happens, listening to what is said, and/or asking questions through informal and formal interviews, collecting documents and artefacts.”* (Hammersley & Atkinson, 2007: 3).

This research consist of both exploratory and explanatory elements. The first phase started with an exploratory research in which we explored the social phenomenon of land disputes within families in Mbarara district. This exploring commenced with a search for literature and information that is available on land disputes within families. This exploratory phase forms the basis of the explanatory phase in which we formed ideas and research questions on possible causes and consequences of intra-familial land disputes in Mbarara district. During this explanatory phase we developed our research design and research methods to collect data in the field.

To intensify the explanatory phase and analysis of this research we selected a case study. According to Green and Thorogood (2009) a case study involves studying a phenomenon within its context. The case study in this research entails a detailed and intensive analysis of a land dispute between Mr Moses and Mrs Topista. They are husband and wife and have five children. This family lives in Kagongi sub-county and have a dispute over land. The main disagreement concerns the fact that Mr Moses sold some plots of land without consent of his wife, Mrs Topista. This is not allowed according to state law, but customary law says differently. Mrs Topista is the one taking care of the children and pays for their school fees. Mr Moses is claiming a share of the

land, but does not want to live with his family anymore. Mrs Topista is not willing to accept this situation. They both called in the Local Council to help resolving their land dispute. As researchers, we came across this family land dispute and realised this is the case study we are looking for. We attended the third hearing of this land dispute, guided by the sub-county chief. The two previous hearings did not resolve the intra-familial land dispute.

3.2.1 Problem statement

The problem statement of this research is based upon the research by Van Leeuwen (2012). *“Land disputes form a serious threat to land tenure security in Uganda. Almost one in three members of Mbarara District Farmers’ Association (MBADIFA) suffers from disputes about land. From recent research conducted in the context of the ‘Grounding Land Governance’ programme it appears that many of those disputes are within families, rather than between community members or with the state. A very common issue is the handing over of control over land to the younger generation, which we may call ‘generational land disputes’. Often, those disputes not only represent a struggle about resources, but are also a struggle about authority within the family. Such disputes may have severe consequences for community stability (including murder), but at the least impact agricultural productivity. Efforts from the side of the government over the last 15 years to change the way land is governed and laws regulating inheritance and women’s access to land have had mixed effects on this type of disputes.”*

The key issues addressed by Van Leeuwen (2012) are that land disputes form a threat to tenure security in Uganda and many of these disputes occur within families. The Land Sector Strategic Plan of 2001-2011 is about land tenure security. Tenure insecurity is experienced by certain groups, namely women, tenant farmers and households in remote areas where land disputes are frequent. As land is an important asset in Uganda land disputes and land dispute resolution need more detailed understanding.

To address the who, what, why, when and how of the problem of intra-familial land disputes, we want to explore and analyze the different rationalities and strategies that underlie family relations in their relations with property and access and how they use regulations and authorities to their considerations on resolving land disputes.

3.2.2 Research objectives

This research has a twofold objective. The first objective is a theoretical objective to gain insight on intra-familial land disputes and pathways to resolution. The second objective has a social basis, namely to contribute to the debate on intra-familial land disputes and come up with practical interventions and strategies to address intra-familial land disputes. Practical recommendations may be useful to help local organizations like MBADIFA. They can focus their

workshops or training sessions on issues regarding land disputes and the effect on family members and land productivity.

During the pre-fieldwork phase this research emphasised “generational land disputes” which soon became “land related disputes within families”. When we spoke about “land disputes within families” it became understandable for the people we met in the field. After our field research, we read an article by John Kigula (1993) on land disputes in Uganda. This research paper from 1993 was prepared for the Makerere University in Kampala. In this paper John Kigula uses the term “intra-familial land disputes”. This article by a local author showed us which denomination Ugandan people use for “land disputes within families”. Therefore, we decided to use John Kigula’s term “intra-familial land disputes”.

Our central research question to answer the problem statement on intra-familial land disputes are as follows: *1) What pathways can be distinguished in resolving land disputes within families; and what are the implications for individual family members? 2) Which entry points for conflict settlement on land related disputes within families can be identified?*

The aim of this intra-familial land dispute research is to maintain the twofold objective as well as to answer the central questions by using different theories. These theories are property relations and access with a focus on intra-familial relationships, a level of regulations and authorities by using legal pluralism and land governance and finally pathways to resolution.

3.3 Research methods

This section describes the research methods we used in the field. The choices of these methods and how these methods contributed to this research on intra-familial land disputes. Overall we used a variety of methods for this research; literature reviews, participant observation, informal and formal interviews, questionnaires and focus group discussions.

3.3.1 Pre-fieldwork phase

The pre-fieldwork phase consisted of reviewing existing literature on the phenomena we wanted to do research on. Theoretical insights can be helpful to understand and provide concepts and theories on intra-familial land disputes. More important, reviewing existing literature developed new ideas for us, as researchers, to find unanswered questions on intra-familial land disputes. It helped us to interpret and analyze our finding in the field. We searched for both the broader perspectives and specific concepts of land disputes within families in Uganda, such as inheritance, accessibility, property relations, legal pluralism, land governance,

land policies in Uganda and intra-household relationships. Reviewing literature helped us to “reinvent the wheel” for this research (Bryman, 2008:81). We choose this phase to identify and orientate ourselves to the research problem and research area. This literature study formed the basis for our proposal before entering the field. Theories from existing literature can give support in the search for unanswered questions. It also contributed to manage time when we were in the field. The literature review guided us in developing both an interview guide and a questionnaire.

3.3.2 Fieldwork phase

Initially our fieldwork was divided into three sets of field visits. Every field visit consisted of three to four days and nights in the village with a host family. The first field visits in Ruhunga, Nyaruhandagazi and Kagongi we focused on observation of the area and the families and their activities. The second field visit, when we got to know some of the families in the villages, we came back for in-depth interviews. The third and final visit we focused on the young people by making use of our new developed “pool-table approach”, the questionnaires and a re-evaluation with the local families. However, in practice this initial plan was not that stringent, because observations and informal activities can take place every day in life.

Our first observations did not start in the field, but the moment we landed in Kampala. A large billboard marked the side of the road which said “I beat my wife, I lost my life”. After several days in the field we became aware that beating is common in Uganda and “part of culture”. Just as small signs on plots of land saying “This land is not for sale”. The first marks that land is an important asset in Uganda and disputes are involved around land. Nevertheless, the first time visiting Ruhunga, Nyaruhandagazi, Kagongi and Ruharo sub-division we focused on (participant observations). It gave us time and space to get acquainted with the research area and the people. The field research started with informal conversations to get a better understanding of the context of the research. What is “happening” in the field and to “map” the research area. These observations gave us people’s accounts of intra-familial land disputes and their ways to find a resolution and how to cope with land disputes. These first training days with MBADIFA were a good start to get focused on intra-familial land disputes. Ntuura and Nsiika parish were rather far from MBADIFA’s office. So, we spend full days in the field assisting MBADIFA staff with the training sessions and walking around in the village to see what people were doing on the field. Every detail we wrote down in a small notebook or sometimes just after spending a day in the field when we got home. General observations in the field contained behaviour and attitude of individuals or family members towards the “muzungu” researchers and MBADIFA staff. We walked around in the village or we visited families in their homes and plots of land. We asked general questions, including what agricultural activities they carried out on the field, whit whom

they worked on the field, what the children were doing, if they felt secure about their land and if they know about land disputes. In turn we explained what we were doing in the field and about our research. During this first field visit we wanted to achieve *rapport* with our respondents (Bryman, 2008: 201). Meaning, a relationship must be established between researchers and respondents so individuals and families want to participate in this research. We noticed people were interested towards us and willing to share their accounts with us.

The second field visit to Ruhunga, Nyaruhandagazi, Kagongi and Ruharo had a more official context compared to the first field visit. Not with the host families were we stayed, because they were expecting us as “friends”. This time we planned to conduct in-depth interviews. When approaching unknown individuals or families with papers in our hand and a voice recorder the context became official. As researchers, we explained to our informants we wanted to learn from them and their thoughts on land disputes within families were of importance. To get more detailed and secure data the interview guide helped us to bring up questions on land governance and land policies as well as the family composition and who is the decision-maker regarding land issues. When interviewing representatives of the local government or a police officer we raised questions on interaction with the community or criminal cases that occurred. In total, we conducted about 31 in-depth interviews of which three with representatives of local government.



Figure 6 – the researchers in a shop in Nyaruhandagazi trading centre: conducting an interview

Between the research methods of observations and conducting interviews we gathered more informal data by observations and conversations. After three weeks in Mbarara we got used to the Ugandan lifestyle and our host mother took us to the sauna. This is an activity many people in Uganda like to do, both male and female. While we visited the sauna during our leisure time we became familiar to the local people visiting the sauna. These evenings we were not “the researchers”, but just two young women getting connected with the local people from Mbarara town. These were the moments we received stories on land disputes, causes and consequences of land disputes, intra-familial relationships and local customs. For example, during the hearing we attended of Mrs Topista and Mr Moses they both referred to their sexual life. At first, we did not understand what Mr Moses meant by saying “I could not sleep with my wife”, because Mrs Topista produced many children. In the sauna, however men explained to us that there are local customs women use to prevent sexual intercourse with men: the leaves of the sweet potato.

For the third and final field visit to the four villages we developed a new approach. The first two field visits we wanted to get in touch with both adults and youngsters. However, to speak to young individuals in the villages was rather difficult. During the day we were present at the local trading centre of those villages, the youngsters were attending school. Hence, we developed the “pool-table approach”. Playing pool is the favourite pastime of young people in Uganda and they all gather around the table in the afternoons. In time, we were playing pool together with these youngsters and had their attention. We asked them if they were willing to help us in this research. The incentive was a game of pool against one of us. The results of this “pool-table approach” are 64 completed questionnaires on intra-familial land disputes and the perspective of young people on land issues as distribution, status, use and inheritance and their future regarding agricultural activities. Our interpreter Matasia helped us a lot, because for us it was hard to communicate with these youngsters due to the English language and Matasia translated difficult questions. To conclude our last field visit we evaluated our data with individuals and families with whom we spoke with during our stay.



Figure 7 – our “pool-table approach”

An additional research method we used in the field were focus group discussions. These focus groups were of great help when discussing statements or strong opinions we noticed from our respondents in the field. During a focus group discussion people can speak freely and the interactivity is appealing for many. The first focus group discussion we organized was with staff members of MBADIFA on June 18. First, we presented our research and findings so far, and after we put some statements on the board to discuss their points of view as “experts” in this field of research. Statements like, land disputes lead to death, youngsters should make their own future decisions (including land) and resources for conflict resolution are poor. A second focus group discussion was organized on July 2nd with youngsters we connected with in the villages and from Mbarara town itself. Again, we used statements and this time we added a case study in which they needed to give advice. This turned out to be a useful focus group discussion, because it showed us that even between a small group of people, perceptions, opinions and beliefs on issues regarding land disputes are hard to harmonize. A final group discussion we attended was a meeting from the Local Councils in Kagongi sub-county. All Local Councils were gathered. Due to the absence of the sub-county chief we were able to ask questions on intra-familial land disputes, what the work involves being a Local Council member, what they can undertake to resolve land disputes. Throughout, all these focus group discussion we used the first research method of observations as well. Behaviour, attitude and actions undertaken can be seen differently compared to what people are saying.

3.4 Research limitations

Research limitations need to be considered. There are several research errors due to the research context. One of the research errors has to do with the language, interpretations and translations of the interviews. Two, our role as researchers in the field. Three, the question if this research is valid and reliable.

The first limitation has to do with the interviews. During the 95 days in the field the main limitation was the language barrier. In Mbarara municipality respondents spoke sufficient English and mutual communication was good. However, when visiting the villages Ruhunga, Nyaruhandagazi and Kagongi trading-centre we had to work with an interpreter. During the observations and in-depth interviews in the first weeks, we noticed how translation from our English interview questions to the vernacular language was different. For instance, the question “Have you heard about the National Uganda Land Policy?”, was answered with “Yes, they have never heard of it”. Some of these moments we had to ask again for clarification. Interpretation of respondents’ answers were biased. Our interpreter finished her bachelor studies in Agriculture and community development and created a strong opinion about gender issues regarding land. This became visible during the interviews. We spoke with each other about being neutral as researcher in the field. To resolve this research error we decided to contact another interpreter to see the difference of working. This all evolved well, and from that moment we worked with both interpreters. They became our soundboard when we wanted to confirm interpretations from the field.

A second limitation that we consider to be important in this research is our role as researchers. In the research methods we mentioned that we gathered relevant data during leisure time. Not being in your role as researchers can make “respondents” feel at ease. At some moments, as researcher, you only have the context or shape of the research somewhere in mind, but you do not specifically focus on it. We noticed this with respondents of our age. It became easier to “go with the flow”, instead of holding on to the official role as researcher. In the field we introduced ourselves as students who undertake a research for university and that we wanted to learn about intra-familial land disputes. In approaching families as researchers there is the possibility of desirable answers. Also, when we got introduced by our host family to other respondents. They repeatedly introduced us as interns from MBADIFA. This could lead to desirable answers as well. However, after a short introduction we explained our interviewees why we are here in the village and what we came to do.

The third limitation within this research has to do with the validity and reliability of the results. The latter is referring to the results of the research, are they repeatable? Are the concepts we used in this research consistent? For instance, the concept we use on household or family. During interviews we asked our interviewees who belongs to the family and who lives in this specific house. This can change due to new developments in social life.



Figure 8 – Interviewing several members of one family

4 Intra-familial Relationships in connection with Land Disputes

“He even beat our son. He destroyed his kidney. I reported the case to the Local Council and they imprisoned him [the husband].[...] God should see me, I spend three years not taking milk. I used to have a cow. My husband sold my cow and took the milk to another woman. I became so angry and destroyed my jug. That woman moved away to another place and my husband followed her with our money and harvest. I stayed behind to work hard and pay the school fees. Then he came back with another wife and now they are digging [cultivating]at our farm. I ask him to come and dig the coffee plantation instead of digging the food crops. He told me that people want to eat. I ask him, who are those people who want to eat? Because my children have been eating.[...] I want my husband to come back, I will take care of him because I know he is still mine”. – Mrs Topista, wife to Mr Moses

“My wife started disrespecting me very early. Our child was sent away from school because school fees had not been paid. When I asked my wife what happened with the harvest, she would not tell me. She never told me that our child was chased out of school. Isn't that disrespecting the husband?[...] I never beat my children, that is a lie. When a child goes to the hospital they will give you a letter of indication what happened. Why can't she [Mrs Topista] show us the letter? Let her show the evidence.[...] What you [Mrs Topista] have been telling us, they are all lies. All the women you have talked about, go and bring those women here. I never had another woman outside the wedlock. In the middle of the night, the family of my wife came to get me and took me to make an agreement that I should never greet other women in the village. After all that, my wife refused me in the bed. I used to take alcohol in bed, when I wake up at midnight and I turned to my wife, I could touch air. Because my wife moved from our bedroom to another bedroom. So I wake up in the night looking for my woman, I was like a cat searching for the rat. That is how I used to do it. So my wife got the herbs and put it in her vagina. So it became blocked. When I try to play her, I don't know where to pass because it is so blocked”.- Mr Moses, husband to Mrs Topista

Relationships and interaction between family members are important within the analyses of land disputes. To look at the way members interact with and towards each other clarifies individual interests, behaviour and actions. Mrs Topista and Mr Moses experience a dispute over land. Mr Moses sold some of the plots and Mrs Topista did not know about this sale and does not agree with the selling of the property at all. During the hearing, Mrs Topista explains the

situation she and her family are in now and proposes for a solution where her husband should come back to her. The story of Mrs Topista shows that there is more at stake than a dispute over land.

Relationships within families are shaped by cultural norms and values, social interaction, expectations, personal characteristics and behaviour. The case of Mrs Topista and Mr Moses is a real-life example where these different elements are distinguishable. This chapter focus on the interplay between intra-familial land disputes and relation-transformation processes that occur when a conflict within a family arise. The way these processes take place are strongly influenced by the way relationships are shaped and perceived. Coping mechanisms of individual family members can be analysed according to the broader context they circulate within.

In this chapter we investigate how social relations are set within families. The first section 4.1 elaborates on aspects which are important to understand the context of intra-familial land disputes in Mbarara district. Domestic violence, sexual intercourse and the influence of education and globalization are discussed. Section 4.2 provides insights on possible causes for land disputes and how individuals cope with these disputes. The focus is on the interdependence between social relations and land disputes and comes to the point of individual behaviour and decision-making within families. The next section 4.3, studies in-depth how access and ownership are arranged based on these social relationships. Section 4.4 aims to clarify the connection between social relations and land disputes. The last section 4.5 gives a brief conclusion on this chapter.

4.1 Social relations within families

This section elaborates on social relations through aspects as domestic violence, sexual intercourse, education and globalisation. As this section will show there are indirect but essential links between these aspects and intra-familial land disputes. The aspects discussed play an important role in the understanding of intra-familial relationships and therefore contribute to the understanding of behaviour and coping mechanisms of family members towards land disputes.

The way individuals see others is highly cultural dependent. In Mbarara there was a strong heterogeneity among men in the perspective they had on women. The way individuals perceive each other influences important aspects as for example cooperation on agricultural activities. For example, some men do not want to work with women on the same field. Cooperation is

difficult to achieve in these circumstances. One of Mbadifa's focus points is cooperation. "The family needs to be a well-oiled machine"

4.1.1 Perspectives on individuals role within a family

"I stayed behind to work hard and pay the school fees. [...] My children have been eating". During the hearing Mrs Topista relies on her role as mother. She is the care-taker of the family by showing the responsibility she takes for her children. This is what people expect from her as a mother and according to what she says she fulfils this expectation. It is often claimed that women play an important role within the household as a carer for the family. This might traditionally be seen as a mothers role and even duty. Mrs Topista wants her children to go to school. The reason she wants to grow coffee crops, which are cash crops, is because the family needs money for the school of Paschal and the other children. Mr Moses: "She never told me that our child was chased out of school. Isn't that disrespecting the husband?". Even though the female might be seen as the carer of the family, the father still needs his position as controller and claims authority. Mr Moses harass Mrs Topista's role as mother and wife by saying that she is disrespecting Mr Moses by not acknowledging him as the head of the household.

"My husband sold my cow and took the milk to another woman. I became so angry and destroyed my jug. That woman moved away to another place and my husband followed her with our money and harvest. [...] I want my husband to come back, I will take care of him because I know he is still mine". Here, Mrs Topista identifies herself as wife to Mr Moses. She insists on Mr Moses' failure of husband. According to Mrs Topista her husband is committing adultery, which is not appropriate for a husband. Therefore Mr Moses is violating the norms and values Mrs Topista is expecting from him.

According to interviewed men in Mbarara, women should not interfere with their position as the head of the household. A husband has to take care of his wife. A wife does not need to have her own land. During a field visit in Ruhunga, Mr Bennon explained that it is a men's duty and responsibility to take care of the family. He is the head of the household and should make decisions. While Mr Bennon was talking, his wife was sitting next to him. She complained that she worked very hard her whole life and that half the property they possess should be hers (the couple reached an age of 84 years). She was never allowed to take any decision. She could not buy a dress if she wanted, while she had worked so hard as she said. Within this household there is a strong male dominance visible. During the interview the couple was sitting side by side and they seemed to live in peace with each other. In another family, where the father had passed away, the widow became the head of the household. She and her five adult children, two girls and three boys, discussed everything together. Cooperation is the most important as her eldest son confirmed. When there is a disagreement they call for a family meeting.

Relationships within families are strongly influenced by the outside environment. First of all there are traditions and customs which shape norms and values and behaviour. Within that frame individuals have the urge to interfere with each other. This is visible within households where a family consisting of a father, mother and children, are controlled by their families. This will be explained in detail in the following sections.

4.1.2 Domestic violence

“He even beat our son” Mrs Topista shouted while she shook her head and pointed her finger at her husband. According to the story of Mrs Topista, their son Paschal had to go to hospital because of his injuries. Violence destroys relationships within families, but also shapes them. In many African cultures the aspect of beating is seen as nurture. It is a part of culture. In Mbarara district beating children is not an exception. Beating destroys the feeling of self-esteem of children. The relationships between parents / care-takers and children is influenced by beating in a way that children do not feel accepted and recognized. They are punished because they are doing “wrong” or are annoying. The fact that beating is part of culture can be defended by the fact that it happens everywhere, at street, at school, in a restaurant. It can be questioned whether everyone finds domestic violence acceptable. During the hearing, Mrs Topista defends her family by addressing the domestic violence that occurred in the past. Mrs Topista’s oral expression and body language shows that she is outraged. She does not accept that her husband has beaten their child into hospital. The fact that she brings up this argument shows that according to Mrs Topista, Mr Moses acts irresponsible and is not caring for his family. That the argument of domestic violence is used against Mr Moses indicates that these practices of violence within families is not generally accepted. At least not from Mrs Topista’s side. Mr Moses defends himself by saying that he never beat his children. With this statement, Mr Moses shows that at least for the outside environment he does not want to be associated with domestic violence.

The effects of beating are not only visible between parents and children. Violence occurs within families at different levels, as it happens between husband and wife. Violence can be used as an instrument to show authority within the family. To control the other person. Violence can be divided into physical violence and psychological violence. Witchcraft can be seen as a form of psychological violence in the sense that an individual is threatened by the executor without physical interaction. The physical action however can be doubted, because some forms of witchcraft can lead to injuries or even death of people. During the hearing, Mr Moses indicates that Mrs Topista practiced witchcraft. Because of her practices, Mr Moses’s banana plantation, house and his father’s property was destroyed by local people. Because everything was destroyed and Mrs Topista could not live in the village anymore, they moved to Mrs Topista’s

families village. Due to this movement another form of violence occurred. Mr Moses has been forced by the family members of Mrs Topista to sign a contract that he was not allowed to greet any other women in the village. Mr Moses had to do this against his will. The reason behind this agreement was the fact that the father of Mrs Topista gave land to Mr Moses and Mrs Topista to start a new living. However that land did not belong to the family of Mr Moses. The father of Mrs Topista protects the property he gave to Mr Moses and Mrs Topista by letting Mr Moses sign a contract where he is not allowed to greet other women. The reasoning behind this contract is that Mr Moses will not pregnant other women, to prevent that illegitimate children would come and claim the property of Mr Moses and Mrs Topista.

Overall the consequences of any form of violence create hatred, distrust and contempt towards each other. These feelings are strongly connected with the perspective people have on intra-familial land disputes. Research in Mbarara district has shown that “death and violence” are the first associations people have with land disputes. However, when people are asked whether they know someone who has been killed over a land dispute within a family, it became obvious that for most respondents that was not the case. The question remains where these associations are based on. Even though the absolute numbers of deaths caused by land disputes might be discussed, the presence of the associations with death and violence is noteworthy. To illustrate how the association with death plays a role within land disputes, an interview with a father, Mr Peeter, in Nyaruhandagazi is used. Mr Peeter feared for his live because he expected his sons to come in the night and kill him because of his land. He has given all his sons a piece of land, but kept some for himself, for him and his wife’s survival. The sons did not agree with the dividing of the property by their father, and therefore challenged their father. They came to his house and put their father under pressure. They told him to give them more land. They threatened him by saying they would hurt him. The father did not know anyone who has been killed over a land dispute within a family, but he knows that it happens a lot. At the moment he lives in fear, what would happen to his wife when they kill him? And what would happen to the land after his death?

The association of death plays a role within the case of Mrs Topista and Mr Moses as well. The dispute is going on for eight years by now. As the Sub County Chief said, it is really time to solve this case before murder would take place. In his perspective murder could take place between different individuals. For example the son, Paschal, could kill his father. Because his father is selling off his future property. Besides this longer-term future perspective, it also has implications at this moment. Some of the land is being used by other people, where Mr Moses has sold his land to via an informal way. Hereby, income and profit decreased which leads to less

money for food and school fees. It could also be possible according to the Sub County Chief that Mrs Topista would kill her husband, so she would not fear to lose her property anymore.

4.1.3 Sexual intercourse

One outstanding observation the researchers pointed out was the coarseness of men talking about sexual practices. That we as researchers are two young women might have a strong biased influence on this observation. The frequency of the constant return of the topic about sex, especially addressed by men themselves, made it an important aspect and is indirectly related to intra-familial land disputes themselves. A quite extensive body of literature exists on gender and sexual relations in Uganda, and in East Africa more generally. It is evident from existing anthropological studies that sexuality and sexual pleasure occupy positive and important places within Ugandan society for both men and women (Ntozi & Lubega, 1991; Olowo-Freers & Barton, 1992 cited in Jejeebhoy et al., 2005:188).

Mrs Topista and Mr Moses both address the topic about sex during the hearing. Mrs Topista accuses Mr Moses for having other women outside the wedlock. The argument she brings is that Mr Moses is not committed to his own family. She states that Mr Moses spent money on other women. Money that is earned from the farming practices of Mrs Topista and Mr Moses. According to Mrs Topista, Mr Moses sold her cow and brought the milk to another woman. Mrs Topista explains that she suffers to pay the school fees of her children while her husband is busy with other women. She makes this argument because she wants to defend the selling of the property. The property is needed to feed and sustain the family as she proposes. According to Mrs Topista the only reason for Mr Moses to sell off the property is to spend the money on other women and alcohol. A second problem for Mrs Topista is her fear that Mr Moses would pregnant other women. The children of these women could come and challenge her to share in the property. Thirdly, Mrs Topista explains she fears for her life. If Mr Moses has sex with other women she might get infected with HIV. The last statement Mrs Topista makes is that she cannot feed another child. She mentions herself as the only responsible person for feeding the child, this reflects her point she wants to make that she is the only carer for the family.

Mr Moses refutes Mrs Topista's argument about having sex with other women. He says that he never took any other women outside the wedlock. He challenges Mrs Topista by telling her that she should bring all those women to the hearing. Then Mr Moses continues with telling the attendees that his wife refuses him in the bed. He says that she put herbs in her vagina which makes having sex impossible. Mr Moses compares his situation with a cat looking for a rat. In this example Mr Moses is the cat who is looking for a rat. The rat is the sex, which is needed to feed the cat, or Mr Moses his needs for sex. While Mr Moses makes this statement, attendees are laughing. Mr Moses searches for support by making the argument that his wife does not want to

have sex with him anymore, even though it is a basic need. While he explains in detail the functioning of the herbs, which dry-out the vagina, he indicates that his wife is crazy, that she is a witch, and he can never live together with her anymore. Therefore he wants to sell off his land, so he can start somewhere else a new living.

Mrs Topista responds that she wants Mr Moses to come and live with her and the children. She states: "I will take care of him because I know he is still mine". With the caring component she responds to the basic needs, the sex, she is expected to give to Mr Moses. From that point of view, Mrs Topista use the sexual component as bargaining power. She will not address Mr Moses his needs, as long as he wants to sell of his land and not come and live with the family anymore. To strengthen her position she made use of herbs. These herbs dry the vagina which unable a penis to enter. As Mr Moses told in his story, the vagina became blocked. This coping mechanism might be an exception which Mr Topista dared to undertake by her courage. A study done by Koeniga et al. (2004) said that there is increased recognition of how the subordinate status of women in Uganda and other Sub-Saharan African countries limits women's ability to negotiate sexual decisions and behaviour. Discussion or initiative concerning sex is viewed as largely the right of men, with sex representing an uncomfortable or taboo topic for many women. In a recent Ugandan study, for example, almost 40 per cent of women, but fewer than 10 per cent of men, reported difficulty in discussing sexual issues and intentions with their partner (Blanc et al., 1996).

Another aspect of sexual intercourse which plays an important role is adultery. Adultery is by many seen as a practice which occurs daily. Conversations between the researchers and individuals, mostly in an informal setting, gave many insights in the perspective and openness of especially men on sex and committing adultery. One man said: "Every man cheats, that is in our nature. We accept adultery otherwise we have to kill each other." One man said: "we accept adultery, otherwise we have to kill each other". Adultery influence the relations of a family negatively. There is no trust, besides there is fear for getting diseases such as HIV. A result of this fear is that women or men do not longer accept their partner as a sex partner. At the end this influence cooperation which is essential for a good functioning family. Committing adultery can be done by both men and women. However, there is another sexual intercourse where women are forced to sleep with their father-in-law. As a men said: "When I married my wife, the first night of our marriage, she had to sleep with my father. That is how it used to be." When women marry into another family, they become property of the male-line.

The situation changes when it comes to polygamous marriages. Polygamous marriages are common in rural western Uganda. There are families where the man has married two, three or

even more wives. Having more wives is seen as a source of wealth. There are men who see their wives as labour tools and producers of children. With polygamous marriages the husband marries a second, third or even more wives. It is common that a second wife is 20 or 30 years younger than her husband. There are different practical implications in the way polygamous families live together. In some cases, the father divides the land among his wives, and they all stay on their own piece of land while the father stays with one of the wives. In other cases, the family lives together in one home-stead.

During the research it was noticed that, especially by women, polygamous marriages and adultery is not appreciated. Women do not appreciate the desires of men to have sex with many different partners, however that is not the only problem. As mentioned above, other aspects as spending money, being committed to the family, fear for sexual transmitted diseases and the fear of losing property are important worries of partners, especially of women.

4.1.4 Globalization and education

Paschal, the eldest child of Mr Moses and Mrs Topista, studies at Mbarara University. He lives in Mbarara at the campus but came home for the hearing. According to Paschal this conflict is not only between his father and mother but also involves the children. He says that the property where the conflict is about, is his property as well. The profit of the agricultural production enables him to go to University. During the hearing he explains to the attendees that Mr Moses cannot sell off the land because then he and his brothers and sisters will no longer be able to enjoy schooling.

The impact of education is visible within families. In Mbarara, adults address the knowledge their children and other youngsters possess. Many of them find it good that children are getting education but meanwhile see it as a disadvantage for themselves. They state that youngsters possess much more knowledge than they do and therefore inequality in knowledge arises which results in youngsters having more power in for example making decisions and argumentation.

To come back to the example of Mr Peeter given in paragraph 4.1.2, the impact of education within a family can be illustrated. All the three sons are well educated. When the eldest son found himself old enough to start an independent living, apart from his parents, he came to his father and asked him for land. Mr Peeter gave him a share of his land. While Mr Peeter gives his son a share of land, the son is not the owner of that piece of land. This means, without consultation of his father and mother, he cannot sell the land. Besides, in some cases, the son is not allowed to change farming practices. However this is not at stake within this family. The second son also came and asked for his share, which his father gave to him. The eldest two sons are not satisfied with the piece of land their father shared with them and that the land is

occupied with an old unproductive matooke plantation. They both want more land. They tell their father that he is not practicing agriculture in a productive way and that it can be much more valuable, and they know how to do it. The father is confused. First of all, his ancestors have always cultivated matooke, he could feed his family with it and get his children to school. Now his sons are telling him it is not productive. Secondly, his third son is still in university. One day he will come and ask him for his share as well. Thirdly, how is he going to feed himself and his wife if he has to give away all his land? At the same time, the sons are frustrated. They see a big piece of land used in an unproductive way by their parents. With good inputs, knowledge about crops and growing practices, moisture and the different seasons, they are able to make much more money out of it.

Education does not necessarily lead to an increase of knowledge about farming practices. Conversations with youth indicate that youth, especially those who are high educated, have different visions for their future and are often not that much interested in farming itself. They want to work for example in the public sector, or for a commercial bank. They want to move to Kampala to start a living. Some desire to go abroad and study or work for an international organisation. These ambitions outside the farming sector are not only visible among higher educated youth. During the pool table approach, many youngsters both boys and girls, showed their interest for starting up their own business. One sector which is very popular, especially for boys living in villages, is to start up a boda-boda business. A boda-boda is a motor used for taxi purposes. Girls talk about for example moving to Mbarara town and start their own barber shop.

Almost all youngsters around the world are influenced by social media and television. This is also the case for the youngsters in Mbarara district. They see on television or internet what they think is happening around the world. They see youngsters from the “west” driving cars, drinking alcohol, and having a lot of leisure time. Even though this might not be a realistic outline of real life, it changes their perspective on life and the desires they aim for. This phenomenon contributes to the problem of generation gap. Youngsters and adults have a different perspective on life. Which within this research reflects especially on the life of being a farmer. Youngsters have other desires and ambitions as their parents have for them. Visions from youth are often criticised by adults as irresponsible and lazy behaviour. This contributes to the problem that fathers often do not want to give land to their sons, because they do not have the right interest according to the father. They might easily sell off the property and spend the money on “unnecessary things”.

Another implication of education is that it can contribute to power imbalance between siblings. Which siblings in their turn might misuse. A police officer from Kagongi explained that it

happens that higher educated siblings deceive their brothers or sisters by using their knowledge. One of the consequences is that the uneducated end up by using violence. They use this violence because they are deceived and do not know how to cope with that. Intra-familial land disputes can exacerbate the problem of educational imbalance between siblings. When a land conflict or dispute occurs, this might result in a decrease of income. There are many different situations that lead to a decrease in income. For example when fields are not used anymore, or not used in a productive way due to the conflicts. The harvest declines which results in a decrease in income. When the income of a household declines it can result in reduced schooling expenditures. The eldest children are often better off because they have enjoyed more education than their younger siblings. This illustrates that there exists a two-way causality problem. Imbalance between siblings in education increases the chance on conflicts over land. While intra-familial land disputes increase the chance in imbalance in education between siblings.

4.2 Causes for intra-familial land disputes

In the previous section social relations are discussed. This section explores causes for intra-familial land disputes. It becomes clear that there is a strong causality between the aspects highlighted in section 4.1 and intra-familial land disputes that occur in Mbarara district. This supports the vision on land disputes being social disputes. This section is subdivided into eight sub-sections which all link to causes for land disputes. However, there are many links between these different aspects, it is important to notice that these aspects are not static but dynamic, intertwined and subject to change.

4.2.1 Inheritance

A common tragedy in Ugandan families is that the head of the household (in this case we mean the father and husband), dies. After the male dies, the household faces a period of uncertainty. First of all, the family depends on the availability of a will. Making a will is not very common in Uganda. Many people believe it is a bad thing to talk and think about your own death, because death may come and take you away. However, organisations like MBADIFA try to sensitize people about the importance of making a will. A father can point out before his death who will inherit his property by making a testament. Besides that, a father can write down who is responsible for the family. Legally, the father is required to give every family member, including his wife(s), a share. However this law is practically not used. The law is conflicting with the culturally imbedded tradition of inheritance where property is kept within the family through the male-line. Whether there is a will or not, both situations create room for conflicts. There are many different scenarios of conflicts resulting after a father's death. Traditionally daughters do

not inherit land. They will marry and get their land and other resources from their newly married husband and his family

“When my husband died at an age of 40 years, his 23 year old younger brother came to take over his property, and insist to take care of my family. Of course I refused. He could have been my son! We paid his school fees and now he want to run this family. I fought against it. Unfortunately my husband did not leave a will, which caused me a lot of trouble. Luckily I won the case, but till the day of today, it still worries me”. This real-life example is from a woman from Ruhunga.

4.2.2 Polygamous marriages

Polygamous marriages face more disputes over land. Disputes establish in cases where for example the wives are not accepting the piece of land given to them. It are not only the women who are causing disputes over land by not accepting the choices of their husband, children do as well. Children, especially sons from the first wife, feel that they have more rights than their brothers from the co-wives.

When it comes to inheritance, polygamous marriages are more fragile to conflicts. The first wife or her children feel that they have more rights than the newly wedded wife and her children. Conflict can arise when the head of the family dies and property has to be divided among the family members. However before death, conflicts might occur when for example the husband cannot take care of his family, by not paying children’s school fees or due to food insecurity. The “disadvantaged” part of the family, try to claim what they feel belongs to them. Polygamy is a cultural “thing” but much discussed in Uganda’s society. During the youth discussion all the youth agreed that polygamy is old fashioned and bad for Uganda’s future.

4.2.3 Adultery and sexual intercourse

Another room for disputes to develop is the problem of committing adultery. This practice has two very practical implications on land issues. First of all, due to unsafe sex, bastard children are born. When a woman who is unmarried becomes pregnant, she can come to the man and ask him to take care of her and their child by for example giving them a piece of land or money. In a later stadium extramarital children, if they know who their father is, can come to their father and claim for property. Both situations lead to frictions within the family of the husband. In most cases, the first wife will not accept extramarital wives and their children.

At national level adultery, or having many different sex partners causes problems as well. HIV/AIDS is a problem in Uganda. Many families lose the head of the household due to these diseases. Besides that, there is a problem concerned orphans. An American sociologist explained how orphans lose their property when their parents die. Often family members take the responsibility over children when they lose their parents. According to the law, a care-taker

should manage the property which belongs to the children until they reach the age of eighteen. At this point they are seen as adults. However, according to the sociologist there are many cases where family members or care-takers misuse their position and the orphans end up empty handed. It depends on the knowledge the orphans possess and support they get by third parties, whether they know what their rights are concerned the property which belonged to their parents. The problem even gets bigger when children are sent to an orphanage. It is difficult for them to hunt down what belonged to their parents.

4.2.4 Legal pluralism

Research from different parishes in Mbarara district have shown that policies on land properties are not clear defined. Besides, formal policies are not well known at local level. Informal policies are still decided upon within families or within villages itself. Another difficult issue is access towards these knowledge on property, property relations, and 'helpful' organisations such as MBADIFA. Accessibility of resources and the way people make use of them is being decided upon in informal ways within the family and the available household resources.

Another form of legal pluralism in relation to the case of Mr Moses and Mrs Topista is the movement from the male's ancestors property towards the female's ancestors property is unusual. The father of Mrs Topista shared a piece of land to Mr Moses and Mrs Topista to start a new living. Later on, this 'gift' from her father creates tension between Mr Moses and Mrs Topista and her family. It is unclear who has ownership over the land and the future benefits created by the agricultural practices of Mr Moses and Mrs Topista.

4.2.5 Emancipation

In the data a shift is noticed in the information and education women possess. More women get aware of their rights. However, these rights are not generally accepted and practiced. In the 1995 constitution it is said that all children have a right to inherit a piece of their parents property. With this law daughters should no longer feel or be excluded. Currently, in many cases daughters are not taken into account, their future husbands have to take care of them is the response of many individuals in Mbarara district both males and females. Due to the increase in knowledge for women, some do not longer accept that their brothers take over all the property. Some have the courage to stand up and negotiate about their rights to get a piece. This situation is in many cases a source for conflict. Brothers do not accept to give their land, which belongs to their father and their family name, to another family, the family of the husband of their sister. Land has to stay within the family.

However, that land has to stay within the family is not the only reason for fathers not providing to their daughters. Land shortage and poverty are causes for unequal distribution as well.

Mr Joseph: "I cannot give my daughters land, because I only have four acres to divide among my two boys. Therefore, I try to give my daughters a good education, but at the end the responsibility of their lives lies in the hand of their future husbands."

4.2.6 Education and available information

There are no clear rules for each family what to do when the owner of the property dies and there is no testament. Decision-making within a family is important when it comes to property relations and accessibility. Research from a youth meeting at MBADIFA showed a large inequality in norms and values about rights and practices over properties and rules and right for women. Interviews with families have shown different coping strategies in decision-making over property by having regular family meetings. A family meeting in this way can be both formal or informal, to discuss the 'future plans' on how to use their property. In other families the man is still the dominant person of the household and his word is to be obeyed by other family members. Responsibility on property use lies with the head of the household. However, times are changing.

Education and sensitizing people can have both positive as well as negative impacts. Imbalance in education, for example where brothers and sisters are unequal educated, may result in power inequality which is used by the educated children in a manipulative way. A higher educated brother can take advantage of his younger brother by using his knowledge about land policies.

The availability of knowledge on land policies among locals is nil. However, research has noticed that there are many different sources which give access to information about land policies. For example, Mrs Toffas explained how educated youngsters have better access to knowledge on land policies, which can be shared among others. Mrs Toffas did not join MBADIFA because nobody approached her directly to join as a group-member. It can be questioned whether this is a personal choice and has to do with a passive attitude, a lack of initiative, or is she constrained by institutional conditions as laws or financial boundaries.

A lack of knowledge can result in feelings of tenure insecurity. Feelings of security are influenced by changes in the environment over time. Land is a key asset for livelihoods in Uganda.

Agricultural activities contribute for a large part to the gross domestic product and employment (IIED, 2005). Tenure security is about social relations and institutions that govern access and use over natural resources. When tenure insecurity increases, food security and livelihoods are threatened. According to the World Development Report 2008 'the size of the rural population is expected to continue to grow until 2020.' Africa's population growth is expected to decline after 2030 at the earliest (IFAD, 2008). The rural population in Uganda continues to grow and this might result in over-exploitation of the productive land. Land becomes scarce and therefore

accessibility of land will decrease. However, with this information it can be expected that in the near future more men and women have to shift to other sources of income to sustain themselves. Culturally, this might lead to conflicts due to the high social value of land for an individual's status.

4.2.7 Unequal distribution

A focus group discussion with youth has shown that many of the youth, especially boys, expects land from their father as soon as they are old enough, some of them even see it as their right. The man from Nyaruhandagazi spoke about his fear that his sons would come and kill him, because he did not divide all his land amongst his sons but also kept a piece for his own for survival. He has been threatened by his sons.

Unequal distribution is an important point for discussion in Mbarara. Do both boys and girls have rights on land according to the family, does hierarchy play a role where the older brother should inherit more land than the younger. When should inheritance take place, before the death of the father or after the death. Favourism, a common word heard during this research, refers to the most beloved child who gets the biggest share of land. All these practices which are not clear defined are easily causing disputes.

Uganda's culture has a generation gap. The difference between adults versus youngsters in their way of thinking and vision about their future is noteworthy. These gap is influenced by education and globalization (4.1.4). What the older generation sees as wisdom, the younger generation sees as old-fashioned. However, the general rule in Uganda applies: to be a man you must own land.

4.2.8 Land scarcity

Land scarcity is an overarching problem in causing land disputes within families. A common problem with inheriting land is that the plots are getting smaller each time. In western Uganda, population pressure results in land scarcity. The distribution of small pieces of land among children has large consequences. Children end up disappointed. This is a resource for conflict and violence. The consequences become a larger problem for polygamous marriages where the children from the first wife fight their brothers and sisters from second and third wives. Land is no longer big enough to sustain a family. This increase the problems of food insecurity, poverty, land degradation and so on. The total productivity of land declines when land is divided into smaller pieces each time.

Land gives a status to men. Research has shown that men need land. Not only to sustain themselves and their families, but because it is decided in Ugandan culture. Even though if men have a nice paying job, the demand for land remains. Nowadays, a son cannot longer request a

chief for a piece of unused land (Leliveld, 2008). Therefore they depend on their father to give them some land. Especially the uneducated youngsters' wealth depends on what their father gives to them.

4.3 Access to property defined by social relations

This section highlights the importance of social relationships in providing access to land and other property resources. It zooms in on the relationship between husband and wife, parent – child, and the influence of outside family members, legal orders and society. This section aims to create understanding in how individuals create access and how they defend their property.

The attached value of land in Uganda is something remarkable. A man should own land which is important for the status and prestige of a family. Land gives family a feeling of security, it is income generating which is needed for inter alia school fees. In Uganda's Mbarara district males play a dominant role when it comes to owning land and family resources. Customary law is deeply rooted in a tradition where property should remain in the male line and be passed from father to son. Nowadays, the wife and the children, girls as well as boys, have rights to claim and access property. How this finds its way in daily life depends on the family ties and knowledge people have on "how-to-use-property-wisely". When families do not cooperate this can result in a decrease over accessibility on property and finalise in a decrease of production and income.

Research in Mbarara district has shown that even though male dominance is traditionally there for ages, women and daughters feel excluded in many cases. Gender is an important issue all over the world, as well as in Uganda. The Ugandan government tries to make up a balance in the rights and laws so women become more equal to men, as seen in the Uganda's 1995 Constitution. Daughters do often not inherit land as said before, this makes the position of a woman fragile, especially when her marriage fails. Then she does not have any property to rely on. To prevent her from ending up in forced prostitution, parents pair their children. A son and daughter are paired and it is the responsibility of the son to take care of his sister when needed. Making a will is not always the best solution for every member of the family. The wife can even be excluded because customary law says so. Then it is the responsibility of the sons to take care of their mother.

Access can be created in different ways. Access to land as a resource itself, whether people are able and allowed to use their land in the way they would like. Another type of access address people's knowledge about land laws and land policies. Therefore, education influence access in different ways. For example, if people want to title their land; where should they go? How much does it cost? This research shows that many people in Mbarara district have less knowledge or

information about these issues. This all has to do with access to knowledge, education and sensitization on land use and land policies.

Mr Moses and Mrs Topista married in 1996. Traditionally, in Uganda's culture a man has to pay a dowry to the family of his bride. After marriage, the bride becomes part of the man's family. Mrs Topista moved to Mr Moses and his family. After one year living with Mr Moses and his family in the south of Uganda, Mrs Topista was accused of using charms [witchcraft]. As a consequence Mr Moses' banana plantation was destroyed by his neighbours, including some of his father's property. After this disaster, Mr Moses had to go to prison for some months, which made him feel ashamed. After his release he and Mrs Topista moved to another area within Mbarara district, close to Mrs Topista's family. The father of Mrs Topista shared a piece of land to Mr Moses and his wife to start a living, after working and generating income they bought more pieces of land to cultivate. Property is owned through the male-line. A married woman depends on her husband's wealth, and is part of her husband's family. This is where the married woman creates her new living, her home. This is how the story of Mr Moses and Mrs Topista initially started. However, this cultural pattern has been broken due to a certain event. Mrs Topista was accused of using witchcraft. This led to several consequences. First of all, the family became excluded from their community. This can be noticed by the destroyed properties and the imprisonment of Mr Moses. The accessibility of Mr Moses and Mrs Topista towards their community as well as their property has been denied. After this disaster, Mr Moses and Mrs Topista moved to another community, the community of Mrs Topista's family.

This research focuses on the social meaning of ownership. Ownership is about the structure of social and cultural relations as we already mentioned in the theoretical framework. Customary land tenure refers to traditional landholding rights, which are a result of the relationship between indigenous people and land. These land rights are controlled and managed by customary law, which in many cases is oral and not written. Considering the case of Mr Moses and Mrs Topista, it shows that Mr Moses has documents which indicate that he is the owner of eleven plots of land. In Kagongi, the sub-county where Mr Moses lives, it is common to have certificates for the land you own, rather than having a land title. Mr Moses owns land under customary law. Ownership can be recognized both formal and informal. Some examples from the field point out how ownership can be practiced. Mr Jonathan, a farmer of 86 years, bought his own piece of land in 1957 and holds a land title by now. Mrs Saffina, mother to eight children, rents land from another farmer to practice agriculture. She is the user of that piece of land but not the owner. She has an oral agreement with the farmer.

The fact that Mr Moses has documents which indicate that he owns eleven plots of land does not necessarily mean that Mr Moses feel secure about his property. In Uganda a feeling of land insecurity can be created through issues such as land grabbing by the government, foreigners, refugees, community members or family members. Other movements that create a feeling of insecurity are bad-functioning institutions, missing institutions at local level or unstable political circumstances. For Mr Moses his feeling of insecurity is created by Mrs Topista. Mrs Topista and her children chased Mr Moses away from his property. During the period that Mr Moses and Mrs Topista were living separated. Mr Moses lived with his mother. To make a living he sold jackfruits by bicycle. During his absence, Mr Moses sold some of the property without consent of Mrs Topista. This contradicts with the local agreements about land transactions. When a man wants to sell off his property, his wife has to sign that she agrees with the sale of their property. This procedure should be coordinated by the Local Council 1. During the case, the Local Council 3 recognized that Mr Moses has the full authority over the property. According to the Local Council 3 Mr Moses was allowed to sell off his land without consent of his wife. However, as mentioned before the sale of properties has to be done with agreement of both husband and wife. It is noticeable that there is a lack of institutional validity. Apparently, land was sold through an informal way, without Mrs Topista's knowledge. This has led to a disagreement between Mr Moses, Mrs Topista and their children.

During the period that Mr Moses was living with his mother, Mrs Topista had full used the land. She made decisions on how to use the profits of the agricultural activities. One of the expenditures was on school fees of their children, this has led to the support and respect Mrs Topista receives from her children. Meanwhile, Mr Moses has lost his position as the income generator of the family. He lost access to his property because, he was no longer recognized and accepted by his family members. Here it becomes clear how ownership is embedded in social relations. Mrs Topista took over the role of head of the household, supported by her children. Mrs Topista is afraid that Mr Moses wants to settle on their property with another wife and that she might lose her rights and property as a wife. If that would happen, she is no longer able to take care of her children. Mrs Topista justifies her actions and behaviour because her environmental conditions allows her so. First of all, since Mrs Topista left her husband's family property and moved to her own family, encourages her to stand up for her rights knowing that her family will cover her back. Secondly, the support of her children makes her feel stronger in her position as a recognized head of the household.

The children chose the side of their mother because she is the one who is taking care of them. For example, by paying their school fees. Besides, the children fear that their father will sell off all the property and use that money for alcohol. Drinking alcohol by men is a common practice in

Uganda's culture, but besides that alcoholism itself is a problem in the society. The children fear that if all the property will be sold, there will be nothing left for them to inherit or sustain the family. Mr Moses is chased away from his land by his wife Mrs Topista and their children. He did not dare to return, because he feared to be killed by his own wife or children. It is visible that being the head of the household, recognized by neighbours and culturally decided, is not enough for Mr Moses to claim his rights. The Local Council 3 agreed upon that Mr Moses has the right to make decisions, and he is the full owner of the land. However, fear for his wife due to inter alia witchcraft kept him away. This is an example where ownership, access and culture come together.

This research has shown that on average the feeling of tenure security is high. Many families do not have land titles, however they have clear land demarcations and their community respects their property rights. Investments in agricultural practices are being made in consideration with the family or in consultation with other farmers or agricultural organisation, such as MBADIFA. People will invest on their property when they feel secure over their land. In general, farmers in Mbarara district find themselves food secure, however they noticed themselves when the dry period is starting, their food intake is decreasing. The GoU is developing policies to increase tenure security and the process of land titling. Overall, rural communities can be more informed and sensitized on tenure security and how to develop their livelihoods.

4.4 Individuals' coping mechanism regarding land disputes

For the analysis of behaviour and actions it is insightful to understand the role an individual identifies and legitimizes him or herself with and with what role they identify others around them. Different social categories are visible analysing intra-familial land disputes. When it comes to decision-making there is a strong male dominance visible. However, research has shown that woman do stand up for themselves and their interests.

Legitimacy is influenced by culture, but also by family relations, income, environment etc. Every individual, if this is in Uganda or somewhere else in the world, has different interests when it comes to property and accessibility over natural resources. Behaviour is shaped by the environment. Though it might be questioned whether authority over natural resources is accepted and in what way this is implemented. Currently, land in Uganda is owned by inheritance from ancestors. There is a great feeling of belonging attached to the property people live on. As a result of more education on the topic of land policies and property relations interests of individuals change over time. The structure of society is changing.

Behaviour is linked to legitimacy and interests. An individual acts according to his or her environment and allows him or her to be. To apply this theory to the case of Mr Moses and Mrs Topista, patterns of behaviour of the individuals within the household can be distinguished. Every individual has its own interests and own position within the household which determines his or her behaviour. That position gives an individual a way of access to property. Mrs Topista refuses her husband to work on the land and in that way she also neglects and rejects his position as a head of the household when it comes to authority. Within Ugandan culture this is for many unacceptable. She can justify her behaviour due to the support of her children and family nearby. The big question in this case is how Mrs Topista legitimizes her actions towards the outside world. Mrs Topista is stepping out of her comfort zone. She reported her husband to the police and called for a meeting with Local Councils. Because Mrs Topista is pointing her finger towards Mr Moses, there is space for conflict. The children chose Mrs Topista side, because she pays their school fees. However Mr Moses has full ownership over his land, he does not have access over the land. For this reason Mr Moses is losing his power within his family. He wants to cultivate the land, but he was chased away with a panga by his family-in-law. The “security over land” by Mr Moses has been tortured.

A police men in Kagongi said that there are many women reporting cases of violence or conflicts. Even though women undertake these actions, many of them do it secretly. Out of fear for their husbands, brothers or other actors involved. Besides the speculations of bribing and corruption, women do report cases to the police and Local Council. The fact that women do report cases, and are part of a conflict, shows their attitude towards the other party or actor. They stand up for their rights, or protect the rights of their children. That women are able to do so, creates and enhances conflict. They do not accept the full authority of their husbands or other actors involved. To look at Mrs Topista’s case, she does not accept the decisions made by her husband.

The limited independent income and control over resources by women exacerbate women’s social and economic dependence upon men (Obbo, 1990; Ankrah, 1991; Wolff, Blanc, & Gage, 2000 cited in Koenig, 2004). This is seen in the relationship between men and women. Mrs Topista fears to lose her property. However, even though their position might be unequal to those of men, women like Mrs Topista find their way in addressing such constraints.

Household decisions range from economic decisions such as expenditures on consumer goods and investments made for production, to social decisions as the education for children, health and relevant to this research the inheritance of land. Within households, many factors (age, marital status, culture, income level and education) influence the dynamics of intra-household decision making. Household members have different preferences, when these interests are

conflicting, it is expected that households will behave differently according to who controls household resources. Cooperative bargaining theory suggests that expenditure decisions are proportional to resource contribution. In this respect, as a woman's income increases as a share of total household income, so does her bargaining and decision-making power. Decision-making within a family can be done through many different channels. Research has shown that women do have ideas about the agricultural practices, but the husband might not want to accept these ideas, do not see them as important or have other reasons for not undertaking action. MBADIFA plays a role in empowering women in agricultural practices by starting women groups. Research has shown that many women feel that their husbands do not participate that much in farming, however when it comes to decision-making they are a constraint.

To understand the dynamics of decision-making within a household it is important to understand the status of women in a society, culture and domestic domain. Differences in gender concerning authority and decision making are common in Uganda according to Van Leeuwen (2012), where the male has often the authority. (In the Uganda gender assessment prepared by the World Bank (2005), the analysis suggested similar differences between male- and female-headed households, with a higher share of consumption spent on alcohol and cigarettes in male-headed households, and a higher share spent on school fees in female headed households, especially in the case of divorced and widowed heads).

4.5 In sum

This chapter studies in-depth social relations within families linked to intra-familial land disputes. The difference between individual behaviour, interests and perception which is constantly subject to change over generations contribute to the problem of disputes over land. Changes that take place shift boundaries by which people legitimize their behaviour and interests, this in turn creates room for conflict. Depending on the context of the dispute over land, we can study how people cope with disputes.

5 Legal Pluralism and Land Governance

“The sub-county chief introduces us [Agatha, Eva and Imke] to the attendees. They accept our attendance. The chief introduces the quarrel. The quarrel is between Mr Moses and his wife Mrs Topista. They are married for sixteen years. In 2004 Mr Moses left the house and his family. He went to the Local Council 1 to report that he and his wife had an unresolved land dispute and they need help. Today, after eight years, we are sitting in the garden of Mr Moses and Mrs Topista’s house, together with the Local Council 3, the sub-county chief, the Local Council 1, the wazee [elder wise men], their son Paschal, a police officer and several neighbours. This is the third time that the sub-county chief is involved to settle the intra-familial land dispute between Mr Moses and Mrs Topista. During the attempt to resolve the land disputes, first Mrs Topista tells her story. She expresses herself with emphasis by pulling the grass, walking around, pointing her finger and raising her voice. After that it is Mr Moses’ turn to speak out. It is hard for Mrs Topista not to interrupt her husband, the sub-county chief is asking Mrs Topista more than once to keep quiet. After they both share their points of view with the attendees, Paschal [their son] start talking. The sub-county chief tells Paschal to wait for his turn. The son reacts upset and kicks the banana tree in front of him, while shouting “I am also part of this family”. In the meantime, the sub-county chief summarises the previous matters. Then it is Paschal’s turn to speak “A family is composed of a father, a mother and the children. I am still pursuing my education, and I am supposed to get school fees. The other children also need school fees. The conflict is between the father and the mother, the parents, they are one party. [...] We the children are the ones who suffer. Both parents have the responsibility to take care of their children, we need our land for the school fees, so don’t confuse me that this is not my conflict”. Now the wazee share their vision, one by one, on this situation and try to give advice. Then the sub-county chief says “Mr Moses has the authority and the mandate to divide the land amongst the family members according to his wishes”.

In this dispute between Mr Moses and Mrs Topista there are several legal orders present during the hearing of the dispute. There is the sub-county chief who operates at Local Council 3 level, a member of the Local Council 1 and a police officer, they are official legal orders appointed by statutory law. However, there are also neighbours, wazee and witnesses attending which have a legal position according customary law. In the theoretical framework legal pluralism is described as “the presence in a social field of more than one legal order” by Griffiths (1986). This shows that multiple systems of legal order are at place within one social field, namely the hearing of the land dispute.

Next to the multiplicity of legal orders, land governance is of importance. Land governance is about access to land and land use, it is about authority and decision-making and the implementation of rules regarding land. In the previous chapter we explained that access to land is created within families, this chapter will continue on this bases that access and land governance are related. In this research land governance is embedded within family relations. In the quote above, the sub-county chief tells Mr Moses he has authority over the land to do whatever he pleases. Even though the sub-county chief is an authority officially acting on basis of statutory law, Mrs Topista is not willing to accept this authority when the sub-county chief gives Mr Moses full rights over the property.

Hence, we will analyse the research data in this chapter by putting on our legal pluralism and land governance ‘glasses’. Section 5.1 analyses the role of regulations and how these regulations are positioned. Section 5.2 continues with authorities that are part of intra-familial land disputes and dispute resolution and section 5.3 views what considerations are made by authorities and families regarding land disputes. Section 5.4 is finalized with a brief conclusion.

5.1 Regulations regarding intra-familial land disputes

To understand how regulations play a role in intra-familial land disputes or how regulations are positioned within family relations, land disputes and resolution, we need to define what regulations are present regarding land in Uganda. In this research regulations are defined in rules, rights and obligations and determine access to land and land use. Regulations define property rights and indicate control and management over land. The Government of Uganda developed the Uganda National Land Policy. These policies form the basis of regulations regarding land governance. Likewise, these land policies are the rights and rules individuals can make use of to invigorate their own position within their families or communities to strengthen their property relations to land.

Law	Content
1995 Constitution (amended in 2005)	Every person has a right to own property either individually or in association with others.
1998 Land Act Amendments 2001, 2004, 2007, 2010	Recognizes the four forms of land tenure (customary, leasehold, freehold, and mailo); Grants all lawful and bona fide occupiers (legally defined) property rights; decentralizes land administration; Establishes land tribunals. 2004 Amendment improved women’s rights and 2007 Amendments specifically dealt with land evictions.

2008 National Land Use Policy	provides guidelines on effective land use for socio-economic development and on minimizing land degradation.
The Land Sector Strategic Plan (2001-2011)	developed to implement the Land Act.
Draft Land Policy (30th of March 2011)	Ensure efficient, equitable and sustainable utilization and management of Uganda's land and land-based resources for poverty reduction, wealth creation and overall socio-economic development.

Figure 9 – based upon Tumushabe 2003, GOU, 2005, GOU, 2011 as cited in LANDac, 2012.

5.1.1 Statutory law versus customary law

In Uganda there is an interplay between statutory laws and customary laws regarding the governance of land. On national level the Uganda National Land Policy (2011) tends to make use of the English common law and on household level the customary systems is weight upon. “At the same time, the quality of governance can affect the distribution of power in society. Tenure is the relationship among people with respect to land and its resources” (FAO, 2009). Before the Uganda National Land Policy came up with these regulations, customary tenure was not recognized under the law of Uganda. “The constitution began by vesting all land in Uganda in the citizen of Uganda according to four land tenure systems: customary, freehold, mailo and leasehold. This provision dramatically changed the relationship between the individual and the state” (Mwebaza, 1993: 3).

In Mbarara district customary tenure is the most common. An individual is considered owner of plot of land when this is accepted by the family or community the individual lives in. “Land ownership in the district mainly comprises private ownership, with the majority of people owning small pieces of land (2.5 acres), while a few own excessively large tracts” (NEMA, 1997 cited in Kamanyire, 2000). According to Kamanyire (2000) and Busingye (2002) there are two types of customary systems on property holdings. The first, is single permanent holdings, whereby the household is the primary owner of the land. Usually this is a man and he is the decision-maker on how the land is being used. The second, is communal holding with non-permanent individual holding. Communal land in Uganda is controlled and owned by families, clans or communities. This customary tenure system has the advantage that it is “understood by the majority of the population and those affected are not generally subjected to annual payments of ground rent” (Kamanyire, 2000: 39-40).

5.1.2 Land policies and gender

This relationship between the state and the Ugandan citizens regarding customary tenure comes with challenges and constraints. Such as, the gender equality with regard to land rights and the

inheritance of land (Zevenbergen et al., 2012). Land ownership rights are generally not acknowledged for youngsters or women (Kamanyire, 2000).

Distribution of land, for instance through inheritance, is affected by the process of property relations within intra-familial relationships. As land creates status to an individual it is important to create access to land. According to Kisamba-Mugerwa et al. (1989), gender equity with regard to land rights has not improved significantly. "One would expect that men and women have equal rights to land [...] 'generally they could not even consider owning land but were assured of usufruct rights through marriage'". "Inquiries about daughters and wives inheriting land suggested that younger households may be more inclined to pass land to their daughters, however landholders in general (75%) would not include their wives as inheritors of their land" (Kisamba-Mugerwa et al., 1989: 38 cited in Lastharia-Cornhiel, 2003: 7).

In Mbarara district there is a sense of shifting paradigms in land governance directed to women and daughters. During formal and informal conversations women reminded us about the "issue" of female land ownership. The "issue" targets at disputes within families when women are involved and land management is no longer definite. Research from Mbarara district has shown that, women become more and more aware of the differences between statutory law and customary law regarding land policies for females. Young women we spoke to could explain that in statutory law females have a right to own land, but according to customary law ownership by females is not preferred and "this goes back to ancient times of Ugandan culture".

Statutory law declares that women and men "shall be treated equally" (Mugambwa, 2006: 82). Gender equality has been promoted to empower women in land governance all over Uganda, but women are still defending themselves and their access to land on basis of customary law. Mrs Topista defends herself by arguing she is the one working on the field and taking care of the children. This is what she is expected to do according to customary law and her community members, however she can empower herself by using statutory law and for example the Uganda National Land Policy to secure her land inheritance and land access.

Inheritance, access or ownership are all sources for intra-familial land disputes. Women are able to inherit land from their parents, but it depends on the family how this situation will be displayed. As Kisamba-Mugerwa et al. (1989; Lastharia-Cornhiel, 2003) already mentioned, younger households experience a shift from customary to statutory law regarding female land rights. Still, young women might value their cultural traditions above their personal legal rights. This happened in the case of Mrs Topista and she is not the only women to which this occurs. Here, the case of Mrs Bettina is applicable. Mrs Bettina graduated from University in community and development studies. She has sufficient knowledge on land management and land policies

and how this regards to women in detail. However, as she told the researchers “boys should inherit land. That is normal for our culture. Women will get married and they will get a piece of land from their husband.” Mrs Bettina does not agree about the fact that women should inherit land from their father, because it is the responsibility of the man to take care of the women. Particularly, when a woman marries a man, her husband needs to share the land with her. In the story of Mrs Bettina the education level does not play a role whether or not to accept certain land management rules. According to us, education will give people the possibilities to enlighten and develop themselves and investigate the available opportunities when it comes to, for example women’s rights in an intra-familial land dispute. Land is a personal matter, also the amount of value that is attached to it. The position of Mrs Bettina however is an exception, because she is from a rather wealthy family. There is no need to claim for land in her situation, because her husband will take care of her. In other cases women do need to fight for their rights when it is necessary for their survival and livelihood and supporting her children.

Inheriting land is a step towards an independent livelihood. It depends on the family whether or not a daughter inherits land. Claire, a married wife from Nyaruhandagazi, inherit land by her father. Her father told his daughters which plot they would receive after his death. A conflict commenced between the sons of the household. The sons did not agree with their fathers’ decision to give land to his daughters. Claire’s brother took her to court. In the interview Claire spoke about that period, “the outcome of the court was that my father had authority while he was still the head of the family. My father can do whatever he wants to do, according to his wishes, including making decisions to give his daughters land when he dies.” At this moment, Claire’s brothers are cultivating that plot of land. Claire waits till her father dies, before she takes over her plot of land by inheritance. Claire’s husband was walking through the garden during the interview, he said “it is a positive thing girls inherit land from their father”, but his own daughters will not inherit land due to the fact that the land is too small to divide it between all children. Productivity will decrease which will lead to less economic benefits and less food production. Therefore, only his sons will inherit land.

Nowadays, control, user rights and ownership of customary land are regulated within families and communities on basis of statutory or customary law. Regulations regarding land governance are being deterrent on the interaction between family members, as well as the interpretations of rules and rights by people. This has influence on the way families make use of the regulations to gain access to land or land use.

5.1.3 Youth perceptions and shifting paradigms

Intra-familial land disputes occur between a parent and a child, between husband and wife or between generations. In the public hearing of the dispute between Mr Moses and Mrs Topista

there is a role for their children. Especially, their eldest son Paschal. On June 27, one week after the hearing, Paschal and the researchers met to discuss his views on their intra-familial land dispute and his role during the public hearing. His actions showed he is upset by the comment of the sub-county chief to keep quiet. He wants to fight for his position within this family and he wants the people present to listen to him. He wants to be noticed and therefore he makes his actions visible. Paschal wants to be seen and listened to. His actions have consequences for the course of this land dispute, namely Paschal gets noticed and after a few moments the sub-county chief let him speak. Paschal argues he is part of this family, but his actions rather show frustration and not necessarily a chosen strategy to present his opinion. Paschal feels excluded from his family during the hearing, and by shouting he states he has rights being a son to Mr Moses and Mrs Topista, "Ladies and gentlemen, I don't know if it is correct or if it is anywhere in the Constitution of Uganda...if parents produce children...he or she is supposed to neglect them." By mentioning the Constitution of Uganda Paschal tries to show he knows what he is talking about, however during the interview he told us "I don't know about rights or land policies, all I know is I'm just the young person in this dispute. Both my parents have rights." Paschal wants to be part of the dispute resolution, as he knows the land that is being discussed will be his one day.

Finally, it is Paschal's turn to speak "A family is composed of a father, a mother and the children. I am still pursuing my education, and I am supposed to get school fees. The other children also need school fees. The conflict is between the father and the mother, the parents, they are one party. [...] We, the children, are the ones who suffer. Both parents have the responsibility to take care of their children, we need our land for the school fees, so don't confuse me that this is not my conflict." This statement indicates that Paschal fights for his future livelihood, for instance by mentioning he and his siblings are still in school and the income from the agricultural activities are needed to pay school fees. In the interview with Paschal he tells us that education is needed to develop better livelihoods. Paschal feels "ashamed, the family feels ashamed by this situation", "All I want is to bring my father home and he can do some activities on the land. Why does he [Mr Moses] want to sell the land?"

The situation between Paschal and his parents are part of a bigger picture in Uganda. In statutory law children do have rights, they are similar to land rights of spouses. The rights of children are protected by Article 34 of the Constitution of Uganda (Mugambwa, 2006: 82). "People who are 18 and older should look after themselves, but dependent children are dependent children. [...] because (1) he or she is still going through school...(2) she may be disabled or unable to earn an independent living." (Mugambwa, 2006: 97). During the hearing the sub-county chief confirm these state laws and told Paschal "someone above 18 years has no right over property while studying." Paschal added "chairperson I want you to enlighten me, tell

me more about...if the Constitution of Uganda tells us...are children not supposed to enjoy their rights about education? That is what I want to learn from you.” This manner of speaking and ways to claim your rights shows a shift in perceptions of youngsters. The perception of young people on intra-familial land disputes is noteworthy. It is often said that young people are the future and they can bring forward new regulations on land governance. However, every dispute has a different context to keep in mind and some youngsters keep holding on to customary laws and others hold on to statutory law.

The Uganda National Land Policy states that the majority of Ugandan hold their land under customary tenure. This complex land relation is associated with three problems, “that (a) it does not provide security of tenure for land owners; (b) it impedes development because it does not allow the advancements of land markers, through which, those who need land for development can acquire it; (c) it discriminates against women, and does not accord them land rights” (UNLP, 2011: 20). This is exactly to the point what the regulations are about and what role these regulations play within families. These three problems have major influence on the property relations to access or use land, but also influence family relations. The issue of legal pluralism within customary law is that there are more than one legal orders within this tenure systems that govern land. This leads us to the next section where authorities play a role.

5.2 Authorities regarding intra-familial land disputes

The interplay between statutory law and customary law and regulations regarding land policies are implemented by authorities. These authorities are in one way or another accepted as authority or specialist in the field of (intra-familial) land disputes and land dispute resolution. The presence of authorities brings up the question what their role is regarding land disputes and within family relations. However, before we continue to answer this question we should consider which authorities exist regarding land.

5.2.1 Authorities regarding land

Land governance is faced with many challenges, one of them is the institutional framework with regard of land management, land use and dispute resolution mechanisms. The institutional framework “lie in many and different bureaucracies, resulting in inadequate land use planning and non-enforcement of land use regulations” (UNLP, 2011: 41). These bureaucracies refer to non-coordination of land management and are in competition with one another for recognition and implementation of regulations on resources. “Thus, a multiplicity of institutions, with varying responsibilities on land management, overlapping in mandates within clear policy principles and guidelines, is self-manifest” (Ibid: 49).

Four land tenure systems are established and land disputes have become part of contemporary Uganda. The 1998 Land Act appointed several institutions regarding land tenure management and the settlement of land disputes in Uganda. First, the Uganda Land Commission which is charged with managing land that is acquired by the state according to the 1995 Constitution of Uganda. "It has power to purchase land or other interests in land [...] sell or lease land held by it, survey government-owned land [...]"(USAID, 2007: 16). Second, the Land Fund may purchase land when there are no clear mailo land owners, or they need to assist disadvantaged people in Uganda in buying land. "The Fund is empowered to acquire land and also to resettle landless people" (Ibid: 17). Third, the District Land Board is established for every district in Uganda. At least a third of the members of the Land Board must be women. They own all land within a district which does not belong to anyone else. Their tasks include: sell, lease or otherwise deal with land, facilitate registration and transfer of land, surveying and valuing land and issuing certificates. "The District Land Board are independent of both the Uganda Land Commission and the local district council" (Ibid). Important to notice here is that the District Land Tribunals are the highest authority for appeal in the district. After this, cases can be taken to the High Court in Kampala. Fourth, Land Committees are set up at parish level and are comprised by four local people (one must be female) "with some knowledge of local land matters" (Ibid). Their tasks would be to determine, verify and mark the boundaries of customary land within the locality when a person is applying for a Certificate of Customary Ownership. The Land Committees collaborate with traditional institutions. Fifth, Land Tribunals have jurisdiction to finalize land disputes (JLOS, 2008: 27-29).

These five institutions regarding land could be effective if they exist. According to USAID and UNHABITAT, they only exist on paper and the few that are instated are weak in authority. This failure of authority happened due to a lack of resources and the administration of tribunals was shifted from the Ministry of Lands to the Ministry of Justice. However, "the handling of land cases has effectively been handed back to the courts" (USAID, 2007: 19).

On the ground Local Councils are seen as popular tribunals within society, they are institutions "located on the boundary between state law and indigenous or local law" (Merry, 1992: 162 cited in Khadiagala, 2001: 63). Since, 1987 Local Councils are appointed by the GoU to bring justice at local level. Local Councils (LCs) were previously known as Resistance Councils (RCs) at the village, parish or sub-county levels. "In promoting LCs as tribunals of 'popular justice', Museveni (1989) argued that they would provide Ugandans with expedient, inexpensive and culturally appropriate justice" (Khadiagala, 2001: 56). This we can identify on basis of the land dispute between Mr Moses and Mrs Topista indicates a protracted conflict, because the family is fighting for over eight years now without any settlement. The attendees of the hearing explained

this was the third time that some of them gathered to discuss the intra-familial land disputes. During the eight years we are wondering what happened and what did the family do to resolve the dispute. Initially, Mr Moses and Mrs Topista reported their dispute to the Local Council as these Local Council 1 members operate on village level. Though, these Local Councils members admit “we don’t have the knowledge to resolve difficult disputes” or they do not know how to cope or handle with family relations that are difficult. The sub-county chief confirms this by telling us that the majority of the Local Council 1 members are illiterate. As mentioned before, the UNLP states that people from the locality can be appointed to become member of a LC and some knowledge of local land matters would be sufficient. These Local Council members use their experience in judging people or resolving a family dispute. The Uganda National Land Policy may be complicated for Local Council 1 members as well as for family members that deal with a land dispute, to implement regulations regarding land governance.

When Local Council 1 members are not able to resolve an intra-familial land dispute, a contribution is needed from the Local Council 2 or the Local Council 3. In the case study, the sub-county chief is appointed by the Local Council 3 to explore this family dispute. However, the authority of being the sub-county chief is not something assumed at once. According to the son Paschal, “the family is in conflict with the sub-county chief, he overlooks the situation. He even writes false documents. Up to now there is no conclusion.” During the previous hearings, the Local Councils 1 and 2, neighbours, witnesses and wazee tried to “handle it” and “we are still at that level of handling it.”

Here, it can be noticed that the authorities just like the regulations, are connected due to statutory law and customary law. The Local Councils authorize according to statutory law, and the neighbours, witnesses and wazee find customary law to do justice. As we observed, there is also a difference between Local Councils and the use of regulations regarding land governance. Local Council 1 operates on village level and therefore they experience disputes on a household level. For example, the Local Council 1 member is a neighbour and of the same age as the father in the dispute. It would be more easy for this Local Council 1 member to sympathize with the man in the dispute. There could be personal interest of the Local Council 1 member to resolve the dispute and have peace in his village. A Local Council 2 member or a sub-county chief can observe from a distance which may make it different to follow statutory law instead of customary law. For the Local Council 2 member or the sub-county chief there are no personal interests or benefits by developing a dispute settlement within the family. “LCs may preside over customary matters including land, the marital status of women, the paternity of children, the identification of customary heirs, the impregnation of or elopement with a girl under eighteen years of age, and customary bailment” (Khadiagala, 2001: 63).

In the example of selling off land, we noticed that men are committed to each other. When Mr Moses wants to sell off his land he maintains a relationship with the male Local Council chairperson. According to statutory law, the Local Council 1 chairperson is supposed to get a fine when they agree that a man can sell his property without consent of his wife. According to the sub-county chief “there is a power imbalance”, even though one quarter of the Local Council 1 should be represented by women. When there is an intra-familial land dispute it is common to report the quarrel to a Local Council 1 when the quarrel cannot be resolved within the family. Both Mr Moses and Mrs Topista reported their dispute to the Local Council 1. It could be that they both needed guidance or assistance to resolve their dispute, but also because they do not get what they want. Confidence and reliability in the members of the Local Council 1 is intelligible. The Local Council 1 members are appointed and elected by the villagers themselves to assist and advice in intra-familial land disputes. Local Council 1 members are accessible and trustworthy, because “we select them ourselves, they can be your neighbours or friend or family member.” To become a Local Council member no specific knowledge or special education is acquired, therefore there is a broad range of access to become a Local Council 1 member.

The regulations for authorities are states in the Constitution of Uganda, the Land Act and the National Land Policy, however the role that these authorities play within the field are not to be found on paper. Authorities that are accepted and assisting families in their land disputes can be found at grassroots level, such as the Local Councils. Even though, these members act out of own experience or experience from their localities, they admit they have a lack of knowledge to deal with intra-familial land disputes in a more “professional” way. However, this does not immediately mean that this lack of knowledge or “un-professionalism” is a negative thing. For the families experiencing a land disputes these Local Councils are easy accessible and they know the regulations of customary tenure from their village, parish or community.

5.3 What considerations are being made?

Authorities make considerations when it comes to regulations and conventions about control, decision-making and ideas of family relations. This section analyses, for instance considerations by authorities like the sub-county chief or Local Councils and their actions according the land disputes.

5.3.1 Hierarchy, acceptance and power

The sub-county chief cooperates with the Local Council 3, therefore he is the highest in rank during this public hearing. The sub-county chief takes the lead to guide the hearing and makes sure the people present understand what is going on, by pointing out who’s turn it is to speak or by summarizing arguments. The hierarchy of the authorities present is accepted by the people

present. For instance, the Local Council 1 knows he has a certain role to fulfil, he sees to it that the attendance list is being made. Neighbours and witnesses know that they are present to listen and answer questions or backup a series of events during the eight years of the land dispute. Hence, the leading role of the sub-county chief is accepted by everybody present during the hearing. This hierarchy system is “how it used to be, and everybody is oké with it. It works, you see!”, according to Frank, one of the neighbours and witnesses. The sub-county chief confirms the hierarchy as well, “ the system is good, because local people make their own plans, they know their own challenges, the local communities elect their own leaders. There is nobody who impose somebody to a community.” By this, the sub-county chief means that as long as villagers or community members select Local Councils members from their own locality to help them resolving land disputes or administer justice, the villagers or community members will sooner accept the situation. “Impose somebody to a community” is something that can be done by official or state authorities. If such authorities need to speak about justice sympathy or acceptance will become hard.

That this hierarchical system is accepted by the attendees of the hearing can be noticed by the attitude and behaviour of the sub-county chief. When he enters the property of Mr Moses and Mrs Topista he walks upright with his shoulders. It seemed he had been here before, he felt confident and walked straight to the benches in the shade to take a seat. Some people were staring at him, others just nodded his direction, for us this indicates the people present accept the sub-county chief as leader for this hearing. The sub-county chief on his turn knows his place within this public hearing. He has been appointed to this job six years ago when Mbarara district was recruiting staff members and has experienced land disputes and settlement cases more than once. During his introduction the sub-county chief did not speak with his head up, he was looking to the ground or to some of the people in the shade. This may indicate the sub-county chief was not interested in this case as it was the third time he visited the family, or by all the experiences he has he feels confident and ensure this land disputes within the family will be resolved in the near future. As the sub-county chief said: “I’ve seen it all before. We have that problem. Actually, all the sub-counties across the district have disputes within families. It is a big challenge.”

Before the start of the hearing Mrs Topista offered the researchers and the sub-county chief a drink and the presence of the researchers was accepted. Mrs Topista came over to talk, as well as the other people present who were interested in the research. The people present allowed us to make notes and recordings of the hearing. The sub-county chief introduced the land dispute and Mrs Topista commences with her version of the dispute. The hierarchical system that is used to handle this dispute and the acceptance of this system shows the importance of rules,

processes and mechanisms to address intra-familial land disputes and its outcomes. There is nobody who raises questions why the sub-county chief is taking the lead during this hearing or why he is the one introducing the land dispute. After the hearing, we spoke with Brian, he is a member of the Local Council 1 and he is aware that there are multiple property rights applicable for the same plot of land, "It is very confusion, even for me, being a member of the LC". He is aware that different claims on one plot of land create tension within families and this can lead to disputes. "But, we are here to help our people, we also act as mediator in conflicts."

The intra-familial land disputes is above all between Mr Moses and Mrs Topista. This is expressed by the way the sub-county chief indicates them during the hearing and when they share their points of view on the "quarrel." Mr Moses and Mrs Topista are literally seated opposite each other on the grass and with the volume in their voices they express their anger for one another. Mrs Topista is expressing herself with emphasis by pulling the grass, walking around, pointing her finger towards Mr Moses and the sub-county chief and in the end she raises her voice "I refuse to take that advice, you are all telling lies. I take care of the children and I do not know where the money goes." According to the sub-county chief "We have been here many times, you [Mrs Topista] have to accept and give him [Mr Moses] his own piece of land and let him do his own activities." In an interview, one week after the hearing, with the sub-county chief he mentioned "We don't want to cooperate with that wife any longer, she cannot come back to me complaining. The wife is rude. It is her character. It is unbearable." Mrs Topista chooses an offensive strategy within this dispute. She is not accepting advice given by the sub-county chief and she blames others as causes for this land dispute by pointing and shouting towards her husband and the attendees. However, the sub-county chief's strategy is to fight for Mr Moses, because "the wife is rude. It is in her character." This may indicate that Mrs Topista can or will not change or the sub-county chief thinks she is not of any importance.

Both Mr Moses and Mrs Topista claim their right on the land. Mrs Topista is telling the persons present "we received land from my father", "... also my brother bought us a piece of land, where the house is right now. Unfortunately, my brother died" and "It's up to me to work hard and to take care of the children." These are reasons for Mrs Topista to claim access and rights to this plot of land. The reason Mr Moses claims his rights to a piece of land is, because "We made land. We worked and bought land, she found me with the land." Mr Moses wants to pick up his responsibilities as a father for this family by cultivating a piece of land and wants to take care of his children. Or at least, this is what he says during the hearing. We do not know to what extent this is true or false. These rights and obligations Mrs Topista and Mr Moses base their arguments upon are at the basis of different legitimacies. Underlying legitimacies in this case are not legal legitimacies saying that they are recognized by the law, such as "taking care of children". A legal

legitimacy in this case would be “we bought land”, the only problem regarding this is how the land is being bought and if the land is recognized according to statutory law. Rather, they focus on social legitimacy with a basis in customary law. Right and obligations are socially accepted but not legally recognized. For instance, the land is used productively and agricultural activities are taking place to generate income for school fees of the children. To name social forms of legitimacy the people present can understand the dispute and reasoning, because they can sympathize with Mrs Topista and Mr Moses. Nevertheless, during the public hearing neighbours and witnesses who were listening seemed indolent, they had a slump attitude as if they had seen it once too often. Land disputes happen all over the district and this attitude by the witnesses or the search for empathy could be coping mechanisms on grassroots level for other families as well to overcome intra-familial land disputes.

5.3.2 Marriage and selling of land

“The flexibility of the local councils, derived from their mandate to judge cases according to common sense and wisdom, could benefit women by circumventing legal technicalities and outdated and discriminatory laws and customs ” (Okumu-Wengi, 1995: 148 cited in Khadiagala, 2001: 56). However, these beneficiaries for women are hard to find. According to Khadiagala (2001) popular justice and authorities are failing for women. The statutory laws in Uganda with regards to marriage, divorce, maintenance, and succession or inheritance is against women. “When it comes to women’s land rights both implementation and enforcement mechanisms are lacking. As a result, customs and practices which impede women’s land rights continue to dominate” (LANDac, 2012). Land rights for women are based on the problem that statutory law and customary law exist both next to each other as they are intertwining with each other. Implementation of land rights is not consistent. “Their [women’s] position within households and towards institutions remain weak” (LANDac, 2012).

Mr Moses and Mrs Topista are married for sixteen years. During the eight year period of the land dispute they remained married and Mrs Topista and Mr Moses produced children. According to the sub-county chief “...they [family and community] started mistreating the man [Mr Moses], because the wife [Mrs Topista] was using witchcraft. The woman could not sleep with him. They stay in the same house, but he could not sleep with her. And you know what that means for a marriage.” This interpretation of what the marriage should entail – intercourse – can be a sign of deterioration of relationships between husband and wife. Here, the question can be asked, is this an intra-familial land dispute or a conjugal conflict? The former does not exclude the latter and vice versa. Marriage is an institution by two people recognized by state law as well as customary law. In Uganda, marriage can be seen as a form of social security. Marriage may give a woman access to land and land use. This land is a form of social security, it create an independent

livelihood for the woman and man and in the nearby future for the children. “To be a man you must own land, cows and have boys.” This statement is a general understanding in Mbarara district and makes clear that marriage – by having sons – is linked to owning land and/or other property.

The Uganda National Land Policy (2011) states that “In Uganda, women are generally unable to own or inherit land due to restrictive practices under customary land tenure or are not economically endowed to purchase land rights in the market.” In the previous paragraph Mrs Topista is defending her rights to claim the land on basis of customary law, for instance she is the one taking care of the children and digging the land. The Uganda National Land Policy want to “ensure that both men and women enjoy equal rights to land before marriage, in marriage, after marriage, and at succession, without discrimination.” Despite the fact that women defend their land rights on basis of customary law, they can also consider to make use of statutory law with regard to their land rights.

Legal pluralism and land governance are closely linked by means of marriage, as marriage is an institution recognized by state law as well as customary law and the management of land is determined by both man and wife. Even though, Mr Moses en Mrs Topista have a legal marriage, the sub-county chief makes clear that “Mr Moses has the authority and the mandate to divide the land amongst his family members according to his wishes.” This might mean that in case of a divorce Mrs Topista will lose access to land and security of land according to state law. An option would be to obtain advice on land governance with authorities that consider both state law and customary law regarding land rights outside a marriage. Mrs Topista is clear in what she wants, “my husband should come back to this family, because I know that he is the only man I married with. I would always take care of him.” For this she has good reasons. Mrs Topista needs her husband to hold on access and control over the land which enables her to sustain a livelihood for herself and the children. The land is used productively, there is enough food for the family and it generates income to pay school fees. Although, Mr Moses is saying the opposite “I never want to live with that woman again!” Mr Moses aims at dividing or selling off the land and Mrs Topista wants to know why. She thinks there is more at stake than he is telling the persons present during the hearing. Mrs Topista is telling people “...when my husband was in prison, they released him and he followed the other woman. Do you understand?”, Mrs Topista is accusing Mr Moses of committing adultery. When Mr Moses marries another wife, and that woman and Mrs Topista become co-wives, the plot of land will be too small to develop a livelihood, more children will be produced and in the end division by inheritance will be even harder than it used to be. Marriage and divorce are important aspects of live in Mbarara district, once you are married divorce is not an easy thing to do. Mbarara district is a religious area where many

Christians live. For many people, marriage is a promise to God and once you divorce you break your promise with God. Issues of adultery and polygamy are aspects of customary traditions and therefore aspects of social life.

To understand land governance in the case study of Mr Moses and Mrs Topista and to explain why land governance has to deal with multiple systems an example of the field will be given. Land governance is about power used by authorities to control land regulation. In the hearing of Mr Moses and Mrs Topista, they both complain about selling off the property. According to Mrs Topista "...after the harvest my husband could sell the coffee harvest, than take the money away. I was not aware. Why do you take the money away?" and facing the persons present "I have told you this man [pointing her finger to Mr Moses] sold two pieces of land. One he sold to Mr Marcus, the land which contained coffee and another piece of land which we bought together, by that time we paid 60.000...we had. We had worked together and we got 60.000 and bought that land together. He also sold that land." After selling off these plots of land Mr Moses left his family and spend eight years at his mother's place. "Now, I may ask. In all those eight years, what did he do?" Mrs Topista became aware that those plots of land were sold after Mr Moses left her and the family. Mr Moses sold the land without consent of his wife and selling off property is not allowed without consent of the wife under statutory law. However, under customary law different rules and processes apply. When Mr Moses want to sell off land he needs to have documents signed by both his wife and himself. These documents need to be signed in presence of the Local Council 1. Though, the sub-county chief mentioned "It is a challenge, the Local Council 1 can easily be bribed." "... So, the man connects with the chairperson of the Local Council 1." "It is corruption. The man goes to the Local Council 1 chairperson and tells him his wife will not accept to sell the land, then the Local Council 1 chairperson gives him a stamp to complete the agreement. When the wife finds out her husband sold land without letting her know, the conflict starts!" This connection beforehand between a man and a chairperson of the Local Council 1 is accepted by men in general. All men present at the Local Councils discussion in Kagongi are aware of the fact that bribing happens, again they say "It is a part of culture. Men need to control and management the land." The process of selling land occurs according to state law as well as customary law. This confuses the son Paschal, "I'm confused, because...what my dad has mentioned about the plots, there are some plots my mom bought on her own. So, I'm confused if my father can stand up and say that they bought the plots together...What about the records, when they are still here, my dad could write his name as witness, not as a person who bought the land...You can change the documents..." The contradiction between statutory law and customary law becomes visible when the Local Council 1 supervises the signing of selling documents with both man and wife and again when the Local Council 1 accepts bribes from men to sell land without consent of their wife. On the one hand, members of the Local Council 1

intensify intra-familial land disputes by accepting that a man sells his land without consent of his wife, on the other hand the Local Council 1 members are doing their jobs by mediating as a neutral partner to resolve land disputes within families.

5.4 In sum

Not only the clash between statutory law and customary law are worth considering, but also the shift between the elderly and youngsters in Uganda. This is even more important to see how regulations and authorities are being used and what consideration are being made regarding land disputes within families.

In sum, all over the world, control, management and use of land are subject to complex legal and other forms of regulation. These regulations, laid down in the form of rules, rights and obligations, determine which social units have legitimate access to resources, and how these resources can be used. The intertwining of statutory law and customary law have specific influences on the gender aspect. With regard to women's land rights, and more specific inheritance for females, the regulations and authorities are not aligned with one another.

In the case study of Mr Moses and Mrs Topista we noticed that hierarchy is regulated by authorities and that this systems of land governance is accepted by most people. However, authorities on grassroots level, like the Local Councils, are preferred by people from villages and communities. Local Councils may not have sufficient knowledge on every regulations with regard to land, but they are easy accessible. The public hearing of the intra-familial land dispute was a social happening, an event, on basis of which we analyses how authorities and regulations are being used. For example, the natural authority within a family lies with the head of the household. In most cases, the head of the household is a man and his authority is divers. Mr Moses however, has weak authority within his own family and cannot access the land. Mrs Topista hold authority over the land and their children. But, the sub-county chief told us that Mr Moses has authority over the land, officially on paper, according to state law. Both images exist; weak or strong authorities and how they implement regulations on land issues. However, how this authority elaborates within families may differ. Authority is no longer obvious and diversity within family relations is a given.

6 Pathways to Resolution

On July 2nd, 2012 at 2 PM we organized a focus group discussion (FGD) with youngsters at MBADIFA office. Fifteen young people, in the ages of 20 to 34, were present that afternoon. We started the FGD with a short introduction. We asked the youngsters for a first “sharing of thoughts” on the topic of land disputes within families. The participants became a little bit restless and started to move their chairs. We noticed that tension was rising. To make the youngsters feel at ease, yellow’s (small and sweet bananas), popcorn and sodas were offered and eagerly accepted. Right after, the real discussion begins. We set up a “daily-life-example case”:

There is a family where there are three sons and four daughters, a husband and his wife. One of the sons is very clever and strong, he is in University doing his bachelor in technical science. The other two sons are not as clever and strong as the first son. They are both in secondary school. Two daughters are married and live with their husband. The third daughter is a nursing assistant and the youngest daughter is in P4 (primary 4 – level of schooling). The father has 4 hectares of land, growing matooke and beans. He also has 3 cows and 4 goats.

Now the father is ill, he has been advised to make a will. What would you advise?

At first, the youngsters kept quiet and then started to ask questions. Is the mother still alive? What is the role of the daughters? As researchers we explained that all answers are correct and wrong advices do not exist. They had time to think about the advice they would give and had to write it down on a piece of paper. After several minutes, we asked the youngsters if somebody was willing to share his advice or thoughts on this example case. Everybody started to discuss out loud and it became a lively debate. Which was helpful for us, because this showed us that there is no clear-cut answer or advice to give. We concluded this focus group discussion by pointing out to the youngsters that this is a rather homogeneous group of young people, all students in similar kind of fields and interests in the topic of land disputes. However, even with a small group of fifteen people it is rather difficult to give advice in this example case and keep every member of the family satisfied.

The “daily-life-example-case” we introduced to the youngsters during the focus group discussion is an example whereby the family dispute is not yet visible for many outsiders. In the case, the man – the head of the household – is fallen ill and his family and community is aware that he will pass away soon. However, what insiders – the man’s family and community members – will notice is that tension is rising and discussion is evolving on issues about who gets what, when and how regarding the land and property that “become available” when the man dies. This man

is advised to make a will to reduce the possibility of having a land disputes within the family (after his death). The youngsters produced several suggestions for this family to resolve their land disputes or advises to regulate or contain the family land dispute. One possible option, “the father should divide the land into two parts, one for the two sons who are not clever and the other for the young daughter who is in P4. The 3 cows and 4 goats can be sold to raise tuition fees for the clever son at the university. The nursing assistant should also be given responsibility to contribute to the still in school going siblings.” Option number two, “the husband should first select two hectares of land for the wife and daughters plus a cow and two goats. The remaining share should be equally apportioned between the sons.” Option number three, “I would advise the father to make the will in favour of the youngest daughter in P4, because she hasn’t been able to get changes compared to her brother and her elders. As we said in the case, that the son is at university, he can start his own job or look for it. The two un-clever sons are not able to do so... The two daughters decided to marry, showing that they are not willing to take care.” Option number four, “the father should make a systematic will, that is, he should not discriminate his daughters and sons, he should therefore understand that amongst all his daughters and sons. He should either establish various fundamental assets that the average daughters and sons can depend on for their future survival.” Option number five, “the father should leave the property with his wife to make sure she educates the remaining children who are in school.” All these different perspectives on dispute resolution are difficult to keep up with, according to the youngsters. The different rules, rights and processes of land management change often and it is hard to follow-up on the new information regarding land disputes. However, one thing is clear for the youngsters when advising this family, “making a will prevents inequality among family members.” This quote was said during the FGD with the youngsters, however in this research we noticed that making a will can also be a cause in increasing inequality which may lead to disputes. When the heirs do not except their “gift” or when people get excluded.

The previous chapters discuss the nexus between property relations and access within family relations and the role of regulations and authorities with regard to intra-familial land disputes. The second aim of this research was to identify entry points for dispute resolution on land disputes within families. In this chapter we will discuss patterns or strategies towards resolutions of intra-familial land disputes. By explaining these patterns or strategies, we focus on the various pathways to resolutions that families decide upon and how resolutions are being valued and appreciated within families. Therefore, this chapter exists of three sections. Section 6.1 discusses patterns of dispute resolution and section 6.2 provides the attached value of family members on dispute resolutions. Finally, section 6.3 will provide a conclusion for this chapter.

6.1 Patterns of resolving land disputes

The relation between land and family justice is collected in a research by Rugadya et al. (2008) in cooperation with the Justice, Law and Order Sector (JLOS, 2008) in Uganda. In this study they mention numbers of land disputes, they include land conflicts at household level (34.9%), land conflicts regarding tenure administration and management: ownership (19%), inheritance and succession disputes (15.5%). “Only 20% of land conflicts are not reported to any dispute resolution option” (Zevenbergen et al., 2012: 9). Land justice is a broad concept, but relevant in this chapter on dispute resolution. “Land Justice is defined as improving land dispute resolution mechanisms while also engaging with other stakeholders to enhance land administration and registration” (Ibid: 9-11).

Land dispute resolution mechanisms were supposed to be developed by the GoU. The establishment of District Land Tribunals would be easier access to justice, efficient and affordable dispute resolution for citizens of Uganda. However, as mentioned earlier in chapter 5, the authorities to administer justice have not been established due to lack of human and financial resources. Though, access to justice and dispute resolution regarding land is needed to prevent land disputes within families and the consequences it has on community stability and agricultural productivity (Van Leeuwen, 2012). The Land Sector Strategic Plan on 2001-2011 states that “a revised institutional framework had been proposed based on a combination of Land Tribunals at district level and LC Courts at lower levels [...]” (LSSP, 2001-2011: 33-34).

During the research in Mbarara district, we noticed there were three levels in which intra-familial land disputes can be resolved. First, resolution on national level. Second, resolution on community level and third, resolution on household level. According to Kigula (1993), there are two land dispute settlement fora: formal and informal. This we defined in our theoretical framework. Kigula’s formal dispute settlement fora corresponds with our resolution on national level. The informal fora corresponds with resolution on community level. In this research we would like to add a third dispute settlement mechanism, where the formal and informal dispute resolution intertwines. This means that individuals make use of access to land and property rights on basis of the different regulations that are available. Land disputes are resolved by family members according statutory law or customary law on basis of control, authority or decision-making. The formal and informal dispute settlement fora are interconnected in resolving intra-familial land disputes. In this way, legal pluralism contributes to the causality or intensifying of land disputes within families. For example, members of the Local Councils can determine the outcome of a land dispute – not on purpose, because they need to be a neutral mediator – but due to their age, gender or preference for statutory or customary law they are

able to direct the outcome of a land dispute. The age, level of education or experience with land dispute resolution of an LC member can create a shift towards statutory law compared to customary law.

6.1.1 Resolution on national level

An intra-familial land disputes that escalated was told to use by a woman living in Ntuura parish. The woman, called Mrs Daisy owns a large plantation. During her marriage, Mrs Daisy and her husband worked hard and bought more land and several other property resources, like a car and they constructed two houses. The family was perceived as “wealthy” by their community, because they owned a large plantation. Mrs Daisy and her husband worked together for a long time on their land until her husband wanted to marry a second wife. Mrs Daisy refused her husband to marry a second wife. Mrs Daisy moved out of her husband’s property to live in town with their children. The land disputes within the family starts when her husband passed away. Mrs Daisy’s name was not mentioned in the will and she was upset about this situation as they gained all the property together in their younger years. Mrs Daisy tells us “I worked so hard for a better livelihood, and then I got nothing!” Mrs Daisy reported the case and went to court. In the end, she won the case. Nowadays, Mrs Daisy is head of the family. All children are grown-up and she takes care over the property. In this case, Mrs Daisy is a strong female and she knows what her rights are according to land. “They [a local organization] told me about my rights, I am sensitized on my rights. I know that as a wife to my husband I can inherit.” This is also stated in the 1998 Land Act: spouses and daughter can inherit property. However, in practice it does not occur often. Mrs Daisy explains it herself “My husband was a little bit old fashioned. He was a wealthy man and wanted to show this to people. When you are a wealthy man it is good to marry more than one woman. It is what he was supposed to do.” So, his husband was a “little bit” old-fashioned, traditional or felt a stronger connection with the customary law. These may be reason for him to leave out the names of his wife and daughters in his will. Moreover, Mrs Daisy is from a wealthy family and could afford to get her case settled in court.

There are cases which are pending in court now for almost ten years. However, we noticed in the field that protracted conflicts in court are often land disputes outside families. Meaning, land disputes with neighbours on land demarcations or land disputes on land grabbing by governmental or international institutions. We do wonder if disputes resolution on national level, cases which are settled in court, can be defined as “pathway to resolution”. In daily life people continue their agricultural practices and ordinary activities of life.

6.1.2 Resolution on community level

Community level resolution elaborates on disputes resolution whereby negotiation within families occurs together with third-party involvement. Third-party involvement parties

negotiate and try to resolve land disputes by means of mediation. “Mediation is a way for people to resolve a dispute with the help of a neutral third-party facilitator – the mediator – who has no decision-making power [...] it is a private process that is both informal and flexible. The people themselves, and not the mediator, decide the terms of the agreement” (JLOS, 2008: 38). In many cases families ask for guidance in resolving their land dispute. In Uganda and Mbarara district third-party involvement or mediation can be applied by a neighbour, a witness or a mzee (local wise old man). Other mediators on community level can be found in opinion leaders, religious leaders, clan or chief members.

Probably the most popular and common dispute resolution on community level is the implementation of land justice by Local Councils. Mainly, Local Councils 1 and 2 as they operate on village and parish level. The members of the LCs need to be neutral and they need to possess a sense of justice. Also, they need to be accepted by all parties involved in the intra-familial land dispute.

Mr Moses and Mrs Topista reported their dispute to the LC1, but there are more examples of intra-familial land disputes resolved or in the process of resolving their dispute on community level. Mr Peter (52) and Mrs Janet (45) are married and live in Nyaruhandagazi. Together they have eight children. Some time ago a land dispute occurred within their family. It started when Mrs Janet inherited land from her father. Every sibling of Mrs Janet received a part of her father’s plot of land. Mrs Janet started cultivating this land together with her husband, during that time Mrs Janet’s brother came by and claimed a bigger plot of land. Mrs Janet and Mr Peter experience a similar land dispute within Mr Peter’s family. When his father died, all his sons inherit equal portions of land, but one of Mr Peter’s brothers was not satisfied. To resolve these two disputes, Mr Peter and Mrs Janet went to the Local Council 1 to report the dispute, after visiting the LC they gathered the family to have a meeting. This family meeting was advised by the Local Council 1 members. The causes of both disputes were blamed on dissatisfaction by the brother of Mrs Janet as well as the brother of Mr Peter. A local police officer agrees with dissatisfaction creating tension between family members and may lead to disputes. According to this police officer, “reasons for dissatisfaction within a family could be wealth, not on the size of land, but on the benefits that enable children to go to school for example.” Both disputes were settled by the guidance of the Local Council, neighbours and witnesses were part in resolving the dispute. The two families of Mr Peter and Mrs Janet accepted the outcome and the LC was trusted in their judging. According to Mrs Janet “we trust the LCs, we know the members.”

The social relations we mentioned in chapter 4 are important from beginning to end, when creating access to property to resolving disputes about property and the notion of trust is

mentioned. Local Councils make efficient entry points to resolve intra-familial land disputes, because they are informal, easy accessible and executive on village and parish level.

6.1.3 Resolution on household level

The next case is a land disputes within a family and to resolve the dispute the family decides to do it themselves. So, this pathway to resolution on household level is resolution within the family. Several cases were conducted in the field between mother and stepson, husband and wife and between brothers. Here, we will elaborate upon the latter. In the field we were introduced to big family, all of them peeling g-nuts. One son, Mr Charles, was prepared to have a more in-depth conversation on land disputes within families as he experiences one himself. Mr Charles and his brothers had a dispute about unequal sharing about land received from their father. Nowadays, Mr Charles is a father himself and his sons were fighting about the land. Mr Charles' sons were not satisfied with their plots of land, they wanted to grab land from their parents. As Mr Charles told us "when I was young my family experienced a land dispute and now my children are fighting over land..." Mr Charles gathered the whole family and discussed the land issue till it was solved.

In the resolution of this dispute on household level, education play a role. According to Mr Charles, "the other person is more educated and therefore more powerful." Mr Charles's sons all went to school and told him they could make the land more productive. That was the main reason for the sons to grab their fathers' land. However, education does not give the authority over someone's property. Mr Charles has authority being the father and head of the household. He makes the decisions regarding land.

In this case it would be suggested that Mr Charles' sons share their knowledge with their father to increase access and thereby the ability to benefit from the land. On the one hand, Mr Charles has to accept his sons have developed knowledge on agricultural activities. On the other hand, Mr Charles' sons have to accept that Mr Charles has experience and lived and worked on the land his entire live. This may indicate the shift between youth and elders or a generational gap. However, generational differences change as fast as time and environment play a big part in this.

Personal feelings during the time of dispute can lead to decisive actions. Mr Charles did not feel secure anymore and he feared for his life, "during the night my sons can come and kill me." Mr Charles developed mental problems, which made him a "weaker person". He was afraid somebody in the family would be murdered. In the end, he divided the land in which he thought was right, "my sons will never be satisfied."

We asked Mr Charles about his four daughters. They are all married and have a piece of land to cultivate from their husbands family. They had no reason to quarrel over the land, like his sons.

To resolve the intra-familial land dispute between Mr Charles had authority to bring the whole family together. The daughters of Mr Charles played an important role within the process of resolution. As soon as Mr Charles' daughters noticed the dispute between their brothers and their father they started counselling their brothers. The daughters acted without any knowledge on conflict resolution, they "simple knew what their brothers wanted and what I [Mr Charles] wanted." Mr Charles' daughters negotiated within the families between Mr Charles and his sons. Mr Charles has a possible reason for his daughters being good mediators: "when my children were younger I paired them up - one son and one daughter - and they should take care of each other. That's what my daughters did." Mr Charles' wife had no role in the dispute resolution. She stood together with her husband to "secure her livelihood".

6.2 The value of dispute resolutions within families

As we defined three different patterns to resolve intra-familial land disputes, we now take a closer look on the value or appreciation by families regarding those different patterns or levels of resolution. In this research, we consider resolution of land disputes on community level and household level as important. Land disputes are increasing, however there is a lack of or no capacity at all to settle land disputes (JLOS, 2008: 4). Due to the lack of institutions regarding land dispute resolution it may be that families are left with their own manners to cope with land disputes. This could be a reason why resolving land disputes on household level is preferred. On the other hand, Local Councils are formal authorities but due to their use of both customary and statutory law, easy accessibility and village or community members they are perceived as "resolution within a family".

The integrated study of land and family justice by JLOS (2008) and the paper by Zevenbergen et al. (2012) discuss the following numbers of dispute resolution mechanisms: "The leading options of first instance are local councils I and II (57.7%), followed by Clan and other community leaders (27.5%)." The appreciation of families and choice regarding land dispute resolution is influenced by "distance to the resolution option (22.9%), perception of „legal requirement to go there" (21.3%); and familiarity with how the particular option actually works (18.9%)" (JLOS, 2008:4; Zevenbergen et al., 2012: 9-11). This numbers correspond with the cases we found in the field, most preferred solution of dispute was justice administered by the Local Councils, other third-party involvement of within families.

In the section above, we referred to Kigula's (1993) two dispute settlement fora and we added a third one. Zevenbergen et al. (2012) speaks about "forum shopping". The problem with forum shopping is that dispute settlement systems lack a clear hierarchy and may work in parallel.

Overlap is created and it can take years for a dispute to be “officially” settled. Families may complain about such issues, but in the end of the day they continue their daily activities.

Why do families decide to report their dispute to a Local Council? According to our respondents “it is just how it works.” Families with a dispute may want help from a third-party, in some cases they can be selected on knowledge or experience with land disputes within families. Families give each other references to “mediators” or they know the LC members from their village or community. Hence, that is way most of the families decided to ask assistance from Local Councils. Although, during the group discussion with Local Council members in Kagongi sub-county a woman confessed: “We have no knowledge on land dispute resolution.” Every person can become a Local Council member. There is no special education required, just a sense of justice for the community members.

In Mbarara District, the Local Councils are highly appreciated “[...] as they keep in mind the cultural norms and values.” Resolutions cannot be implemented upon the villagers, every dispute has a certain context that need to be taken into account when resolving a land dispute.

When a dispute is protracted or escalates in (visible) violence, such as death or domestic violence, the police will intervene. According to a local police officer, they interact on community level with families that experience land disputes. Common criminal cases occur between husband and wife about unequal access to land, for example when a man sells his land within consent of his wife. Next, bribing of LC members is an issue. Local Council members are contradicting their own behaviour and may maintain an intra-familial land dispute.

6.3 In sum

This chapter presented an analysis of intra-familial land disputes resolution. In this process of naming pathways to resolution several levels of resolution seem to be of importance. First, resolution on national level. Second, resolution on community level with a third-party intervention. Third, resolution on household level.

The latter pathway to resolution is added upon the formal and informal dispute settlement for a theory by Kigula (1993). Formal and informal systems of dispute resolution cannot be seen separately, they are interwoven. Research in Mbarara district has shown that a majority of families are capable to resolve their own family land disputes, which is most preferred. Besides, local authorities play an important role as well.

7 Conclusion

The twofold aim of this research was first, to gain insights on intra-familial land disputes and pathways to resolution. Second, to contribute to the debate on intra-familial land disputes and come up with practical interventions and strategies to address intra-familial land disputes. In this chapter we conclude on the main findings of this research. To gain insight in coping-mechanisms of individuals with respect to land disputes, we first have to get clear where these disputes are about. During the unravelling of land disputes we noticed the strong intertwining between land disputes and social relations.

7.1 Conclusion

Mbarara district is exposed to influences from the outside world. With the development of the educational system, the younger generation gets higher educated compared to the elder generation. Education contributes to the knowledge individuals possess, but also how they use this knowledge. Knowledge empowers youngsters in the development of ideas and putting question marks on their current situation. Besides, traces of globalization are visible. The world gets more connected due to for example social media. Youth in Mbarara see what youngsters all over the world are thinking, doing and achieving in life. The younger generation in Mbarara district develop their own perspective on life and how they want to pursue their goals. In general, these movements do not go along with the perspective of the older generation, for whom farming is the most important livelihood strategy. This shift in perspectives on life contributes to the problem of the so-called generation gap. The younger and older generation do not have the same perspective on life and norms and values are changing, this gap is an important factor for causing land disputes within families.

Education and globalization also contribute to emancipation that is visible among women. Traditionally, women are excluded from inheriting land from their parents. However, according to the 1995 Constitution of Uganda, both boys and girls have the right to own land. Here, a conflict arise between traditions and changing national laws. Legal pluralism and the inconsistent use of statutory versus customary law contribute to causes for land disputes. Disputes are not only about different interests, but also about the interpretations of rights or rules and how they make use of them in their empowerment. It depends strongly on the characteristics of the family, which direction they follow. Some men and women attach higher values to their traditional customs, in those cases a conflict concerned about the division of land

does not occur. However, there are land disputes where women fight for their right to own land, they legitimize their behaviour and land rights on statutory law. It also happens that a father divides the land equally among all his children, both boys and girls, but that male-siblings do not accept that their female-siblings own family land.

There are causes for land disputes which seem to be embedded in cultural traditions and customs. However, the fact that they become a dispute nowadays implies the power individuals possess to address their dissatisfaction to the current situation or decision made. Polygamous marriages is one example causing disputes over land which is exacerbated by the problem of land scarcity. A head of the household is no longer able to divide his property over his descendants, because the property is too small for making a living. This contributes to the problem of poverty and creates room for conflict among siblings. Besides the conflicts that arise among siblings, the wives do stand up for their rights of owning land. Hierarchy plays an important role as well. The first wife or the first born claims more rights. Due to the changing environment these families are subject to experience an intra-familial land dispute, especially when other family members feel empowered to claim their part as well.

A main conclusion on causes for intra-familial land disputes is that changes increase room for disputes or conflicts. Changes in legal systems, policies, perspectives on life, education, globalization, family relations, family composition, expectations and uncountable other changes. Individuals have all their own interests and ways of pursuing them. In a changing environment, individuals seek how the changes fit their interests and legitimize themselves on these basis.

With this understanding we come closer in finding answers on pathways that can be distinguished in resolving land disputes within families, and the implications for individual family members. During this research we observed anxious behaviour of individuals towards the topic of intra-familial land disputes. It was obvious that topics concerning land and ownership are sensitive issues to discuss. Land is extremely important in Mbarara. The fact that most farmers are subsistent farmers explains the importance of land in maintaining a livelihood. However, land is more than a production factor, land has an essential function in providing a status for a family. This clarifies that all men in Mbarara need to possess land, whether they have a well-paid job or not, owning land is needed for prestige.

According to van Van Leeuwen (2012) one in three families in Mbarara district face disputes over land. However, most of the disputes do not develop into severe conflicts. This research has shown that most families are able to resolve disputes that occur within families. Families are able to find mechanisms to come to solutions. Mechanisms that are used within a single family are for example family meetings, where individuals discuss different options with each other

and compromise or make decisions together. The outcome of a solution is not always a compromise, it also happens that the head of the household decides. In such a situation other family members accept this authority.

When a dispute cannot be resolved within a family, third-party involvement can be an option. For example, wazee are asked to mediate during the process of dispute resolution. Other family members, like (grand) parents, uncles, aunties, cousins and so on are asked to help in finding solutions or give their opinion on the situation. If after consulting family members, wazee, neighbours or other witnesses, the dispute is not resolved, the Local Council 1 can be consulted. The Local Council 1 functions at village level and gives families advice in resolving disputes over land. The Local Council system exists out of several levels and operate on the different levels in society. When a Local Council 1 member cannot resolve the dispute within the family, he or she consults Local Councils from a higher level. When after all the dispute is not resolved, the case has to be resolved in national court where a judge decides on the outcome.

The question remains, why are some disputes resolved at family or household level and do other disputes need to be resolved by consultation of a Local Council or a judge. First of all, the content of the dispute plays an important role whether it can be resolved within the family or not. Disputes about land use are more likely to be resolved within the family. When the head of the household is alive and his children come to claim for land, these disputes are mostly resolved within the family. When it comes to owning land after the death of a family member, the dispute becomes more severe. Then, often other family members are consulted in the resolution process. Interests and personal characteristics of individuals play an important role in resolving land disputes. In situations where the father, the head of the household, has a strong position within the family, the family members are inclined to comply with his decisions. However, when this level of authority becomes lower or the position of other family members is empowered by external influences, disputes are less likely to be resolved. For example; women who are supported by laws; children who are supported by education; family members who are supported by other family members; children who are supported by their mother and so on. In these cases the decision made by the head of the household is rejected and family members defend their rights or interests.

Defence of interests and standing-up for personal goals or rights is subject to change and intensifying. This leads first of all to an increase of the total amount of intra-familial land disputes and secondly contribute to the problem of resolving disputes, because decisions are not easily accepted anymore. During the resolution of a dispute or conflict people are highly dependent on each other. This is especially a cause for women, who got more rights due to the

1995 Constitution of Uganda. Depending on the knowledge available at local level and institutions involved, it depends where people rely their statements upon and how they chose their pathways to resolution.

7.2 Recommendations

Increase knowledge and raising awareness on intra-familial land disputes as well as mechanisms of resolution:

- MBADIFA could support training sessions in the field with their members and farmer groups.
- Local Councils should be educated and could develop a workshop on the issue of land disputes.
- The generational gap should be addressed, by increasing communication between the youth and the elders – MBADIFA could play a role by facilitating activities regarding this gap.
- An “all-party-involvement” may bring together and decline the misunderstandings between generations. However, before this can take place acknowledgement of the generation gap is needed.
- Further research would be helpful, especially with a focus on the shifting perceptions between the youth and the elderly on the interpretation and value of land.

Remark: do not see land disputes only as a negative development, because it may create room for positive improvements.

Personal note

Relationships between partners in Uganda are difficult to understand for us, as researcher. Many times we wondered or asked ourselves: does love play a role within relationships? Comments made by different people as “Women are labour tools”, “Women have to produce boys”, “Women are owned by their husbands and family”, “If my wife does not produce children, I have to get another one”. As female researchers from a different background these feelings were hard to interpret. If love is not a basis within a relationships, in what way does that influence the functioning of it?

References

- Adams, Martin & Stephen Turner (2005). "Legal Dualism and Land Policy in Eastern and Southern Africa", in *Land Rights for African Development from Knowledge to Action* by UNDP International Land Coalition, 1-18.
- Batungi, N. (2008). *Land Reform in Uganda: Towards a Harmonised Tenure System*. In Fountain Series in Law and Business Studies by Fountain Publishers Ltd.
- Benda-Beckmann, F. von. (2001). "Between Free Riders and Free Raiders: Property Rights and Soil Degradation in Context", in *Economic Policy and Sustainable Land Use. Contribution to Economics*, 293-316.
- Benda-Beckmann, F. von., K. von Benda-Beckmann & M. G. Wiber (2006). "The Property of Properties", in *Changing Properties of Property* by F. von Benda-Beckmann, K. von Benda-Beckmann and M. G. Wiber.
- Berry, S. (1993). "No condition is permanent: The social dynamics of agrarian change in sub-Saharan Africa", by University of Wisconsin Press.
- Berry, S. (2009). "Property, authority and citizenship: land claims, politics and the dynamics of social division in West Africa", in *Development and Change* 40 (1): 23-45.
- Blanc, A.K. et al. (1996). "Negotiating Reproductive Outcomes in Uganda", by Calverton MD: Macro International Inc.
- Bryman, Alan (2008). *Social Research Methods*. Third edition by Oxford University Press.
- Busingye, H. (2002). "Customary land tenure reform in Uganda; lessons for South Africa". International Symposium on communal tenure reform, Land Reform in Africa: Lessons for South Africa, Johannesburg.
- Byamukama (2012). *Uganda Land Alliance*. (pdf). Available from: <<http://ulaug.org/partnerships/the-womens-land-rights-movement/the-national-womens-land-rights-conference-2010/conference-resources/>>. [Accessed 15 november 2012].
- Deininger, K. & H. Binswanger (1999). "The Evolution of the World Bank's Land Policy: Principles, Experience, and Future Challenges", in *The World Bank Research Observer* 14 (2): 247-248.
- Ellis, F. (1993). *Peasant Economics. Farm Households and Agrarian Development*. Second edition by Cambridge University Press.
- FAO (2009). "Towards Improved Land Governance", in Land Tenure Working Paper 11. By David Palmer, Szilard Fricska & Babette Wehrmann. In collaboration with Clarissa Augustinus, Paul Munro-Faure, Mika-Petteri Törhönen, Anni Arial.
- Green, Judith & Nicki Thorogood (2009). *Qualitative Methods for Health Research*. Second edition by SAGE Pub. Ltd., London.
- Griffiths, John (1986). "What is Legal Pluralism?", in *Journal of Legal Pluralism* 24: 1-55.

- Haar, G. van der (2001). "Land Scarcity and Processes of Privatization amongst the Tojolabal in Chiapas, Mexico", in *Kinship Structures and Enterprising Actors: Anthropological Essays on Development*, edited by Andersson & Breusers, Wageningen, Wageningen University.
- Haar, G. van der & D. Roth (2011). *Property rights, Natural Resources and Conflict*. Law and Governance, LAW-31306. Lectures February 2011 at the Wageningen University, the Netherlands.
- Hammersley, Martyn & Paul Atkinson (2007). *Ethnography: Principles in Practice*. Third edition by Routledge, New York.
- Hann, Chris (1998). "Introduction: the Embeddedness of Property", in *Property Relations. Renewing the Anthropological Tradition*, edited by Chris Hann, Cambridge University Press.
- Hann, Chris (2007). "The State of the Art. A New Double Movement? Anthropological Perspectives on Property in the Age of Neoliberalism", in *Socio-Economic Review* 5: 287-318.
- IFAD (2008). *Improving Access to Land and Tenure Security* by Palombi e Lanci, Rome.
- Hesse, C. & J. MacGregor (2006). "Pastoralism: Drylands' Invisible Asset?", in *Drylands Programme*, International Institute for Environment and Development (IIED).
- Jejeebhoy, Shireen J., Iqbal Shah & Siham Tapha (2005). *Sex without consent. Young people in developing countries*.
- Justice Law and Order Sector (2008). "Final Report on the integrated study on Land and Family Justice", submitted by Margaret A. Rugadya, Eddie Nsamba-Gayiiya, Reginal Lule Mutyaba, Herbert Kamusiime, John Bosco Asiimwe & Valentine Namakula, the Ministry of Justice and Constitutional Affairs, Kampala.
- Kamanyire, Marilyn (2000). "Sustainability Indicators for Natural Resource Management and Policy" by Economic Policy Research Centre, Working Paper 3: 1-58.
- Kanji, N., L. Cotula, et al. (2005). "Research Report 1: Can Land Registration Serve Poor and Marginalized Groups? Summary Report", by International Institute for Environment and Development (IIED), London.
- Khadiagala, Lynn S. (2001). "The Failure of Popular Justice in Uganda: Local Councils and Women's Property Rights", in *Development and Change* 32: 55-67.
- Kigula, John (1993). "Land Disputes in Uganda: An Overview of the Types of Land Disputes and the Dispute Settlement Fora", in *Access to Land and Other Natural Resources in Uganda: Research and Policy Development Project*, Research Paper 3 by Makerere Institute of Social Science and the Land Tenure Centre.
- Koeniga, M.A. et al. (2004). "Coercive sex in rural Uganda: Prevalence and associated risk factors", in *Social Science & Medicine* 58: 787-798.
- LANDac (2012). *Uganda: Food Security and Land Governance Factsheet*. (pdf). Available from: <[http://www.landgovernance.org/system/files/Uganda Factsheet - 2012.pdf](http://www.landgovernance.org/system/files/Uganda_Factsheet_-_2012.pdf)>. [Accessed 5 august 2012].

- Land Sector Strategic Plan (2001-2011). *Utilizing Uganda's Land Resources for Sustainable Development*, 1-96.
- Lastarria-Cornhiel, Susana (2003). "Uganda Country Brief: Property Rights and Land Markets", by Land Tenure Center, University of Wisconsin-Madison and USAID: 1-27.
- Leeuwen, M. van (2012). "Tenure Insecurity and Land Disputes affecting members of Mbarara District Farmers' Association".
- Leliveld, A. (2008). "The social-security function of land in Mbarara District, Uganda", in Rutten, M., Leliveld, A., Foeken, D. (2008). *Inside poverty and development in Africa. Critical reflections on pro-poor policies*, Brill Academic Publishers. Leiden.
- Maxwell, Daniel & Keith Wiebe (1999). "Land Tenure and Food Security: Exploring Dynamic Linkages", in *Development and Change* 30: 825-849.
- Mbarara Town* [online]. (2012). Available from: <<http://www.mbarara-town.com/>>. [Accessed 1 may 2012].
- Mugambwa, John T. (2006). *Source Book of Uganda's Land Law*. Fountain Series in Law and Business Studies by Fountain Publishers Ltd.
- Mwebaza, R. (1999). "How to integrate statutory and customary tenure? The Uganda case", in *International Inst. for Environment and Development*, London.
- Nzita, Richard (1995). *Peoples and Cultures of Uganda*. Second edition by Fountain Publishers Ltd.
- Okema, James Esau (no date). "Cultural Understanding of Customary Tenure in Northern Uganda and what the Traditional Institution has done to protect Land Ownership", by Arch. James Esau Okema (RIP) Minister of Land, Natural Resources and Physical Planning Ker Kwaro Acholi.
- Spangler, B. and Burgess, H. (2012). *The difference between conflicts and disputes* [online]. Available from: <<http://www.beyondintractability.org/bi-essay/conflicts-disputes>>. [Accessed 28 september 2012].
- Peters, P. (2004). "Inequality and Social Conflict over Land in Africa", in *Journal of Agrarian Change* (4) 3: 269-314.
- Ribot, C.J. & N. L. Peluso (2003). "A Theory of Access", in *Rural Sociology* 68 (2): 153-181.
- Rugadya, Margaret, Esther Obaikol & Herbert Kamusiime (2004). "Gender and the Land Reform Process in Uganda. Assessing Gains and Losses for Women in Uganda", in *Associates for Development*: 1-21.
- Tamanaha, Brian (2008). "Understanding Legal Pluralism: Past to Present, Local to Global", in *Sydney Law Review*: 375-411.
- The Cross-Cultural Foundation of Uganda (2010). *Culture in Governance. Does it work? Four Ugandan Experiences*.

The Uganda National Land Policy (2011). Ministry of Lands, Housing and Urban Development, Kampala.

The World Factbook [online]. (2012). Available from:
<<https://www.cia.gov/library/publications/the-world-factbook/>>. [Accessed 3 november 2012].

Turner, M.D. (2004). "Political ecology and the moral dimensions of "resource conflicts": the case of farmer-herder conflicts in the Sahel", in *Political Geography* 23:863-889.

USAID & UNHABITAT (2007). *A Guide to Property Law in Uganda*.

Watt, David, Rachel Flanary & Robin Theobald (1999). "Democratisation or the democratisation of corruption? The case of Uganda", in *Commonwealth & Comparative Politics* 37 (3): 37-64.

World Health Organization Gender [online]. (2012). Available from:
<<http://www.who.int/topics/gender/en/>>. [Accessed 3 november 2012].

Zevenbergen, J., Thea Hilhorst & Eddie Nsamba-Gayiiya (2012). "Increasing Tenure Security in Northern Uganda – How to use external support for strengthening bottom up approaches", in *Annual World Bank Conference on Land and Poverty* by the World Bank, Washington DC.

Appendices

Appendix I – Interview questions

This interview was developed for our three-day field visit to Nyaruhandagazi on the 1st till 3rd of June.

In-depth Interview: Nyaruhandagazi

- Good morning / afternoon
- Two student researchers from the Netherlands
- Land disputes within families in Mbarara district
- Interested in your opinion and your perspectives
- Your permission to record the interview
- Interpreter
- Information is used anonymously

1. What is your name?

2. What is your sex?

3. What is your age?

4. What is your marital status?

5. Where do you live? (observation of the house)

6. What is the household size? What is the household composition?

7. What are your daily activities?

8. Do you own land? (Or have access to land?)

If yes, 8.1 What is the measurement of your land?

8.2 Comparing to other farms in Nyaruhandagazi, do you have a small, average or big farm?

8.3 How do you use your land? (cultivate the land)

8.3.1 If they cultivate the land, what crops do they cultivate?

8.3.2 Why these specific crops?

8.3.3 Do you cultivate the land? (With who?)

8.3.4 Do you have a specific task or responsibility?

8.3.5 What is done with the harvest?

8.3.6 If you have the opportunity, would you cultivate another crop, or enjoy other farming practices?

If yes, What are the challenges not to do so?

8.3.7 Food security?

8.4 Do you feel secure about your property/land?

8.4.1 Do you have a land title?

9. Do you know Mbadifa?

If yes, 9.1 Are you a member of Mbadifa? Explain why or why not.

9.2 In what way does Mbadifa help you?

9.3 What could Mbadifa do to help you?

10. What do you know about the latest update on Ugandan land policies?

- 10.1 From your point of view, which land laws are important?
- 10.2 At this moment are you paying attention to a specific land law?
- 10.3 Did you ever made use of the Ugandan land policies?
- If yes,** 10.3.1 In what way did you make use of these policies?
- 10.3.2 How did it affect the outcome?

Pause: these were the basic questions. Now, we would like to focus on a more sensitive topic. If the questions are difficult to answer please keep in mind that there are no wrong or right answers. It is about your perceptions and opinion.

- 11. What are some characteristics of a land dispute within a family?
- 12. Can you mention causes to have a land dispute within a family?
- 13. Do you know about land disputes within families that occur(ed) in Nyaruhandagazi?
 - If yes,** 13.1 In what way does it affect the parish Nyaruhandagazi?
 - 13.2 Are/were you affected by this dispute?
- 14. Have you ever experienced a land dispute within your family?
 - If yes,** 14.1 Can you explain what the dispute is/was about? (beginning/end/actors).
 - 14.2 How did this dispute affect your livelihood? Explain. (productivity/relationships)
 - 14.3 What is/was your personal role in this dispute within the family? Explain.
 - 14.4 What role play(ed) your relatives in this dispute?

Repeat the main findings.

- 15. Is this dispute being resolved?
 - If yes,** 15.1 How is the dispute within the family being resolved?
 - 15.2 Who were the main actors? What was their role towards resolution?
 - 15.3 What resources were needed to resolve the dispute?
 - 15.4 What was your role in resolving this dispute?
 - 15.5 What were the decisions taken?
 - 15.6 Who decided on the final outcome?
 - 15.7 How is the family coping with the outcome? (what changes did occur?)
 - 15.8 What is your feeling about the resolution?
 - 15.9 According to you, where there other ways to solve this dispute? Explain.
 - If yes,** 15.9.1 What kind of resolutions? (used / not used) why?
 - 15.9.2 If it was up to you, would you like to change the outcome? (explain)
- 16. **If no,** 16.1 How come this dispute within the family is not yet resolved?
- 16.2 Who are the main actors? What is their role?
- 16.3 What is your role in resolving this dispute?
- 16.4 What are the decisions that need to be taken at the moment?
- 16.5 How does this dispute affect the family? And how do they cope with it?
- 16.6 In your opinion, what would be a solution?
- 16.7 What are the challenges and constraint to meet this solution?
- 16.8 How would this outcome affect your livelihood? (and the family)

We would like to thank you for your time and your willingness to share your story with us!

Appendix II – Youth questionnaire

Question	Answer	Comments
Date / Location:	.... / .... / 2012 Time: Location:	
1. Name: (Anonymous is an option)	.....
2. Sex:	<input type="checkbox"/> Male <input type="checkbox"/> Female	
3. Age:		
4. Marital status:	<input type="checkbox"/> Single <input type="checkbox"/> Relationship <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Widow	
5. What is your household composition? (grandparents, parents, brothers, sisters, other family members)	..... grandparent(s) parent(s) brother(s) sister(s) husband / wife children of your own	
6. Current Address: Village Parish Sub-county County Home Address: Village Parish Sub-county County	..... ..... ..... ..... ..... ..... ..... .....
7. Level of most recent education:	<input type="checkbox"/> No schooling <input type="checkbox"/> Primary school <input type="checkbox"/> Post- primary education Specify,..... <input type="checkbox"/> Secondary School <input type="checkbox"/> Post- secondary education Specify,..... <input type="checkbox"/> University Specialization/course.....	
8. Occupation / daily activities:	..... .....

9. Do you have your own land:	<input type="checkbox"/> Yes, continue with question 9.1 <input type="checkbox"/> No, continue with question 10
9.1 What is the measurement of your land?	..... Hectares
9.2 How did you get this land?	..... .....
9.3 What do you use the land for?	..... ..... .....
9.4 Who decides to use the land this way?	<input type="checkbox"/> Me <input type="checkbox"/> My family, which family member(s)? <input type="checkbox"/> Others, specify.....
9.5 Can you make your own decisions on how to use your land? (for example selling)	<input type="checkbox"/> Yes, because.....
9.6 Are you secure about your land?	<input type="checkbox"/> No, because.....
10. Do you know MBADIFA? (Mbarara District Famers Association)	<input type="checkbox"/> Yes, continue with question 10.1 <input type="checkbox"/> No, continue with question 11
10.1 Are you a member of MBADIFA?	<input type="checkbox"/> Yes, because..... <input type="checkbox"/> No, because.....

<p>10.2 In what way does MBADIFA help its members?</p>	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>11. Are you aware of Ugandan land policies?</p>	<p><input type="checkbox"/> Yes, explain what you think is important about Ugandan land policies:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p><input type="checkbox"/> No, because.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>12. Can you mention characteristics of land disputes within families?</p>	<p>▪</p> <p>▪</p> <p>▪</p>
<p>13. Why do land disputes within families occur?</p>	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>14. Have you experienced a land dispute within your family?</p>	<p><input type="checkbox"/> Yes, continue with question 14.1</p> <p><input type="checkbox"/> No, continue with question 17</p>
<p>14.1 Can you explain what the dispute was about?</p> <p>14.2 Who were involved in this dispute? (please specify brothers, sisters, father, mother, other family members, neighbours, friends, local council etcetera)</p> <p>14.3 What was your role in this dispute?</p> <p>14.4 In what way did this dispute affect your life?</p>	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

.....	
15. Is this dispute within the family resolved?	<input type="checkbox"/> Yes, continue with question 15.1 <input type="checkbox"/> No, continue with question 16
15.1 How is this dispute within the family resolved? (please specify, who has been involved during the resolution)	..... ..... ..... ..... .....
15.2 What was your personal role in resolving this dispute?	..... ..... ..... .....
15.3 What is the main outcome of the resolution?	..... ..... ..... .....
15.4 In what way does this outcome affect your life?	..... ..... ..... .....
15.5 How is the relationship between your family members now the dispute is been resolved?	..... ..... ..... .....
16. Why is this dispute within your family not resolved? (challenges / constraints)	..... ..... ..... .....
16.1 According to you, what would be a resolution for this dispute within your family?	..... ..... ..... .....
16.2 How is the relationship between your family members affected by this dispute?	..... ..... .....

16.3 What can you do to resolve this dispute?	.....
17. Can you describe how your life will look like in five years?	.....
(where will you live, what will you do, what are your dreams?)	.....

17.1 What will be your main challenge to achieve this goal?	.....

Thank you for your time and effort! Mwebare munonga!

Eva & Imke
 Students from The Netherlands
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