

**EXAMINING WOMEN'S ENGAGEMENT WITH LAND STRUCTURES
AT LOCAL GOVERNMENT LEVEL: A CASE OF MUKONO
DISTRICT**

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LIST OF ABBREVIATIONS

LG-	Local Government
LM&A-	Land Management and Administration
ALC(s)-	Area Land Committees
LC-	Local Council
RDC-	Resident District Commissioner
ICRW-	International Center for Research on Women
FAO-	Food and Agriculture Organization
HSRC-	Human Sciences Research Council
LSSP-	Land Sector Strategic Plan

Abstract

This study set out to investigate how women are making contact with land structures at local government and the implications on women's land rights there in. Taking the case of Land Act 1998, the government of Uganda extended land rights transfer services at local level to enable individuals participate in decisions concerning their land. In addition the government institutionalized women's involvement in the processes and procedures of land structures at local level. Taking the cross section exploratory study design, the study used qualitative methods like focused group discussions, in depth interviews and observations during land structure operations to collect data.

This paper analyses the processes and procedures through which women have engaged with land structures at local government, the meaning attached to the forms of engagement in the process of transferring rights in land and how this influences outcomes. Guided by the socialist feminist thinking about politics of engagement (difference), the paper analyzes the potential of women's forms of engagement in influencing outcomes in regard to women's needs or preferences in land. The paper also shows how women's construction of self and other drives engagement in the land rights transfer processes and outcomes.

INTRODUCTION

Marginalization of women in land has become the preoccupation of many women/feminists in the South today. This is evidenced by the mushrooming of women organizations to deal with women and land issues, the scholarly writings in land and women's activism in state related land reform processes. Land is a significant resource in most agrarian countries like Uganda; Land supports agriculture, a key economic activity for exports and subsistence production. According to Asimwe (2005), agriculture accounts for 68% of Uganda's Gross Domestic Products. Land not only supports agriculture but it is also significant for housing, transport, minerals, industrialization to mention but a few. Given the significance of land in Uganda and Africa as a whole, land in Africa determines one's social status and power (Nyamu-Musembi, 2007). Land rights confer direct economic benefits as a key input into agricultural production, and as a source of income from rental or sale, as collateral for credit (World Bank, June 2005).

Despite the importance of land to humanity (women), women remain extremely marginalized in this resource. The women movement in Uganda in conjunction with the Uganda Land Alliance, mounted a campaign to expose women's marginalization in land, and ensure that the land reform process improve women's status in land (Kawamara –Mishambi and Ovinji-Odida, 2003). The efforts of this campaign have been heralded for the later institutionalization of women's participation in land structures at Local Government as per Section 48(3), 60(b) and 66(2) of the Land Act 1998. Institutionalization of women's involvement at local government level land structures is a development that is thought to reduce the gender inequality in land (Nyamu-Musembi, 2007). According to the Uganda

Land Act 1998, sections 48(3), 60(b) and 66(2), women should form 1/3 of land structures; district land boards, Area land committees, land management associations, Local council court III and Local Council Court II. These structures are part of a framework charged with land Administration and management in a localized space.

Inclusion and participation of everyone in social and political institutions requires the articulation of special rights that attend to group differences in order to undermine oppression. Borrowing Goetz's (2003) perspective of analyzing women's political effectiveness, engagement was evaluated from the capacity of women to engage land processes and influence outcomes in favor of women's needs.

Justification of the Study

A number of studies have interrogated women's involvement in public office (political space) little is known on the prospects of women's involvement in property and social rights at local level in Uganda.

Women are part of the land structures that influence control, access and ownership of the land in Uganda. They form 1/3 of district land boards, land committees, Local Council Court III and Local Court II courts that are concerned with settling land matters. In addition women make contacts with land structures as clients. What are the prospects for women's land rights now that women have involved in the procedures of Land Management Administration at local level. In what ways do women involve in the processes and procedures of Land

Management Administration and what does this imply for women's claims on land/ land rights?

Women's presence and involvement in Local Government processes at local level, has been noted to influence and neutralize male hegemony in political arena; redefining public space at local level thereby fostering new identities" (Ahikire, 2007, 108; Tamale, 1999). What is changing in women and land relations now that women are part of land structures?

1.2 Objectives of the Study

1.2.1 General Objectives

To examine women's engagement with decentralized land administration structures and implications on women's land rights there in.

1.2.2 Specific Objectives

1. To analyze the gender implications of procedures of the land structures at local level
2. To analyze the roles women play in land structures at local level and their implications on their performance in land structures.
3. To assess people's views on women's involvement in land structures at the local government level.

1.3 Scope of the Study

The study limited interrogation of the concept of engagement to the forms and ways through which women get into contact with the processes of land management and administration at local level in Mukono district. Land rights were understood as liberties to use access and control land, as sanctioned by the different land policies in Uganda.

The study was conducted in Mukono district. Mukono district was purposely selected. Mukono district is among the districts which have pioneered the formation of land structures

at local level. In the implementation study of Land Act 1998 (1999), by Government of Uganda, Mukono was among the districts that had created land board. It is now 10 years

1.4 Definition of Key concepts

Land rights

Rights in land are rights to own, control, make decisions on land and use land to mortgage, lease out, sell or bequeath land (Agarwal, 1994). Accordingly women's land rights are not exceptional from rights in land accorded to men in a specific locality and in this case Uganda.

Engagement

In this study the concept of engagement was understood as ways through which women are coming in contact with land structures.

Agency

The study understood agency as power, motivation and purpose individuals bring to their sense of activity across time and space (Kabeer, 1999:438). Agency that informs entitlements in land is important in informing attempts to re-direct engagements (Mukhopadhyay, 2007).

2.0 LITERATURE REVIEW

The section discusses debates on feminist concerns in women's economic situations; women and property (land). Feminist economists note that control of means of production is important to mobilize economic and political power. In most of the agricultural and rural areas, where land furnishes the means of production, men retain such control by exclusion of women from inheritance. Accordingly women's movement has made gains, as may be seen in their respective gender policies, across the globe, but gender equality in property, ownership and control remains one of the biggest challenges for women's movement (Mukhopdhyay, 1998).

A number of assumptions are mainly built on the gender relations in our society that continue to influence most of development policies in most countries. This has played a big role in perpetuating women's economic insecurity especially in productive resources like land. For instance, it is noted that most of the economic and development theory have made development policies on the ground that the household is an institution whose members share resources equitably irrespective of gender. In this frame work it is assumed that household members use scarce resources jointly and make joint decisions to allocate resources equitably in order to maximize family welfare goals. However, according to research done, this scenario is hardly in existence in most societies. Women unlike men are in subordinate positions and this makes them passive participants. Women, men and children have different preferences in their livelihoods. Despite the above, women's economic needs are constantly subsumed with those of men and

family (Mukhopadhyay, 2001). According to Elson (1995), while economic rights are equally important, the real worth of economic rights depends on ongoing processes of decision-making through which rights are used, contested and adjudicated.

To most a feminist, women and land especially in agrarian countries are inseparable (Nyamu-Musembi, 2007, Agarwal 1994 and 1995). The welfare claim proposes that women are the most responsible for the well being of children and family at large, especially in the rural households. Thus women's rights in land are important to enable them guard against economic vulnerability (Agarwal, 1995 and Agarwal, 1994, Mukhopadhyay, 2001; Nyamui-Musembi, 2007).

The efficiency argument focuses on the value women derive from titling land. When women get titles in land they get infrastructural support which could increase output by increasing their access to credit and to technology and information on productivity, thus increasing agricultural practices and inputs (Agarwal, 1995). In the study among women entrepreneurs in Kampala-Uganda, Synder (2000) observed that women who had access, control and thus full use of land, had capacity to access bank loans. She however notes that daughters had limited access to land and neither are their mothers willing to pass on land to daughters. Accordingly limited rights in land hinder women's economic power.

The empowerment perspective, access to land by women, will enable them to stand against instances of subordination. Land accessibility enables women the capacity to change their lives. This is more to do with the women's capacity to challenge the norm (male dominance), within the home and in society.

Empowerment in this case imply a process that enhances the ability of disadvantaged (powerless), individuals or groups to challenge and change (in their favor), existing power relationships that place them in subordinate economic, social and political positions (Agarwal,1995,276).

In the Equality paradigm, women and men ought to have equal access to all resources like land. Gender inequalities in important resources such as land are markers of gender oppression. That is, 'inequality in land distribution is a signifier of entrenched gender inequalities' (Nyamu-Musembi, 2007:180).

Noted however, are problems like poor representation or no representation at all in land structures, limited state commitment to helping women access and make valuable developments on land, bureaucratic procedures in land administration and management, embedded inequities in customary practices on land and state-initiated programs on land like titling of land are some of gender-based injustices in literature in regard to land.

In cases where favorable laws or policies have been conceded, it has been noted that, there is little research on how institutions (both formal and informal) are implementing them and with what results for women. Citing examples, in different countries, that have conceded acts that enhance gender equality in land (Nyamu-Musembi, 181), notes gaps in implementing the laws and policies. For instance, in Kenya transactions such as sale and sub-division of agriculture land, by district-based Land Boards routinely require a formal hearing to establish that family members whose interests are to be affected have consented to the transaction. But a brief

observation of such practices by the board, noted that while enquiries of wives or sons were made, no mention was made of daughters' interests.

Of concern to feminists are gender ideologies that inform laws, policies, written and unwritten in relation to women and land in most societies, thereby causing women's vulnerability. These gender ideologies perpetuate the gender gaps in land and economic well being. For instance, Agarwal (1995) problematizes the usual classification of women's positions via the male counterparts (brothers, husband and father). She notes that definition of women via male class is unpredictable. A well placed class may raise it, but divorce and widowhood can lower it. So women though in a class of propertied men, their property status is uncertain. Thus assumptions that women's class will define her property status are false.

Limited analyses, obscure women's earlier on claim in land but also their experiences in the changing land relations. Taking the case of Tanzania's land reform, which has been somehow decentralized but with administrative powers of land left at government level, Yngstrom(2002) notes that despite the efforts made to litigate women's stake in land, a lot of women's issues in land were not considered. This is espoused by the male concentration in the village councils plus the formalization of the informal institutions governing land relations of which still reinforce women's marginalization in land (Ibid, 2002).

Also important is the loose perspective within which most development has viewed the rhetoric of women and access rights to property. According to Elson (1995), the kind of access rights that are normally mediated via male relatives and normally subject to good will, render women vulnerable, than would be the case for if women had independent property rights in land. To

Agarwal (1995), women need independent rights; rights not subject to any male control. However they must be put in practice and therefore become effective rights.

2.7 Agency: Guiding Methodology on Women's Engagement in Land structures.

Butler notes that agency cannot be analyzed from recourse to I or on individual's identity that preexists signification. In other words agency can only be located or be determined from consideration of structure of meaning of the individual (I). She notes that there is no agency that preexist the I.

The Enabling condition for an assertion of "I" is provided by the structure of signification, the rules that regulate the legitimate and illegitimate invocation of I (Butler 1990: 143).

It's on that ground that Butler credits the feminists' theorization on identity which expands to color, sexuality, ethnicity, class, gender, invariably closing with embraced "etc" at the end of the list.

Agency is highlighted as an entry point to inquiring about women's capacity to negotiate space for their entitlements. Mukhopadhy (2009) therefore advises research seeking to direct engagements of claimants to do so from the point of view of the agent. Sen (1990) notes that one's agency in most cases, is surpassed by social rules and conventional perceptions of legitimacy. He notes that these conceptions often act as barriers to seeking a more equitable deal, and sometimes lead to lack of recognizing equity in the ruling arrangement.

In relation to the above literature review, there is wide consent of women's persistent inequalities in land/ property relations in Africa amidst the several commitments to observe women's economic rights. This is a glaring manifestation of gender inequality in Uganda and

Africa at large. Efforts have been made to ensure gender justice in land. There are however new but also persistent forms of exclusion and domination in land. For instance women's rights in land are seen to be at risk when infected by HIV/AIDS.

However, debates show that the women's movement has put much hope in women's involvement in spaces that are important in making decisions say in land. According to literature, women will only benefit from their engagement (involvement) in structures/spaces availed to them only if they influence outcomes. But how is this true for women's rights in land, now that women are free to take part in land structures at local level?

3.0 RESEARCH METHODOLOGY

Using a cross section study design, the researcher employed mainly qualitative means of data collection to track women's involvement in these structures so far.

3.1 Study Area

The research was carried out in Mukono district. Mukono is located in the central region of Uganda, East of Kampala the capital city. Mukono district was purposively selected for this study. Most important the district has all the land structures in most of its local government structures. The district also is known for violent and sometimes criminal cases in land in Uganda. In addition the district is near the capital city, so it experiences high land demand from both local and foreign investors. Therefore, in such a situation one wonders how women are negotiating their land rights, given their already marginalized land rights.

3.2 Study Population

The study population was composed of adult men and women who work or have engaged with the decentralized land structures, in one way or another, in the Sub Counties of Kyampisi and Nakisunga- Mukono district, women clients to the decentralized land structures and the community.

3.4 Sample Selection

Kyampisi and Nakisunga Sub-counties were purposively selected. Both Sub Counties have the respective decentralized land structures; local court II and III and Area Land Committee. Employing a purposive sampling mechanism, respondents included all members of the Area Land committees in all Sub Counties, Clients (especially women) and leaders in the different lower local council offices. Clients were reached at by use of land case files acquired from

the Chairpersons of local council courts. The land board-land office-Mukono district was also purposively selected since it is meant to be the only decentralized land structure at the level of the district.

3.5.0 Data Collection

The major means of data collection were un-structured in-depth interviews for women clients, case studies, focus group discussions for Area Land committee and local council courts and land board-land office, observation and documentary review.

3.6 Data Analysis

Then themes were derived given objectives of the study. The analysis and presentation of findings was done manually using quotations, field notes, field observations and literature review.

3.7 Limitations of the study

The scattered and disjointed recordings of land structures, limited the researcher's ability to cross tabulate results from the findings. Land structures at local level have no clear chain of operation and consequently un-coordinated processes and procedures of negotiating land rights and so are the records.

4.0 DISCUSSION OF FINDINGS

4.1 Introduction

The findings in this research are presented according to the themes which have been derived from the objectives. The study set out to examine how women are making contact with land structures at Local Government as per the Land Act 1998 and the implications this has on women's land rights. The Land Act 1998 lays out a framework of structures through which

citizens are to be helped in warranting and transferring their rights on land in respect of the different stakeholders on land in Uganda. Thus is the District Land Board as the highest Localized land structure at district level, followed by Area Land Committees and the local courts (local court II and III).

4.2 Out lay of Land Structures and Roles at Local Government Level.

In its land Act 1998, the government of Uganda decentralized land services that is, Land management and Administration. These include District Land Board and land office, land committees and land tribunals. In the Land Act (1998), land tribunals were assigned the role of settling land disputes at local level. Following delays in passing of rules to guide operations of land tribunals and delays in funding of land tribunals, in 2000, a land Amendment Bill was gazetted which reinstated the mandate of magistrate’s courts and local council courts in handling land disputes at local level. Land disputes were hence restricted to local council II and III.

Table 1: Roles per Decentralized Land Structure in Uganda

Structure	Roles
The District Land Board	Management of land; disposal transfer and transfer of land not owned by any authority facilitate registration and transfer of unoccupied and formally public land.
Area Land Committee	systematic demarcation programme to assist land boards in demarcation, inspection and recording the issuance of certificates and charged with advisory capacity on matters relating to Uganda
Local Council Courts	Mediate land disputes at the local level
Magistrate’s Court	Settle land dispute at all local Level
Customary clans	To mediate land disputes on customary land

Source: Land strategic sector plan (LSSP), 2001-2011

In Mukono District land structures on the ground include; as per the Land Act 1998; Land Board and land office, Area Land committees (ALC), local courts (LC) III and II. According to the Land Act 1998, the land board is a structure in charge of management; disposal and transfer of land not owned by any authority. The DLB facilitates registration and transfer of unoccupied and formally public land. In Mukono district the land board (land office) facilitates registration of land rights, transfer of land rights through rendering services such as demarcation of land by titling and putting caveats on land.

The Area Land Committee is an extended arm of the land board at the local level. The land structure is charged with the systematic demarcation programme to assist land boards in demarcation, inspection and recording the issuance of certificates (LSSP, 2001-2011). In Mukono; Kyampisi and Nakisunga Sub-Cunties, Area Land Committees are of limited relevance to the community. For instance in Kyampisi Sub County the Area Land Committee had not yet been instituted into service. In Nakisunga Sub County, the Area Land Committee though in place, it also served as the Local council court III. And observations made at Nakisunga Sub-county reveal that the committee- two in one (Area Land committee and at the same time LC III court) spends more time on adjudicating land disputes than facilitating demarcation of land. And according to the land officer in the land office Mukono district, it was noted that Area land committees within areas devoid of public or free land are almost with no work.

On settling disputes at the local level, the land Act 1998 had earlier on instituted land tribunals to adjudicate over land disputes at the local level. However following delays in

passing of rules to guide operations of land tribunals and delays in funding of land tribunals, in 2000, a land Amendment Bill was gazetted which reinstated the mandate of magistrate's courts and local council courts in handling land disputes at local level local courts II and III (The Uganda Land Alliance , 2000).

It is important to note that local council I court though not mandated to settle land disputes; the court has a vital role in mediating land cases at local level. The court is the first point of contact to the locals in the process of involving and negotiating land rights. The proximity and the fluency the court possesses on land issues of its locals has made it become an inevitable stop centre of its local people.

In addition, Local Council Court I also act as serious points of reference to all offices that are in one way or another involved in land cases at the local level; Local Court III, Resident District Commissioner(RDC), Gombolola Intelligence Security Officer(GISO) and police. Local Council Court I Chairpersons offer primary knowledge on land cases claimed or sought to be protected by the respective offices.

In Mukono; Kyampisi and Nakisunga sub-county local council courts II, III, clan leaders and magistrate's court which resolves land disputes. Findings reveal that whereas the Land Act 1998 limits area of adjudication to the above structures, the exercise (adjudication) is assumed by many other branches of government offices. These include Resident District Commissioner's (RDC) office, police and Local council court I. Thus whereas land dispute

resolution is one of the indispensable service at the local level it is the uncoordinated service within the land structures.

4.2.1 The District land board and land office

The District Land board(DLB) as earlier on spelt out is the controlling authority of government on issues of land in the localized space, but works with the land office, a technical and implementing arm of the land board (Uganda Land Alliance, 2001). In the Land Act 1998, are minimum procedures of service of District land board as drawn out below;

Section 62 of the land Act 1998

- (1)The chairperson shall preside at all meetings of the board and shall in addition to his deliberative vote, have a casting vote
- (2) Where the chairperson is absent from meeting of the board, the members present shall elect one of their number to preside; and the member so elected shall have the powers and perform the functions of the chairperson and shall have a casting vote.
- (3) Aboard shall meet for the discharge of its functions under this Act as at least once in every two months at such place and time and as the chairperson shall appoint
- (4) The quorum at any meeting of a board shall be three.
- (5) Any decision of a board shall be arrived at by consensus and, in case of a contentious issue, by a majority vote. Subject to this, a board may regulate its own procedure.

Source: The Uganda Land Act 1998.

The procedures above exclude procedures of service of the land office (implementing and technical arm at the local level), of which services are equally important to women and society at large. Observations made at the land office, revealed that the services in the land office are the most sought and therefore the most relevant to the local people. Technical services offered at this level include; removing of caveat from land, putting caveat on land, inquiring about the existence of certain land title, register and transfer of interests in land. According to one woman employee in the land office, caveat on land are sometimes requested married women, to halt selling of land in case of rumor that the husband was proposing to sell off the land she is living on with her children.

Observing women at land office, many lacked information on how to engage with land office for a service. Majority women remained reserved and sat in one position for over a period of

time (2-3 hours), trying to study the way people are going about land issues. Others hanged on waiting for feedback from their male colleagues who they had come with to help them have their land interests registered. Whereas men were equally not well equipped with processes of having their land queries served, they were seen freely interacting with each other no matter the class. Men complemented each other in the process of registering interests in land. For instance, the male property brokers and male legal officers were noted interacting with men in the land office (staff). With such a social network, men hardly expressed stress during the process of registering their interests in land while women would be seen looking weary and tired given the suspicion that surrounded the hopes of being served.

Women have made contact with the processes of negotiating land rights at local level, but as noted, in this study, the number of women involved in this process is smaller. According to the registrar of titles Mukono district, women are not informed and this explains why they are slow in responding to land registration. To the registrar the few that register land are mainly urban based and educated. On estimate she noted that out of the 800 transactions carried out in a week, a quarter of these are for women. She also attributes this limited turn up to the fact that culture gives men first priority in land compared to women. She however declined to give disaggregated data since the office does not have this arrangement.

4.3 Positioning Women in Localized Land Structures

In undertaking to investigate women's engagement with land structures, the roles of women as clients, but also as executors of services in the land structures were noted important if one

had to analyze the forms of engagement at the local level. This analysis is however limited to lower local land structures at sub-county and village level and not at district level. According to research findings, women are more in contact with lower local council courts though this was more coincidental. In addition, women's roles were at least traceable using records of the local courts and observable during procedures of work, than compared to land board and land office activities, whose procedure of operation is closed and record if any are hardly accessible.

4.3.1 Women as Representatives on Local Council Courts

Women representatives in the local council courts fulfill the provision in the Land Act 1998, which requires that at least one of the members on the local court committee should be a woman. As observed especially in the local council III court session in either sub-county, women member on these committees, attend land case sessions conducted by the courts. But important to question, is what roles are women representatives seen to play in the court?

According to the research findings, women are not only few on Local Council Courts, but they are seen hardly actively involved in the proceedings of the court. Observed in the court proceedings, women just make up a quorum of the court and act as listeners in the sessions. Women do not pose any question to the clients during the interrogation process of mediating land cases. In Kyampisi Sub County, Local Council Court III, are two females among three men while in Nakisunga Sub County, is one woman among four male members. In Kyampisi, though all were present none of the women posed a question to the clients during court proceedings. In Nakisunga Sub County, the Area Land Committee is also the Local Council Court III. In this court woman representative came in when committee members

were struggling to come up with a final judgment on land case proceeding that had taken place that day.

Women instead reflected trust in the men in the local council court with handling women clients. One woman member on LC III Court on land had this to note:

‘I have trust in these men in the court. They know what they are doing, so I am not so much stressed by my absence. They know how to handle women,’ (March, 2010, Nakisunga Sub-county).

In an interview with the male members on the local court, they observed that they were aware of women vulnerabilities so they handle them with care when mediating their land matters. However, women representatives’ conviction that men are aware of women’s problems is likely to subsume the feminist political agenda¹.

Findings also revealed that women representatives on Local Council Courts are generally not gender aware. In attempt to find out whether their presence on the Local Courts encouraged what Young (1990:81) has referred to as collective empowerment, A question; how do you understand your role on this committee was posed to the woman representative on the LC II Court Kabembe Parish and it led to this answer;

‘I work hand in hand with my colleagues. We go to the site in case the land dispute was not clear in the court and we also attend meetings regularly depending on how urgent the land dispute is. Land issues can lead to death when delayed,’ (July, 2010, Kabembe Sub Parish).

Women representatives show limited awareness on why the quota system in localized governance. Women quotas in state structures has been on the ground that women like are

¹Re-conceptualize politics that is, make private public and therefore reconstruct traditional politics to be accountable to reproductive responsibilities: motherhood and care. But also *ensure a new proportionality between sexes in the arenas within which political decisions are made,*” (Phillips,1991:3)

men, are agents of change, have specific interests that need to be reflected in all government operations and that women like men are human beings who need not be undermined in any state operations. But most women who have come into state operations through these quotas are hardly informed of the above reasons, and thus their presence is normally interpreted as agents of state operations than women agents (Goetz, 2003).

However, women's presence in land structures cannot be completely demeaned. In an interview with one woman representative, her revelations denote that women presence in land structures is a light of hope in these structures. She noted that women were delighted when they came to learn that in the Area Land Committee and local council court were fellow women. She added that women come to her for advice in case of a problem.

'Women have a problem especially when it comes to dividing land among their children. So in such cases I come in and guide them on how to go about it. However, majority do not know me. For instance the people in the committee today were surprised to see me in the hearing today, moreover we are neighbors. I think that is why they did not come to me,' says one woman member on the Area Land Committee (ALC),' (March, 2010, Nakisunga Sub-County)

To the women clients, women representative's low participation is largely accredited to malfunctioning of land structure operation system at the local level. According to women clients, women representatives would be in position to do something, only that they are not facilitated and not empowered. As was noted by one female respondent, "we for instance have 61 villages how can one woman help out all these",

However, women representatives' motivation to engage land rights negotiation processes at local level, appear bound to gender relations that govern property relations in the setting of operation. This partly explains the limited eagerness to handle and act on behalf of women.

For instance, finding out from one woman representative(member) on local council III court(Area Land committee in case of Nakisunga), what she had to say about the problem of lack of documentary evidence on land by women; a serious obstacle to women in the process of negotiating their land rights, she had this to say;

‘Women do not deserve documented evidence on land because men produce children with other women. And even if I were the one I would not be happy when women are given land titles, women would exclude children that do not belong to them,’ (March, 2010, Nakisunga Sub-county).

From the above assertion women have internalized gendered nature of land relations; unequal gender relations. As has been noted by Sen (1990), social rules and conceptions of legitimacy can act as barriers to seeking a more equitable deal and sometimes can lead to lack of recognizing equity in the ruling arrangement. To the woman representative women automatically compromise their rights on land once in the status of a mother or wife in a given clan lineage and unless via children, women can hardly ascertain any rights in land. Women need sensitization on their independent and effective rights in land.

4.3.2 Women as complainants; Women in this class come to the committee in search of protection of their rights on land normally of their deceased husbands. Majority women in this category are widows and they form the majority of the women clientele at this level. They are characterized with illiteracy, low income status and aged. As complainants they attend hearings in the committee to negotiate their land rights. In an observation made in the local court sessions on land, women are required to provide evidence; verbal and documented to help the committee perform their mediation exercise on land.

Given the characteristics above women who involve in the activities of the local courts are fragile given their weak position in society. Results from field experience show that they would hardly negotiate their land rights without the help of others of which were mainly male. Talking to some, they noted that support was normally given by sons in law and biological sons and male patterns. As noted by Nakku (not her real name); 80 years old.

‘My grandson sold off a quarter of my acre, without my knowledge. Had it not been my son in law I would be in problems now. I preferred selling off my land given that am aged. When I found a buyer, we negotiated price and I was paid money for my one acre. In the process of titling his land (buyer) he discovers that land was a quarter less an acre. He was forced to attack me for having sold him less his money. I tried to convince gentleman that I had sold him one acre, but hardly could he understand me. When my son in law learnt of this he brought the title of the one acre to confirm to the man the truth of the matter. The man (buyer) just had sympathy on me and did not tell me to refund his money. After all, I would not have managed. There on they had to go into the process of saving a quarter an acre, and add it on the man’s (buyer) land. Otherwise I was finished, with this age I could not have saved myself,’ (September, 2009, Kyampisi Sub-county,).

Coming from the observations made in either sub-county, evidence (verbal or documented), was a key rule of procedure in the process of negotiating land rights. Unfortunately this was a serious challenge to women involving in the processes of negotiating land rights. Verbal evidence included a mention of any one she knew to have signed say a sales agreement and will or, a mention of the name of the authorities; Local Courts I, Local Courts II, who could have witnessed the making of any documents on the land under interrogation. The clients would be required to mention the date and year in which the will or sales agreement was made to prove their appropriateness on the land in question. In the observation made, women were not in position to answer these questions posed to them because they never witness to the making of these documents.

As found out, personnel entrusted with ability to witness processes that transfer and warrant rights on land, normally ownership rights, were in male echelons. Observing the court proceedings in Local Courts, religious leaders, local council I and II chairpersons were the ones appearing in court to bear witness of a will and sales agreements on land in question.

Conversely, on the side of women, case studies revealed that possessing a will was not a warrant of enjoying rights on land. The rights on paper do not turn out real in practice. Case studies below reveal that the widow's deceased husbands had offered wills, of which even the clan members, administrator general had consented to. However women still face denial to exercise their rights moreover approved by their deceased husband.

Case; Nassazi versus sister in laws: After the death of her husband, her sister in law lost the humor in her, on the ground that her late husband (her brother) had transferred the full rights in the family land (land on which my family lives) to the widow through a will. Despite this clarification (will), the sister in law with the support of his husband (LC I), kept sending warnings promising to take over her land. She always claimed that the will the widow possessed though with the Administrator General it was of no help to her. The head of the clan of widow's late husband had a copy of the same will. Given the several warnings that the widow kept receiving from the sister in law, the widow with the help of the now boyfriend (who has fathered two children with the widow) she was led to the RDC to seek protection. Having realized that the widow had a will from the late husband which confirmed the claimed rights by the widow the RDC did not hesitate, he gave her a written directive stopping anyone from disturbing her. According to the widow the directive lost incense as soon as it came to the RDC's attention that the man who had led her to him was my boyfriend. "Where is it written that one's boyfriend should never help her out when with a problem?" On this ground the widow lost the case. No matter the will directives, the piece of land was apportioned by the team sent by RDC. She who had eight (8) acres of land ended up with four (4) acres of land and the other four (4) were taken up by the sister in law. The widow appealed to the head of clan but all in vain. According to the widow, the head of clan is too old to make her sister in law accountable.

Case; Nakuungu Versus Semujju (former friend of her late husband): In a period of a month, after the death of her husband, Nakuungu had someone cut down trees that she was very aware that they are in her land and so belonged to her. Nakuungu was forced to go to the scene, to find out under whose authority this was being done. She discovered

that the trees were being cut under the authority of Mr. Semujju. When she approached Mr. Semujju for having trespassed on her land, only to be informed that the land she claims to own had been lent out to her late husband on personal understandings. Mr. Semujju informed that he was the sole owner of that land and for clearance purposes she would show her the land title. She was forced to move to the land board to find out in whose name land was registered, but all in vain. But according to the widow, the late husband had left a will confirming that the land she lives on was the deceased's land. She thus has full rights to administer it on behalf of her children. But only that the will does not spell out from whom the land was bought from and where the land title was. To the widow, all the neighbors are aware that the land belonged to her husband. She had been at all levels of the Lower local council courts-LC I, LC II and LC III and had won Mr. Semujju in all the local council levels. But Mr. Semujju decided to appeal to the magistrate's court on the grounds that he had been on the losing side because the Chairpersons mediating the land conflict have been in love relationship with the widow.

Also noted is that there is hardly a mechanism to hold land policy executors accountable. For instance a widow with a will, which same copy, was with the administrator general and head of clan deserved hearing in which all the parties were inclusive. An appeal from the clan head to mediate the land dispute, given that land was customary was not respected. Instead the negotiations that witnessed to the widow's loss of four (4) acres of land to her in laws was resolution between the RDC, her in-laws and LC I chairperson; excluding the LC III and LC II courts which are the formal courts in land disputes at Local Level. Executors of the land policy need to be supervised, to ensure that they extend equal hearing to all clients that seek justice in the processes of negotiating land rights.

4.3.3 Women as witness bearers

Women as wives, sisters, mothers and law enforcers are brought to the local council courts to act as witnesses. How are women playing this role? As witnesses still women find their efforts fruitless. Whereas they walk in the local council courts to act as required of them (witnesses) they hardly do this work as would be expected of them. Women's evidences offered are undocumented and thus verbal. In the committee sessions women would

acknowledge say the pact of land being discussed about, but hardly could they give vivid evidences. Analyzing the land committee documents/records, one realizes that land titles, wills and sales agreements (documented evidence) acts as a significant basis for passing on judgments. These also are easily kept for record purposes for incase further appeals on higher courts of authority on or for incase of future reference. However, looking through the records made during ALC hearings and kept by the committee members; one would hardly notice the women's verbatim during this court sessions. This meant that one would not ascertain how women's verbatim is employed to pass judgments. Women do not have access to documentary evidence, moreover, it's key.

Women are largely excluded from the processes that warrant and transfer rights in land. This handicaps their capacity to perform the roles assigned to them and which makes them poor performers in the game. For as was observed one retired woman leader who was brought to act as a witness, was not in position to tell the committee the year and signatories on the sales agreement when brought before the committee, moreover she was a secretary to the LC I committee which was said to have facilitated the making and signing of the sales agreement of the land, that the parties in the court had conflict on. This is what she put before the committee;

'I was a woman councilor by then on the LC I committee, but as you well know as a woman, I was just told by my boss, the Chairperson by then, that he had witnessed the purchase agreement of the land in question . As women we are normally left aside when it comes to such matters. It's normally the Chairperson or Vice Chairperson that works out such cases,' (August, 2009, Kyampisi Sub-County).

While Madam Nampa (not her real name) remembers the land agreement being made, she was not in position to tell exactly which person signed what. Such ills of subtle exclusion of

women from structure operations or structure activities are likely to be reinforced in the present decentralized land structures. For instance women on either local court were noted to report late for court proceedings. One of the woman members justified her coming late on grounds that she had a sick kid while the other woman member attributed her being late to her sick mother. And as was observed, to their colleagues (male) on the committee these apologies given by the women were accepted without any sign of discontentment. Meaning the reasons offered by women representatives are sensible enough to justify their absence. To what extent will women compromise political space for their gender roles? Whereas women's gender roles are a necessity to society so is the political space to women. There is need for defining the means of inclusion, taking into account people's social lives. As Ahikire (2009) has earlier on noted "a process of localizing democracy is required"

4.4 Bottlenecks to Women's Engagement with Land Structures

The informality and uncertainty that masks the procedures of operation of land structure is a serious challenge to women's engagement with land structures. For instance, at the sub county level, the basis of mediation is not standard. While women's major forms of engagement were verbal, men's form of engagement was by documents of evidence. According to observations made, documents of evidence are the sanctioned tools in mediation processes of land cases at the local level. For instance, clients who presented documents of evidence; will, land title, sales agreement and Busuulu during court proceedings won member's attention and sympathy. The committee members were noted to turn to scrutiny of the document and once proved reliable the members begin to pose

questions related to the document. Policies that regulate land rights in Uganda obscure women's land rights. Therefore policies reinforce women's involvement in land structures exposes them to abuse of their land rights.

In addition, the sanctioned rules of procedure (documents of evidence) largely exclude women's rights in land. The documents of evidence that informed the mediation processes, spell out ownership rights in land like names of the owner of land, location, rather than not usufruct rights on land (women's rights). This limits women's ability to engage land structures. Policies that regulate land rights in Uganda remain unclear on women's usufruct rights on land and thus rendering women defenseless in most of the land negotiation processes in land structures.

The strong clinging on to gendered constructions on land, of which subdue women's rights on land, still informs ways women involve in the local processes that mediate land rights struggles. This limits women's agency to seek equitable deals (Sen, 1990), in the processes of negotiating land rights at local level. For instance, most women respondents interviewed at the land office limited their agency to involve in land registration to the security of their children and hardly on basis of their rights on land. Moreover, they confessed to have bought the land by themselves.

The kitchen space (domestication of women) is also a challenge to women's active involvement with land structures. In that case this explains why majority clients in the land structures are widows; once widowed women are in position to traverse domestic confines. In

this space women especially as housewives, are withdrawn from information, knowledge and skills of networking in the public space that is, land structures. According to one widow female respondent, land is a wide-ranging issue that is; land has political, economic and social aspects. Unless one masters the art of dealing with all these issues, she is not likely to make a successful attempt. However the spaces within which women are confined do not endow them with skills which are important to traverse land issues. As she put it,

Unless widowed, one can hardly involve in the processes of transferring rights on land. I lost my husband 7 years ago. Of late I am a business woman. I freely can chase my land issues. Besides, the married women are too busy and too engaged with house work. They too have no self confidence and esteem to approach these offices since they have been confined and not informed of issues to deal with land. Even you (student researcher), you might not be aware of the procedures followed to get a land title for example. Land issues are many and unknown to majority. For instance we purchased land but the seller did not affect transfers on the mother title. But majority of my colleagues with whom we purchased this land are not aware. So I had to insist and come with this gentleman from whom we bought the land from to witness changes being made.

To the woman respondent, widowhood exposes women to the art of networking and interacting in public space, which is a necessary tool to negotiating land rights at local level. However, studies have for long revealed that widowhood makes women susceptible to losing all rights in land (usufruct and ownership rights) (Adoko and Levine, 2008).

It is however an oversight to underrate the opportune before women in the localized land structures. Land structures have become stop centre for women faced with land struggles. Local council courts act as first aid clinics for land struggles. For instance according to Sub-county chief Kyampisi Sub County,

‘Gone are the days when you would find women waiting for you at the Sub-county offices with land queries. This used to be on a daily basis. I would be forced to first handle their problems and then turn to my other duties. Land related disputes used to take up much of time. These days it is also hard for a man to just wake up and send

her wife from land. However land structures are useful to women who are daring. Women who are shy and timid cannot be successful in these structures', (July, 2009, Kyampisi Sub County).

Local council courts can work with the vulnerabilities of women in local level setting. They are not bound to rules and procedures of formal legal aid structures, a scenario sanctioned by Local Council Regulations, 2007². For instance, during court proceedings women were free to communicate in the local language given that most women are illiterate.

CONCLUSION AND RECOMMENDATIONS

5.0 Conclusion

Decentralized land structures especially the lower land structure promise increased awareness of women's land rights. The structures are not only proxy for women especially in rural areas, but they are also accessible given that they use a language friendly to women; local language. Nevertheless this denote fragility that surrounds women's land rights, since the lower local level land structures mainly mediate disputes on land than authenticate rights on land. Certification of rights in land is at the land administration and management offices at the district local government level.

Coming out from research findings, land policies that govern the transfer of rights in land largely exclude women's usufruct rights and neither guarantee ownership rights to women on land. This has acted to limit women's efforts to claim rights in land. For instance, the rules of procedure in all local council courts, so much depend on the documents of evidence to facilitate mediation exercise of land cases. These documents of evidence on land mainly

² Statutory instruments 2007 No. 51: This policy lays out rules and procedure of operation of Local Council Courts.

spell out ownership rights and hardly do spell out the usufruct rights. Likewise the kinship and marital relations that implicitly inform transfer of rights in land favor male character. The above loopholes in land policies counterfeit women's efforts to claim rights in land.

The informality that governs operations of land structures at local level is a serious obstacle to women's attempts to engage land structures. There is hardly a clear chain of operation of the different structures that deal with land at local government. This has meant poor coordination among these offices, leaving them ineffective in protecting land rights of the local people. For instance besides the mandated land structures as per the Land Act 1998, is local council court I, police, Resident District Commissioner (RDC) and Gombolola Intelligence Security Officer (GISO's) office who deal with land. Complainants or offenders go to these offices given the level of convenience and when unsatisfied with the ruling of another office. This uncertain chain of operation of land structures in the community, sometimes overwhelm women's capacity to engage and influence their entitlements in land.

Also coming out from the research findings is that women representatives' motivation in involving in the process of transferring rights is constrained by perception of self in the rule of the game (land rights transfer dos and don'ts) in structure operations. Women so much draw on the rules that govern land relations to contribute to the land transfer processes, which in way counterfeit their negotiation capacity in land structures. Women need to be sensitized on their mandates while in decision making arenas. Women's engagement in land rights transfer processes need to be redirected-making/enabling women fully informed on what and how to best bargain in land transfer processes. Human agency need to be directed from

human capability perspective “ensuring that the agent ...can overcome constraints in her structural context.” (Briones 2009, 13).

The land policies; stated and unstated that protect rights in land are silent on women’s usufruct rights and neither guarantee women ownership rights in land. This has acted to limit women’s efforts to claim rights in land. The rules of procedure in all local council courts, so much depend on the documents of evidence to facilitate transfer of rights in land. These documents of evidence on land mainly protect ownership rights and usufruct rights of male clan lineages. Likewise the kinship and marital relations that implicitly inform transfer of rights in land favor male character. Neither has state put mechanisms at local level to make the land structure personnel accountable in cases where women’s land rights have not been given due attention.

5.1 Recommendations

1. Establish clear guidelines through which women and other stakeholders in land can engage land structures at local government level

The poorly coordinated services of land structures at local government level have meant overwhelm women and the community’s capacity to engage land structures for their land rights.

2. Make policy relevant to changing economic institutions today

In Uganda today we have a lot of female headed households. In addition women are increasingly wholly bearing the role of caring and nurturing of children especially among HIV/AIDS stricken homesteads. Policies and its executors fail to appreciate

this trend, by holding on to land rights transfer processes that give primacy to the male character.

3. Increase awareness on land structures at Local government level.

Women and community at large have limited knowledge on land structures and their functionalities. This limits people's ability to make informed and rational decisions on how to interact with land structures for their land rights and hold them answerable in case of any poor service delivery.

4. Institute proper accountability mechanisms to check distortions in delivery of services at local level

Women and the community at large expressed altered or deformed rulings in the process of mediating land disputes at local level. That is poor compensation rates and awkward negotiations between land lords and tenants, initiated by Local Court personnel, especially at local council I. There is need for a mechanism of reinforcing, by monitoring and evaluation of policy implementation in Uganda and Africa at large.

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