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WORKING PAPER

Innovations for securing women's access
to land in East Africa



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Innovations for securing women's access to land in East Africa

By:
Gaynor G. Paradza

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Abstract

The importance of land to poor people's livelihoods cannot be over emphasized. Land provides the foundation upon which people construct and maintain livelihoods. Consequently, secure access to land is a prerequisite for securing livelihoods. Women are the majority of the poor as they have limited access to social and economic resources. This increases their dependence on basic resources like land. The majority of women rely on a land based livelihood mainly as subsistence agricultural producers. A secured access to land will enable women to improve their welfare and that of their families. Women's capacity to develop and improve their situation is hampered by limited access to resources like land, financial capital, economic capital, labour and technology. In recognition of this, various initiatives have been undertaken at the government level to improve and secure women's access to land. The initiatives have had limited impact partially because of the limited resources and effectiveness of government. Research in East Africa has revealed how community based interventions can not only compliment but also provide more effective means through which government policies can be implemented for the benefit of women. The paper draws on research carried out in Uganda and Kenya to illustrate the ways in which local level and non-governmental institutions can improve women's access to land by drawing on existing government policies and legislation.

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Introduction

Land is a crucial strategic resource for women in developing countries. This is because land forms the basis for livelihood generation, food production and social security. Women in the Developing World's rural areas are responsible for household welfare and economic wellbeing. Experts report that women in Africa contribute 70 percent of food production. They also account for nearly half of all farm labour and 80-90 percent of food processing, storage and transport (Kimani 2008). The majority of the women depend on land to perform these roles. Secure access to land enhances women's capacity to fulfil their roles and in the long term this leads to long term socio-economic stability and economic developments of the rural populations and overall well-being of the populations. When economies advance and human beings' quality of life improves, these economies are in a better position to meet their respective millennium development goal targets. In recognition of the women's role in the household and wider economy, governments have made policy and legal pronouncements to increase women's land tenure security. The policies and legal pronouncements however have to intersect with non-legal practices like customs and religious practices that also inform resource access and in most cases; the outcome does not necessarily advantage women. The global food crisis, climate change and HIV and AIDs crisis have highlighted the need to focus on subsistence food production and in the process reignited the debate on women's land access.

The importance of women's access to land is re-emerging in the developing world because of increasing focus on human rights, increasing poverty, the global financial crisis and globalisation pressures. The increased pressure on land has undermined women's access to land. Some of the most intense competition and conflicts over land are found in the most densely populated areas like Rwanda and Burundi (Peters 2004). While policy makers grapple to come to terms with the issue, it has become increasingly clear that the women's access to land is a complex issue which cannot be addressed within the current governance paradigm. The paper draws

on findings of a regional research programme in East Africa to illustrate innovative ways that non-state actors have devised to secure women's access to land. The paper concludes with some recommendations on how governments and non-state actors can work together to increase women's land tenure security.

1. Women's Access to Land: A review

Land holding systems vary in Africa from that which is held under customary tenure which is sometimes referred to as indigenous to formally organised land tenure. Most of the land held under customary tenure in Africa is worked by individuals and small familial units with separate claims and responsibilities even though the land is generally vested in collectives like chieftainships or clans (Platteau 2002, Peters 2004). The main debates about gender and land access in customary tenure areas is on the typology and security of access that women have relative to men. There are those who see multiple claims in land as being hierarchically ordered and gendered with men having primary rights whereas women have 'weaker' secondary rights. Primary land rights give direct access to the resource and usually include rights to bequeath, sanction and dispose. Secondary land rights are normally restricted to use rights. Others reject the core distinction of primary and secondary rights claiming instead the existence of multiple claims and the negotiated dynamic and fluid nature of tenure relations and tenure claims (Razawi 2003, Whitehead and Tsikata 2003).

While gender is a cultural construct and is diverse, generally, in patrilineal societies, women have less access to land and to control over resources than men. Although there are common features, local level structures demonstrate great diversity and complexity in women's land interests and factors affecting them (Jackson 2003, Razawi 2003). Sub-Saharan African women tend to have claims to land independent of their husband and even those through their husbands are stronger than current conventions imply (Razawi, 2003). There is also evidence of women claiming customary rights to natal family land through acquiring direct access to land through purchase and inheritance. People can also access land through the market. Although access to the market is gender neutral, the gendered nature of access to opportunities to make money skew the market the market option to acquire land towards men. A World Bank study on Kenya concluded that purchase and inheritance were the least likely modes of land access for women (Tadesse, 2003). Inheritance in patrilineal systems marginalises women as land is passed

down the male lineage. Widows may retain access to land and cultivation rights over their dead husband's land but only as guardians of land for their sons. Where widows have managed to gain land, this is subject to her remaining in the village and not marrying outside her deceased husband's lineage (Bikaako and Ssenkumba 2003, Gray and Kevan 1999).

Women are also entitled to land under formal legal regimes. In most of the countries in Sub-Saharan Africa, national constitutions accord equal rights to men and women. This includes access to land. State laws derive legitimacy from the State and are exercised through the legal system as represented by the judiciary. State law has limited influence on land transactions in rural areas of Sub-Saharan Africa (Moore 2006, Nyambara 2001a). Formal laws are frequently by-passed as people take advantage of loopholes in the system. State laws are also undermined by customary practices, ignorance of the law by men and women and resistance by traditional authorities who are the guardians of custom. As a result, women do not realise gains in land access provided for under statutory laws.

A system where more than one legal order regulates access to resources is known as legal pluralism. A legal plural system is viewed as consistently discriminating against women in the arena of land claims and allowing those with power to oppress those with less power. High mortality may weaken the asset base of women especially land in cases where property rights are not clearly or adequately defined or enforced (Haddad and Gillespie 2001, Whitehead 2003). An example is how actions of individuals can demolish state policy through ignoring, manipulation or subversion (Moore, 1996). Women are also disadvantaged when norms and principles are not applied equally to all individuals in a community (Agarwal 1994).

The rights accorded to individuals differ in various legal systems as do the categories of the rights that are recognised. 'Forum Shopping' describes the process whereby disputants have a choice between different institutions. Disputant select institutions that is likely to pass a judgement in their favour. The more diverse the institutions available to an individual,

the greater choice they have. Individuals' access to the various forums is determined by their gender, class, age and their negotiation of power relations. (Mackenzie, 2010). The various institutions also use disputes for their own political gain. These are known as 'shopping forums' (Von Benda-Beckmann, 1981). The ability to access and use legal institutions is unevenly distributed as women have fewer resources than men.

A key stakeholder that research and policy making on women's land access often ignores is the women themselves. The women are often treated as recipients of policy and/or research subjects with no capacity to influence their land tenure status. In order to better understand how women experience their changing land tenure status, it is important to focus on their agency in the diverse circumstances in which they find themselves. Agency refers to people's capacity to integrate experiences into their livelihood strategies and seek solutions to their problems (de Haan, 2000). Women can shift communities' roles and expectations about gender by challenging stereotypes. These forces the community to re-think its long held assumptions about gender and may lead to a reconfiguration of gender relations. A study of single women's livelihood vulnerability in customary tenure areas in Zimbabwe focused on unmarried women to interrogate how patriarchal land allocation norms were changing to accommodate the increasing number of women who existed outside marital relationships (Makura-Paradza, 2010).

The various ways in which women access land have been evolving over time. Land laws have been altered by land holders, policy makers, practitioners. This creates ambiguity and lack of clarity. State laws create rules which state agents interpret according to their own interpretation. Norms are also manipulated by people who are aware of the different types of legislation to legitimize the norms that best suit their own aims. The poor and powerless, like women, are more likely to be victims of mistreatment by bureaucrats, petty corruption and least likely to have resources to 'work the system'. Although access to justice has attracted considerable support and featured in recent legal reforms, in the developed world, it has not featured prominently in the good governance agenda of developing countries (Anderson, 2003).

Government in Uganda, Rwanda and Kenya recognise equal rights for men and women in their constitutions. Succession law in Uganda makes it illegal to evict a widow from the matrimonial home (Bikaako and Ssenkumba, 2003). The Rwandan government passed a new inheritance law in 1999 which gave male and female children equal rights to inherit property (Burnet, 2003). A research carried out by the Rwanda Institute for Sustainable Development found that most people were confused about the law, and did not use it. Women and girls remained ignorant of the rights guaranteed by the new law. The new law also faced resistance because it contradicted prevailing customary provisions (Burnet, 2003). In Kenya, women's capacity to benefit from progressive land laws are undermined by inconsistencies between some laws and policies. This prohibits women from enforcing the resource as powerful and influential people take advantage of this ambiguity to deny women their land entitlements. Inconsistencies between customary and state law make it difficult for women in marginal areas to realise the provisions of the law.

The 1995 Republic of Uganda constitution empowers all persons to have and own property. (In addition, women's land rights are further recognised through other legislation like spousal consent (Uganda Rural Development and training Programme (URDT, 2010). However, women's limited awareness of the legal provisions limits their perception of their tenure security. The limited awareness of the legislation procedures and divisions of regulations can lead to easy manipulation by the better informed (Cousins 2000).

Although progressive ideas have been proposed to secure women's land rights, women's land rights remain insecure because of poor implementation mechanisms. Governments lack mechanisms to establish structures to administer the laws at local levels. A case in point is in Kibaale in Uganda where some local parishes do not have a land board to administer land related disputes. As a result, people have to rely on traditional leaders and male dominated courts who may have limited knowledge of the new laws. Research in Rwanda by the Rwanda women's networks showed that women avoided using the family based courts because they perceived them to be biased. The existing conflict resolution mechanisms which included Customary Courts, Local Council Courts and courts of law were ineffective in protecting women's interests

in land. This was ascribed to male domination, corrupt tendencies, associated expense and delays which characterised the institutions (Bikaako and Ssenkumba, 2003).

The research findings in Gatundu Kenya and in Rwanda showed that even though women are aware of progressive laws, it is expensive for them to mobilise resources to secure the necessary documents and navigate the red tape to claim their entitlements and secure their land rights. In Kenya where all land is registered, widows struggle to generate funding required to search for the documents of their property at the deeds registry. Research by Rwanda women's network also showed that it was a cumbersome process for women to meet all the legal requirements to enforce property rights. Research in Zimbabwe revealed that women needed at least ten documents to successfully lodge claims to inherit their husband's property. The documents included the deceased husband's death certificate, property ownership records, the widow's identity document, proof of widows' relationship to her deceased husband, children's birth certificate, burial order, valuation certificate, copy of advertisement from a local newspaper and proof that the couple had been paying property taxes to the local authorities (Paradza, 2007). The research showed that women relied on few centralised institutions for the adjudication of their land claims and disputes. These few institutions are male dominated and in rural areas are also kinship based. This makes it an arduous task for women to successfully lodge a claim against men and win a land dispute. Many laws made in favour of women's land rights are breached while those who breach the laws are not held accountable. The state-led law reforms are top down and undemocratic. These laws also have a tendency to homogenise women and their land relationship yet research shows that women experience land relations and therefore policies in very different ways.

AIDS threatens agricultural activities and undermined households' capacity to engage in agricultural activities. The spread of AIDS and the stigma associated with the disease has made women's land rights precarious. A study on Women's land rights in Uganda in 2003 showed that women who lost their husbands to AIDS were heading 49 % of households (Bikaako and Ssenkumba, 2003). Widows whose husbands die of AIDs are ostracised, leading to the confiscation

of their land and property. They often lose their land, livelihood and are sometimes evicted from the communities they live in. Research carried out in Sub-Saharan Africa showed that AIDs worsened the position of women and children as land disputes increased as had tension over land allocation and rights of widows. Walker's study concluded that African women generally lost land rights following the death of a male spouse (Walker, 2003). Premature male adult mortality leaves young widows, many of whom have not accumulated resources and contacts which can be used to defend her claim to matrimonial property (Haddad and Gillespie 2001). In rural Kenya and Uganda, although the law entitles women to inherit matrimonial property, widows are often dispossessed of their property. This leaves them destitute and vulnerable. A study by De Waal in 2003 showed that the state had capacity challenges in mediating the devastation that AIDs brought to communities and people's livelihoods. A research by UNAIDS concluded that pre-existing structures could not in their ideology and format provide the institutional responses required by the new social conditions inflicted upon communities ravaged by AIDS (UNAIDS 1999).

The research carried out in East Africa aimed at understanding some of the reasons why, after all the research and policy pronouncements, women's land access remained tenuous and how they could be strengthened.

The governments in Kenya, Uganda and Rwanda passed progressive laws to secure women's land rights. These included the national constitution in all three countries which guaranteed equal rights to all citizens. In addition, Rwanda's land laws made specific provisions to secure women's access to land. General Article laws 4 forbids any discrimination based on sex or origin in matters relation to ownership or possession of rights over the land. In addition male and female spouses were guaranteed equal rights over land (Rwanda Women's Network, 2010). In Uganda, Article 26 of the national constitution guarantees every person the right to own property. The Ugandan constitution also affords men and women equal rights in marriage and over matrimonial property following a dissolution. The Ugandan Land Policy provides for the protection of access to, inheritance and ownership of land for women and children (URDT 2010).

2. Research overview of women's land tenure status in East Africa

The research findings from case studies in Uganda, Kenya and Rwanda¹ showed that women's land rights remained vulnerable even though the laws provided protection. In all three countries, research sites focused in areas where customary practices existed side by side with the state law. All the research concluded that women's land rights continued to be eroded as they failed to enforce the legal provisions. This was because of women's ignorance of the laws and limited capacity to mobilize the law. The continued inconsistency between custom and statutory law also accounted for the negative trends in women's land access. The government had limited resources to enforce the implementation of the progressive laws. This was manifest through government failure to educate communities about the laws, failure to punish those who violated the law. The governments also did not offer any protection to women who continued to lose their land rights when the laws were violated. The women also failed to utilize the laws because they suffered individually and reacted to violation of their land rights after they had suffered. This lack of a critical mass or organizational mobilization of women means that they were disadvantaged as they continued to fight their land right battles in the domestic sphere. HIV and AIDS, increasing poverty and displacement also accounted for the continued erosion of women's land rights in the research sites.

Governments lacked resources in Uganda to set up decentralized offices to administer land laws in all the local parishes. In all three countries, it was apparent that the decentralized

government officers had little knowledge of the laws and limited capacity to implement them. As a result, they did not enforce the laws in place to protect women. Traditional authorities ignored the laws especially where they were inconsistent with the traditional practices on, for example, inheritance. The spaces within which the decisions and disputes resolution took place remained male dominated. This disadvantaged women as they were disempowered in these public dispute resolution forums. The government policies' effectiveness was undermined by the policy makers' lack of local knowledge and their tendency to treat all women as homogenous. The research results highlight women's land access vulnerability is also a function of their marital status, age, ethnic identity and wealth class in East Africa. Homogenous policies that do not recognize these differences among women perpetuate marginalization of certain categories of women and effectively fail to protect their land rights.

Women also failed to secure land under the existing laws and policies because the processes were complicated. The women had to interact with many offices to gain access to documents and strategic institutions. This resulted in some women giving up in frustration. The long delays and red tape made the women vulnerable to corruption by public officers who took advantage of the women and demanded bribes in exchange for services.

The research carried out with local level institutions and communities revealed three strategic engagement points where non-governmental organizations intervened to secure women's access to land. The interventions focused on the women, the communities, and the policy makers.

1 RWN: Experiences of Women in Asserting their Land rights: the case of Bugesera District, Rwanda

YWAP: Assisting Kayole widows in gaining control to Family land Kenya (Young Widows' Advancement Programme)

GROOTS: Complementing the State: The Contribution of 'Watchdog Groups' in protecting Women's Land Rights in Gatundu District, Kenya 2009

URDT: Voices of Women's Aspirations over Land and Land Matters: the Case of Kibaale District in Uganda

3. Harnessing women's agency to secure women's access to land

Women are often portrayed as powerless victims of the situations they find themselves in. As a result they are rarely consulted in the policy making process. The SWAL research findings illustrated, through a focus on grassroots innovations, that women can and do act to influence policy and defend their land rights at various levels. The interventions involved organizing the women into groups and encouraging them to reflect on their situations and identify ways of changing them. In Kayunga district of Uganda, where patrilineal practices dominate land allocation and inheritance, women are also marginalized because of polygamous practices. Women access land through marriage and to a limited extent, the market. The land market is driven by rural urban migration. It was found that women continued to lose land as their spouses disposed of the land without the wife's consent. This was attributed to women's ignorance of the law and the lack of local level government structures to uphold the implementation of the law. In addition, high AIDS-induced male death rates led to stigma for widows who were also dispossessed by relatives of the deceased man who wanted to dispose of the land on the market. Men who were diagnosed with HIV also disposed of the land without the knowledge of their wives. A research initiative in the district tackled the problem. The initiative involved a multi stakeholder approach to addressing the gaps between government legal provision and regressive customs. The SWAL initiative in Kayunga focused on how the discord between formal law and customary practices undermined women's access to land. The project mobilized a group of women and educated them on the provisions of the spousal consent clause. The enlightened women were empowered with their new knowledge which they used to influence their position in the domestic and community space. The women started campaigns to educate the community on the provisions of the clause. The women realized the vulnerability which derived from their informal marital status and some of them were empowered

to take steps to legalize their marriages with their spouse. A legally recognized marriage would enable the women to enforce the provisions of the Spousal Consent clause to protect their property rights. Some women who had independent financial means secured land in their own name to protect their interests against actions of the spouses who ignored and/or were not aware of the spousal consent clause. A community based non-governmental organisation assisted the women in the district to gain access to institutions of law that were responsible for safeguarding their statutory land rights.

An initiative in Kibaale district in Uganda focused on individual women's agency to change women's land tenure security. Here, communities also live on land that is held under various tenures which involve chiefs, the state and *mailo* land holders. Polygamy is the dominant marriage form. The state law only recognized registered marriage. Women gained land mainly through marriage. They maintained vulnerable land rights which they could lose if the husband died. In Kibaale, customary laws were used unsystematically in dispute resolution and local level leaders were not conversant with the law. People were not aware of their land tenure status nor the rights accorded to women at state law. As a result of the gap between state and customary law, women continued to have tenuous land claims which were vulnerable to marital dissolution. The position rendered women powerless. The SWAL project intervention facilitated the harnessing of women's agency to improve their land tenures status. The women were appraised on their vulnerability and the means through which they could increase their land tenure status. This was done through the visioning approach which was borrowed from the private sector business environment. The initiative shifted the women from their position as victims and recipients of policy to proactive agents who could actively participate in and influence land tenure status at the

household and community levels. The visioning was done through a series of steps:

1. The first stage was a reflection exercise where the women focused on themselves. They had to identify a vision which was related to their current status. The women who were largely illiterate drew pictures of themselves and their families in permanent housing structures, sending their children to school and producing agricultural products for sale. The pictures reflected women's aspirations for secure land upon which they could make long term plans such as the construction of permanent housing structures, commercial agriculture and the general improvement of their families' welfare.
2. The women shared their vision with their fellow participants and family members to refine their aspirations
3. The women mapped their current resources and identified the existing resources which they could use to take themselves on to the next level toward the realization of their vision.
4. The facilitator worked with the women to devise a strategy to bridge the move from what they want and what they have through a series of action steps. The steps included creating allies like a husband, investing in literacy or joining a savings club to mobilise the financial resources.
5. The implementation of the plan

The women were provided with knowledge on their land tenure status, the process through which they could acquire title to land and the necessary skills they could use to raise funding and secure other resources to realise their vision. The approach encouraged women to be proactive in securing land rights by empowering them with information and bringing them into contact with strategic institutions. As a result the women in the community assumed responsibility for strengthening their land tenure status. Examples included persuading their husbands to formally register marriage so the women could be entitled to land under statutory law. Some women in polygamous relationships persuaded their husbands to purchase and register land in individual wives'

names and or write wills. This protected women from losing the land at the end of the marriage.

In Kenya an initiative was formed to assist young widows who were frequently dislocated following the death of their husband. This was because of the lack of knowledge by the women and their ignorance of the law. In some cases, the women had to leave the places they were occupying with their husbands as they were tenants. Young widows were more vulnerable to eviction from customary lands because their children were too young and they had not accumulated assets to use to enforce and defend matrimonial property entitlements. Elderly widows were more likely to have more money, adult children and developed social support mechanisms which they could use to defend their land rights. The position of young widows remained invisible as the state law and policies homogenized widows. The Young Widows' Advancement Programme assisted the dislocated young widows to secure a place to live and resources to reconstruct their livelihoods. The resources included moral support, networks and a small capital sum to enable the young widows to initiate a small business to secure their livelihoods. Young widows who were entitled to land were assisted to regain their land through mediation with the in-laws. The Young widows Advancement Programme also provided widows with legal assistance to support them to claim their land and enforce their entitlements.

The second effective strategy that the SWAL project found effective focused on the communities in which the women lived. It was realized that the communities were the people who framed the lives of the women and determined their land tenure status. The community influenced the ways in which women experienced tenure status. This was through the practices, the willingness to adopt progressive practices and innovations to protect women's access to land. The SWAL research concluded that without community support, individual women's capacity to secure land would be difficult. The initiatives illustrated several strategies that were used to engage the communities in the process of securing women's access to land.

In Kibaale, the community was appraised of the land tenure status in which they all realized they held insecure land

tenure. The facilitating institution assisted the community to contact the *mailo* land title holder and engage in negotiations to transfer land title to the community. The facilitator exploited this platform to increase the community's awareness of the nature of women's land rights and the vulnerability arising from patriarchal inheritance practices and polygamous marriages. The communities were also educated on the provisions of state law that have been passed to protect women's land rights and the steps they could take to make sure the women in their community realized the entitlements. The facilitators also used the negative experiences of women who had been evicted from land to highlight the consequences to the community at a household and a community level. The community awareness initiatives also educated communities about the impact of HIV and Aids and how some widow inheritance practices and AIDS associated stigma further undermined women's access to land. Community level institutions were also capacitated to mediate in situations that threatened women's land rights. One innovation resulted in the community members mapping out their boundaries. This reduced the incidence of boundary related disputes among the community members. The initiative successfully persuaded women in the community to co-operate to further their land interests and use this collective as a vehicle to exert pressure on local level institutions to be more responsive to women's land tenure status.

In Kenya, a community initiative to protect widows and orphans' land rights illustrates the capacity of local communities to devise their own strategies to cope with threats to land and property rights. AIDS-related deaths increased the incidence of dispossession as widows were ostracized and their land was confiscated by more powerful people. The widows who were dispossessed were left landless and vulnerable. The Gatundu community organized volunteers to support terminally-ill people through the home based care support programmes. It was through this initiative that the home based carers realized the increasing incidence of widow dispossession. The community mobilized themselves to protect the rights of widows and orphans in 2005. The initiative appropriately labeled "Watchdog Groups", performs a watchdog role to assist widows and orphans to protect their land and homes. The Watchdog Groups (WDG) use several

strategies to protect women's land rights at the community level:

- The WDG report cases where women and children are dispossessed of immovable property rights to local traditional leaders.
- At the community level, the WDG supported community empowerment on the rights of women and informed them of their legal rights and assisted them to enforce their land claims as provided for in the laws of the country.
- The Watchdogs successfully lobbied for land administrators to demand a letter of consent by spouses of people engaging in land transactions on family land
- WDG have a dispute resolution role through marital counseling, community education, youth clubs and churches and local dialogues.
- WDG mediate and follow up land inheritance cases to support women's claims are defended and sustained on land and immovable property.
- WDG monitor and report corrupt local leaders and practices which resulted in the persecution of the guilty and more justice for vulnerable groups.
- The Watchdog Groups are represented at all institutions and decision-making fora adjudicating land disputes and transactions in the community.

As a result of the WDG's interventions, cases of widows' dispossession have been reduced and the community's awareness of women's land rights issues has been enhanced. The WDG initiative illustrates how communities can innovate to influence policy at the local level and protect land entitlements of vulnerable widows and orphans. The WDG also provided women with practical mechanisms to defend their land entitlement. As women from WGD are incorporated into land governance institutions, the initiative has precipitated a transformation of land governance institution by increasing the representation of women and giving women a platform on which to influence governance structures. The enhanced capacity of grassroots organisations has resulted in the promotion of women into strategic administrative structures

like land boards and traditional courts. This has transformed local government into a more gender sensitive institution. The WDG have also increased pressure on public offices to be more accountable by providing checks and balances through their monitoring work. The Gatundu WDG in 2010 successfully defended land claims of 17 women and were working on another 26. Corrupt local government officials who take advantage of the women have been sanctioned and/or dismissed as a result of the work of WDG. This has increased pressure on public officials to be more accountable as WDG provide checks and balances for monitoring the work of civil servants. This had greatly improved effectiveness of local government structures in enabling women to claim their land entitlements provided under the laws of Kenya.

4. The role of intermediary institutions in increasing women's land tenure security

The gap between policy making and implementation undermines women's land tenure. The policies are also limited by the tendency of policy makers to homogenise women and their experiences of land tenure. The institutional gap between the policy makers and some of the communities also undermines policy effectiveness. The SWAL research identified intermediary institutions that are working to bridge the gap between policy makers and the communities they serve. In East Africa, these were women's organisations, a community based University URDT, and coalition of organisations working on land, Uganda Land Alliance and Kenya Land Alliance. The intermediary institutions use several strategies to increase the effectiveness of policy and secure women's land tenure.

Policy dialogues

These are continuous engagements which bring together key stakeholders in women's land issues and encourage them to dialogue. Through these forums, stakeholders can interact and share experiences. The dialogues also provide space for marginalised people to participate in policy making and provide feedback to policy-makers. The dialogues also provide opportunities for non-governmental organisations to share innovations with policy makers so that hopefully they can formulate more responsive policies. The institutions also work with men in communities as they are stakeholders in determining women's access to land.

Capacity building

Local government offices provided training on women's land concerns, the new land laws and assist local communities to engage with local government. In Uganda, AHURICA, a community-based institution provided training for local government officers and urged them to demand a letter of consent from spouses as a prerequisite to endorsing

transactions on family land. The institution also successfully lobbied financial institutions to demand spousal consent before accepting title deeds as collateral for a financial loan. This initiative increased the women's land security by building the capacity of local level institutions to uphold the constitutional provisions aimed at upholding women's access to matrimonial property. The KLA and URDT assisted displaced and marginalised women to form groups, generate data and use it to make demands for change on strategic institutions. The IDPs in Kenya produced a research document which was used to lobby for constitutional recognition of land rights of the IDPs. GROOTS assisted watchdog groups to make demands on local land governance institutions to allow women to be represented in all the decision-making fora. Such interventions increased women's capacity to participate in decisions affecting their land status and influence policy. The KLA assisted local communities to engage in self help initiatives to improve their land tenure status. This involved mobilising IDPs to organise themselves and secure land from a private owner after government had ceased support to IDPs in Kenya. KLA and URDT built women's capacity to influence policy and secure land rights by increasing women's participation in land governance structures. This was through appointing women to positions of power and initiating women only groups to build women's confidence to publicly participate in land issues.

Increased gender responsiveness of land governance institutions:

In Rwanda, the women's network illustrated how gender disaggregated data could be generated and used to inform policy making by focusing on women's experiences with

decentralised land dispute resolution offices, the *Abunzi*². The information generated was used to monitor the effectiveness of this institution by identifying and flagging the strengths and weaknesses of the courts. The Young Widows' Advancement Programme highlighted the plight of Young widows in land inheritance which was quite different from the experience of their elderly counterparts. The outcomes of the research were used to inform land governance institutions. The WDG in Kenya increased the accountability of local courts by monitoring and reporting corrupt practices. The successful negotiation by WDG to have their members represented in all land administration structures increased women's access to decision making structures. The presence of women in these bodies increased the bodies' awareness of women's land disputes. A similar outcome was registered by Zimbabwe Widows and Orphans Trust in Zimbabwe Southern Africa (ZWOT). The organisation escorted Widows to the High court to claim succession to their property rights. As the number of Widows approaching the courts increased, the High court in Zimbabwe responded and allocated Tuesdays as Widows' day at the institution. On this day, the High court officers exclusively served widows (Paradza, 2007).

Dispute resolution

Although all the non-government institutions do not have statutory powers, they provide a service by mediating local land disputes. This provides alternative, and in many cases the only unbiased dispute resolution fora where women can take their land disputes. In some communities, the intervention emerged as the preferred dispute resolution of choice by women. This led to the marginalisation of traditional courts that were judged to be biased and inefficient. Such interventions increase efficiency of non-performing institutions. Because these institutions operate outside the legal framework of government, it also means that women who are not married in legally recognised marriages can have their cases resolved and this increases the women's chances of protecting their land rights. The KLA member in Nakuru - the Catholic Diocese - successfully lobbied government and was allowed to appoint a committee of elders to resolve land disputes some

of which had been pending for more than 10 years. Such initiatives remove bottlenecks and enable marginalised people who rely on overburdened government systems to access justice and defend their land claims. Illiterate and poor women gain better access to justice through these informal mechanisms as they do not insist on formalities of formal courts which women find intimidating and complicated.

Access to Information

In areas where government lacks resources to establish local offices, some NGOs make information and institutions closer to the people and in so doing increase the reach and effectiveness of government policy. The KLA provided the government with information of the status of IDPs pastoralists and other marginalised people that governments do not have the capacity to document. The KLA and ULA also collect gender disaggregated information which they use to lobby government policy makers. The non-governmental institutions provide checks to policy makers by identifying and flagging unintended policy impacts and instances where policies and laws are inconsistent. Such situations undermine women's access to land. The use of gender disaggregated data to monitor impact of land management policies is necessary tool for governments to monitor the effectiveness of policies. Gender disaggregated data can be sourced from research institutions, non-governmental organisations and public officers that deal directly with women's land issues.

Practical tools

AHURICA encouraged men and women to formalise marriages and register them. This would make it easier for women to claim land rights at law. URDT encouraged people to write wills and to protect women and children against property grabbing. The Rwanda Women's Network, Groots and KALI and YWAP also increase women's access to institutions of law by providing paralegal services to assist women in presenting their cases. Paralegals empower disenfranchised women to claim entitlements provided for in the formal legal institutions. The URDT and AHURICA interventions trained communities to change their negative attitudes towards AIDS sufferers. This reduced stigma and increased community support for women living with HIV in the communities. The NGOs provide research capacity building mechanisms which is an

² Abunzi which is a dispute mediation body that has its roots in tradition and was formalized by the enactment of the abunzi or (Organic Law 31).

important intervention to enable communities to have robust and credible data which they can use to lobby policy makers. The URDT in Uganda encouraged the communities to conduct a participatory boundary mapping which led to a reduction in land related disputes.

Funding

Non-governmental organisations increase women's land tenure status by providing financial resources for training and practical interventions to secure women's access to land. In Kenya and Rwanda, NGOs provided funding and building materials to enable IDPs to reconstruct their livelihoods. In Kenya, gender representation among the leadership and registration of single women as beneficiaries of land was a precondition to funding disbursement. Such interventions, if sustained can transform gender relations. The YWAP provide displaced widows with start-up capital to enable them to gain a foothold and reconstruct their livelihoods.

Although the non-governmental organisations are doing a lot to secure women's access to land, they face challenges because of their non-statutory status which undermine community confidence in their work. Men and other traditional institutions may refuse to co-operate with them. The NGOs lack means to formally enforce their recommendations at the community and government level. In some cases, these organisations rely on volunteers from the community to carry out the work to support mediation and paralegal work. The volunteers require incentives to continue their work. This undermines the effectiveness and sustainability of these initiatives and renders women who rely on such institutions vulnerable to bribes. The Kenyan Land Alliance made some policy recommendations on the land policy which were rejected by the Kenyan government. These experiences highlight the need for a shift in the government-non-governmental organisations relations to enhance women's land tenure status.

Conclusion

The importance of securing women's land access cannot be over emphasised. The research has shown that although formal institutions have tried to secure women's land tenure, the task is too complex and difficult for a single institution to tackle alone. However, with government's limited capacity, non- governmental actors have illustrated their capacity to increase women's land tenure security. This is through exploiting gaps, strategic interventions, strategic alliances and harnessing resources available outside government control and capacity. In order to secure women's access to land governments have to make land policy making more inclusive and flexible. The inclusivity will enable the non-governmental structures to participate and be legitimate. The government should use findings and lessons from non-governmental organisations to inform policy making on women's land access.

Women's land access can only be secured in a paradigm that goes beyond the state-led top down policy making processes. While state-led initiatives through law reform provide leverage, the actual implementation and practice on the ground is better performed by local level institutions which do not necessarily lie inside the formal governance structures. Innovations by local level institutions provide opportunities for interventions that address context specific obstacles to women's land access in a particular location and context. These local level interventions have proved to be better placed to engage with patriarchal institutions and practices which dominate community level resource governance.

The role of women themselves individually and in organised groups to advocate and engage with regressive practices cannot be over emphasised. The governments should invest in capacity building of women's capacity to proactively secure their land rights through education of women, dissemination of laws and monitoring of the activities of its officers on the community level. The success of these initiatives depends a lot on the local contexts and the relationship with

formal government institutions. The interventions should not be romanticised as they face a lot of practical and sustainability challenges which potentially undermine their long term impact in sustaining women's access to land.

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Our Mission

A global alliance of civil society and intergovernmental organisations working together to promote secure and equitable access to and control over land for poor women and men through advocacy, dialogue, knowledge sharing and capacity building.

Our Vision

Secure and equitable access to and control over land reduces poverty and contributes to identity, dignity and inclusion.

International Land Coalition Secretariat

Via Paolo di Dono, 44
00142 – Rome, Italy
tel.: +39 06 5459 2445
fax: +39 06 5459 3628
info@landcoalition.org
www.landcoalition.org

This work was carried out as part of a 3-year collaborative project entitled “Securing Women’s Access to Land: Linking Research and Action”, coordinated by the International Land Coalition (ILC), the Makerere Institute for Social Research (MISR) of Makerere University in Uganda and the Institute for Poverty, Land and Agrarian Studies (PLAAS) of the University of Western Cape in South Africa.

Its overarching aim was to learn from women and respond to their needs through action-oriented research. The purpose of the research carried out under this project was not only to provide an evidence-base for advocacy on women’s rights, but also to strengthen the research and advocacy capacity of civil society organizations, and to build a platform to advocate for a transformative agenda that supports rural poor women to improve their access to and control over land and other natural resources, including the building of linkages with the wider advocacy relationships and programmes of the ILC.

This report is part of a wider initiative on Women’s Land Rights (WLR). If you would like further information on the initiative and on the collaborating partners, please feel free to contact the International Land Coalition.

