

Women's Land Rights in Africa: Societal Demands and Challenges

Monalisa Deka

PhD, JNU

Abstract

The land is one of the cornerstones of economic development on which farmers, pastoralists and other communities base their livelihoods. Land is also an important aspect of business assets, which is crucial in business investment strategies. Thus, securing land rights can have profound implications on economic development. Land in rural areas is both a means of agricultural production and livestock rearing and a place for gathering natural products that play an important role in local economies such as woodcutting, wild harvesting, grazing, fishing, hunting, etc. Furthermore, land is a source of identity and cultural heritage. An increasing body of literature has produced tangible evidence highlighting the insecure position of women's land rights. The existing gender inequality in access to and control over land and natural resources is an obstacle to the sustainable management of natural resources and socio-economic development. Land is an important source of security against poverty across the continent and developing world, unequal rights to land put women at a disadvantage, perpetuate poverty, and entrench gender inequality in Africa. Gender has become a critical issue in women's land rights because there is direct relationship between accessing land resources, having secured land rights, achieving food security and overcoming poverty, women produce more than 80% of the food in Africa, yet they own only 1% of the land (Smit, Ratta, & Nasr, 2011). Improving access to land to women and control of land is crucial to socio-economic development of Africa. Several countries in Africa have either formulated their land policies or are in the process of doing so. Reforms seeking to formalize land rights must intentionally consider the economic, social and political dimensions of property rights to ensure that women are not left worse off by the process. At the same time to be effective in the long term, the reforms must consider the social as well as legal legitimacy of the change they seek (Odeny, 2013).

Keywords: Land Rights, women, Africa, Gender, Land reforms

Land Rights in Africa: a formal and legal policy situation

The processes of formalisation of land rights have all along had a strong international element. In the colonial era the push came from the colonial powers. Today economic institutions like the World Bank are among the most influential actors. For practical purposes, we use the term 'formalisation' to describe the process of increased state engagement in terms of legal regulation and registration of land rights. a contested issue in contemporary policy discourse on women's land rights in Sub-Saharan Africa is the capacity of customary systems of land tenure to secure women's land rights through evolution, and whether state-law intervention is necessary (Ik Dahl, Hellum, Kaarhus, Benjaminsen, & Kameri-Mbote, 2005).

The term 'formalisation' is ironically a vague concept. Originally, 'formal' comes from the Latin word *Formalis*, which means 'precise/explicit/clear'. Hence, to formalise would mean to make something clear and more explicit. In the current literature on land rights in Africa the term 'formal' is usually and implicitly associated with official and written documents. According to this understanding, to 'formalise' would be to make it official (Ik Dahl, Hellum, Kaarhus, Benjaminsen, & Kameri-Mbote, 2005). This understanding of the term formalisation leads to an overall focus on the state both in terms of state law and state policy. In the area of land use and access to natural resources, states attempt to simplify and standardize local tenure systems and rules regarding transfer of rights, trying to make them 'legible'. Projects of simplification and legibility are, according to Scott are typical characteristics of a modern state (Scott, 1998).

Formalisation is thus often seen as a shift from 'informal' to 'formal' norms, from oral to written, from extra-legal to legal or from unofficial to official. Such a dichotomous approach has been criticized because it does not grasp the complex and uneven process whereby state law and local norms and practices intersect and interact (Moore, 1999). Obtaining a formal title to land is often a cumbersome and costly process, beyond the reach of most rural poor. Instead, what has been termed 'informal formalization' is characterized by combining operations issuing from the repertoire of contact, documents and market exchange with operations stemming from customs and interpersonal relationships as they are dynamically lived in local society (Benjaminsen & Lund, 2002).

While acknowledging that the terms 'formal/informal' and 'formalisation' are problematic, for practical purposes, these terms are used to describe the process of increased state engagement in terms of legal regulation and registration of land rights. To come to grips with the way in which women's access to and protection of land is affected by formalization in terms of formal regulation we pay the attention to the complex interplay between formal and informal norms and practices. In practice, a wide range of norms affect women's access to land and the protection of their land rights. State law and state institutions are not the sole regulatory forces (Moore, Law as Process, 1978) (Ik Dahl, Hellum, Kaarhus, Benjaminsen, & Kameri-Mbote, 2005).

In practice, the interaction between state law and local norms affects women's land rights differently. In some instances, discriminatory customary laws, which were formalized in the colonial era, have been modified through local practices as people adapt to changing legal, social and economic circumstances. Research has showed how property is transferred to daughters or widows in context where the formal customary law does not recognize their equal inheritance rights (Lesotho, 1994). Studies have shown how the practice of land reform, which is gender-neutral on paper, is dominated by informal norms favouring men. In spite of legal reforms or case law that strengthen women's inheritance rights, 'property grabbing' by the husband's relatives is still widespread in Southern and Eastern Africa (Lesotho, 1994).

Several countries in Africa have either formulated their land policies or are in the process of doing reforms that seek to formalize land rights must intentionally consider the economic, social, political dimensions of property rights to ensure that women are not left worse off by the process the same time to be effective in the long term, the reforms must consider the social as well as legal legitimacy of the change they seek (Odeny, 2013). While African countries have achieved different legal and policy strides in addressing the land issue, studies have shown that women may not know their legal rights even where laws are equitable. In addition, implementation may still be gender-biased and law enforcement may be grossly inadequate or prejudiced against women. In Kenya for example, laws technically allow women to own land, yet nearly

all land is registered in the names of male elders. This needs a concerted effort and the diligent implementation of the newly enacted laws to benefit women (Odeny, 2013).

Formalisation of Land Rights in Africa since the colonial times: A historical perspective

Formalisation is not a new concept in Africa. The attempts have been made since the colonial times through governmental efforts. The process has encompassed formalisation of rules regarding both the status of customary African land tenure systems and rules guiding transfer of rights between Africans through marriage, divorce, inheritance or other means. Colonial era state regulation was generally based on a distinction between law and custom, law being the metropolitan written rules, while the mostly unwritten norms of the native populations were 'customs' (Merry, 1988).

Women's land rights in southern and eastern Africa must thus be understood in the light of the colonial legacy of 'plural systems of law' characterised by the existence of plural customary and religious systems within one hegemonic legal system, the state legal system (Bentzon, Hellum, Stewart, Ncube, & Agersnap, 1998). The so-called state court customary law was developed through a mixture of the rulings of local male chiefs, white colonial administrators, colonial courts, anthropological monographs on African customary laws, and textbooks written by colonial administrators (G. Woodman, 1988). A common feature of this formalised customary law developed in different parts of Africa, was its discriminatory character. It was usually established that African women were minors under the guardianship of fathers, husbands or elder brothers. Hence, women were excluded from the formal decision-making process concerning allocation and transfer of land between Africans, while male chiefs were empowered. The formalised customary marriage and divorce rules established that the husband, through his marital power, held property on behalf of the family. In the event of divorce, it was held that women were entitled to keep what was seen as her property: mainly the bride price, often in terms of cattle (in patrilineal groups) and cooking utensils. As regards women's access to land in the event of death, it was held that daughters did not inherit on an equal basis with brothers, and that widows could not inherit (Ik Dahl, Hellum, Kaarhus, Benjaminsen, & Kameri-Mbote, 2005).

The status of African land tenure systems has been seen as a matter between the state and the different population groups. Transfer of land in terms of distribution, expropriation or sale has been defined as a 'public' matter regulated by state law and state institutions. Transfer of land within the native group, especially within the clan and the family, has seen as an internal 'native' or 'private' matter to be regulated by customary law and customary authorities. This dichotomy is reflected both in land reform policies and in the different bodies of literature dealing with the formalisation of land rights. One stream of literature has focused on formalisation in terms of individualisation, titling and registration of land rights. A central theme in this literature has been the relationship between land markets and communal and individual ownership (Roth & Bruce, 1994). Another body of scholarship addresses conflicts within the community regarding control and access to land along gender lines. An overall focus is formalisation of informal rules concerning inheritance, marriage and divorce. What is seen as being at stake here is differences regarding power and resources within the group and the relationship between the family, the state and the market (Griffiths, 1997) (Whitehead & Tsikata, 2003).

The Process of post-colonial land reform

The unmaking of the colonial legal inheritance, in terms of dual systems of property, personal and family laws have been important issues since the former colonies in southern and eastern Africa became

independent. However, family law and land tenure reform have, by and large, been seen as separate issues. In Zimbabwe, the Commission of Enquiry into Appropriate Agricultural Land Tenure Systems (the Rukuni Commission) was appointed by the President in 1993. The commission's recommendations as to how agricultural production could be increased in communal and resettlement areas included legally secure tenure, improved credit and financial services, access to water and comprehensive agricultural support institutions (M.Rukuni, 1994). The land reform programme in South Africa has mainly been concerned with the racially skewed land ownership. The programme's beneficiaries are therefore defined primarily in terms of race (Ik Dahl, Hellum, Kaarhus, Benjaminsen, & Kameri-Mbote, 2005).

However, the government also recognises that past policies have led to skewed gender relations in terms of access to productive resources. The right to secure tenure, the right to equality and the right to culture are all embedded in the Constitution, but how these issues can be harmonised is a site of contention between government, civil society and the judiciary (Ik Dahl, Hellum, Kaarhus, Benjaminsen, & Kameri-Mbote, 2005). Central in the current reform debate is the government's wish to build on the power of traditional authorities to achieve rural development. The Communal Land Rights Act has been severely criticised, especially for its anticipated negative consequences for women's land access and participation in land management. Once it comes into effect, the Act will open up the opportunity to register individual title deeds within the communal areas through the registration of existing rights. It is feared that this will strengthen and reinforce the situation entrenched by the inherited colonial regime which conferred primary rights on men, and only secondary and derivative rights on women (Ik Dahl, Hellum, Kaarhus, Benjaminsen, & Kameri-Mbote, 2005).

In Tanzania, the two land Acts passed by Parliament in 1997 combine two overall objectives: to provide for more secure tenure for all and facilitate the operation of a market in land rights. Towards this end village authorities have been empowered to issue certificates of customary title on the basis of local customary law, provided it does not come into conflict with the prohibition of gender discrimination. Yet, the Local Customary Law Order (Declaration), which neither provides daughters nor widows with equal inheritance rights to those of sons and widowers, has been upheld (R.Mtengeti-Migiro, 1991). In Mozambique, the Land Law enacted in 1997 states that men and women shall have equal rights to land, and the principle of non-discrimination also applies with regard to formal individual titles. Along the same lines, the new Family Law passed in 2004, recognises equal rights for men and women both in society and the household or family. However, how and the extent to which the recent legislation will impact women's rights and access to land through inheritance, especially in rural areas, will depend on – among other things – disseminating knowledge about women's rights according to the new legislation. An increasing focus on facilitating market mechanisms does not really consider the question of how women actually access land, through inheritance or other – negotiated – mechanisms and relationships (Ik Dahl, Hellum, Kaarhus, Benjaminsen, & Kameri-Mbote, 2005).

Colonial land policies in some countries attempted to introduce national registration of lands as private property. The Belgians started land registration in Belgian Congo in 1886, the Germans established a *Grundbuch* in Togo in 1888, the French introduced a system of land registration in Madagascar in 1897, and the British designed the *mailo* system in Uganda in 1900. Looking at the general experiences of the effects of registration of individual titles across the African continent, Shipton (1989) notes some commonalities. Firstly, titles have been registered almost exclusively in the names of males. Secondly, wealthier and more powerful people have been able to use their knowledge and influence to receive larger and better holdings than others. Thirdly, land registers have gone out of date within one or two decades,

as original holders have died, and as people have not informed the authorities about transfers, successions, subdivisions, or plot shifts (P.Shipton, 1989). The most well-known and well documented process of formalisation of land tenure systems was that of Kenya, which started with the Swynnerton plan of 1954 and continued after independence. As regards the impact of registration on women, Shipton (1989) suggests that only 7% of the registered right-holders in this privatisation programme were women.

The Native Lands Registration Ordinance of 1959 gave the holder of the absolute proprietorship to land the power to use, abuse and dispose of her rights as she pleases subject to minimum restrictions. Registration freed the registered proprietor from claims of other parties. The provisions of the Act were gender neutral. However, right from the beginning, registration was bound to exclude most women from acquiring titles to land since they only had rights of use while men retained those of allocation (Ik Dahl, Hellum, Kaarhus, Benjaminsen, & Kameri-Mbote, 2005). The tenure reform process only took into consideration the rights of people who had land and not the landless or those who had rights that did not amount to ownership. In most cases families designated one of themselves, usually the eldest son or the male head of the household, to be registered as the absolute owner without realising the latitude that such person would have to deal with the land once so registered. According to the registration statute, a right of occupation at customary law would only be protected if noted on the register, which many families did not bother to do, for they saw no possibility of a piece of paper vesting any more rights in the family representative than he would have had at custom. The Native Lands Registration Ordinance weakened the position of women, in that registration was monopolised by men, and a large proportion of women did not have title to land. Registration conferred certain powers which strengthened men's economic power, while women lacking title to land were disempowered (C.Nyamu-Musembi, 2002).

Women's Land Rights in Africa

Whether the formalisation of informal property relations will be equally beneficial for everyone within groups and communities is an open question. In his review of de Soto 2000, Franz von Benda-Beckmann has pointed to the opportunities formalisation of property rights offers for the new elites and middle class who can take advantage of the legal system (Beckmann, 2003). How international, regional, national and local laws, norms and values come together to situate individuals' and groups' claims to resources in formalisation processes ought to be understood in the light of power and power relationships. The gendered position of women in differing economic, social and political contexts requires an examination of the power of women to negotiate in these processes (Griffiths, 1997).

While African countries have achieved different legal and policy strides in addressing the land issue, studies have shown that women may not know their legal rights even where laws are equitable. In addition, implementation may still be gender-biased, and law enforcement may be grossly inadequate or prejudiced against women. In Kenya for example, laws technically allow women to own land, yet nearly all land is registered in the names of male elders. This needs a concerted effort and the diligent implementation of the newly enacted land laws to benefit the women (Odeny, 2013).

Programmes and Initiatives for the implementation of women's Land Rights

The international community has increased funding towards skills building and strengthening institutions that work in women's land and property rights. There has also been investment in literacy campaigns to increase awareness on women's land rights. IFAD has developed the Women's Land Rights Project that raises awareness and capacity building/training for IFAD headquarters and field staff; mainstreaming the

strengthening of women's land rights through policy dialogue at country level; participatory research and analysis at country/project level; piloting and documenting of appropriate methodologies which strengthen women's land rights; and, sharing of lessons learned at country, regional and international levels (Odeny, 2013).

FAO, Action Aid and Oxfam GB also have a number of projects being carried out in many African countries with regards to advocacy and capacity building focusing on women's empowerment, women's land rights, agriculture and natural resource management to reduce poverty and ensure food security. Five case studies conducted in different countries, i.e. Niger, Burundi, El Salvador, Tanzania and Rwanda analysed aspects related to interventions that vary from legal support (Burundi), to technical assistance for leasing agreements (El Salvador); from trying out and analysing a methodology to support all the landowners, and providing a flexible mechanism for the acquisition of land certificates that is accessible to vulnerable farmers and is suitable for large-scale replication (Niger) and land registration processes (Rwanda) to village land use planning (Tanzania) (Odeny, 2013).

The UN Charter of 1945 sees human rights and economic and social development as closely interrelated. It commits the UN to promote both 'with a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples' (art 55). The preamble to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) links law and development stating that 'the full and complete development of a country, the welfare of the world and the course of peace require maximum participation of women on equal terms with men in all fields'. 1986 the United Nations General Assembly adopted the Declaration on the Right to Development. It emphasises that development policies and processes shall enable states to fulfil their obligations under international human rights treaties. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa adopted by the African Union in 2003 strengthens the legal status of the principle of gender equality in relation to the right to development embedded in the Charter (F.Banda, 2004).

The right to livelihood is inextricably linked to the rights to food, water, health and housing. The so-called solidarity rights, such as the right to development and the right to environment, also have a bearing on people's access to land. Of paramount importance in regard to all these dimensions of the right to land is the principle of equality and non-discrimination. These rights constitute an interrelated and indivisible whole, setting standards that have a bearing on land reform in terms of non-discriminatory distribution principles, and the establishment of secure tenure on an equal basis (Odeny, 2013). The non-discrimination principle is embedded in all the main human rights documents, including the Universal Declaration of Human Rights (UDHR), the Covenant on Civil and Political Rights (CCPR), the Covenant on Economic, Social and Cultural Rights (CESCR), the African Charter on Human and Peoples' Rights (AfCHPR) and the CEDAW. Article 26 of the CCPR establishes a general and independent protection against discrimination and protects such women's rights as the right to land and property on a non-discriminatory basis (Odeny, 2013).

The African Protocol on the Rights of Women further substantiates the principle of non-discrimination concerning land and food security. In addressing the right to sustainable development, Article 19C obliges states parties to 'promote women's access to control over productive resources such as land and guarantee their right to property'. Addressing the right to food security, Article 15A obliges states parties to take appropriate measures to 'provide women with access to clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food' (Odeny, 2013).

Administration of Land and management of women's Land rights

For land to play a key role in socio-economic growth and poverty alleviation, a functioning land administration system must support secure, easily transferable land rights and be capable of:

1. maintaining comprehensive, clear, accessible land records;
2. creating mechanisms for the efficient and effective transfer of land for a reasonable fee; and
3. providing accessible avenues for handling land disputes fairly, predictably, and timely.

securing the existing tenure rights in an accessible manner would be key to a functioning land administration system. Most African countries' systems do not currently support these elements of a functioning land administration system – either in design or in practice. The systems suffer from an incomplete design, incomplete (or non-existent) data on land holdings, lack of records, cumbersome, time consuming, and imperfectly understood transaction processes, high transactions costs, lack of information and processes to determine land values, and lack of institutional capacity to create and maintain records to manage transfers (Odeny, 2013).

The informal systems of land administration and management operate in a void that makes women's participation or leadership in land administration and management particularly difficult. It is therefore imperative to assess whether principles of gender equity are broadly embraced, socially or legally accepted, and promoted at the institutional level (such as land registries, courts, conflict resolution institutions, and local land administration agencies); assess the gender balance within land administration agencies; and examine the rules, institutions, and players involved in customary, religious, and informal frameworks - particularly those regarding inheritance and divorce (Odeny, 2013).

While in some African countries women's land rights are enshrined in the constitution or land law, in reality this does not bring feasible outcomes with respect to equitable access and control over land due to poor implementation and enforcement of the laws. Women still lack decision-making power. Effective land administration requires women's participation at policy formulation and at level of implementation on an equal footing with men in order to ensure gender-equitable land tenure system (Odeny, 2013). Participation of women in local land management and administration committees including in land dispute resolution/management committees is basic for women's empowerment as it enables them to take part in community level decision making processes.

There is a wide range of human right provisions addressing women's right to participation. CEDAW (Committee on the elimination and discrimination against women) obliges states parties to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and be eligible for election to all publicly elected bodies (Article 7). The state must ensure that rural women have a right to participate in the elaboration and implementation of development planning at all levels and participate in all community activities (Article 14(2)a). The African Protocol on the Rights of Women embodies women's right to participation in political and decision-making processes (Article 9) and establishes an obligation to ensure 'equal participation of women in the judiciary and law enforcement organs' (Article 8e) (Ik Dahl, Hellum, Kaarhus, Benjaminsen, & Kameri-Mbote, 2005).

In addition, participation rights are central in the right to development in Article 19c, which states that the 'participation of women at all levels in the conceptualisation, decision-making, implementation and evaluation of development policies and programs' shall be ensured. In the Southern African Development Community Gender and Development Declaration (SADC 1997), heads of state or government laid the political foundation for the implementation of women's participation rights by committing themselves to take measures to ensure 30% representation of women in all political decision-making structures by 2005.

A formal right to participate is not in itself sufficient. The state parties are obliged to ensure a de facto equal right to participate. To ensure real equality, Article 4.1 of CEDAW states, 'Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention'. This article is important, in that it may be applied to ensure women's participation in the national and local institutions that are involved with land management and allocation, as well as introducing gender sensitive criteria for resource allocation (Ik Dahl, Hellum, Kaarhus, Benjaminsen, & Kameri-Mbote, 2005).

Parameters set up by Human Rights Based approach for gender equal land reform

The human rights based approach to development establishes a set of standards for gender-equal land reform. Whichever model the state chooses for formalisation and registration of land rights, the prohibition of discrimination in international law such as CEDAW implies an obligation to carefully assess the chosen criteria and measures so that women are not disfavoured, whether directly due to their sex, or indirectly due to such factors as tradition and gender stereotypes. This requires closely scrutinising the context where the formalisation will occur, both in terms of facts and norms. The main standards can be expressed as follows (Ik Dahl, Hellum, Kaarhus, Benjaminsen, & Kameri-Mbote, 2005):

- Clear criteria for redistribution that do not discriminate directly or indirectly must be put in place.
- Clear criteria for recognition, registration and protection of informal rights that are neither directly nor indirectly discriminatory must be implemented.
- Land reform must transcend the public/ private divide to encompass land transactions through both family and market relations.
- The equal participation of women at all levels of policy- and decision-making must be ensured. Educational measures must be taken to ensure that decision-makers and users at all levels are aware of their rights and obligations.
- Transparent, representative and accountable land institutions with appeals to an independent court need to be established.

Challenges faced by women under customary tenure

Under customary law women's access to and ownership of land is impacted by a number of factors, among which are:

Constitutional difference

Recently, an increasing number of countries have recognized women's equal rights in their Constitutions, thus complying with international human rights standards and Obligations, for example UN Human Rights Charter, CEDAW. However, some Constitutions are neutral while others such as those of Zimbabwe, Zambia and Lesotho have discriminatory provision in customary and personal law matters such as inheritance. In some countries such as Uganda, South Africa and Mozambique, Constitutional provisions prohibit discrimination, including in customary law and practice (Habitat, 2006) . These are progressive Constitutional provisions but how they translate in practice is what, in part, this study is exploring (Odeny, 2013).

Patriarchy

The patriarchal setting on the African continent whereby male dominate on matters concerning land makes

it difficult if not impossible for women to access and own land in their own right. They are allocated land by male forks within their clan or through their male spouses. This state of mind-set has prevailed at all levels of society for time immemorial.

Lack of vigilance on legal provisions

Although most African countries have constitutions which ascribe to equality between male and female and land laws which are either gender-neutral or affirmative on women's land rights, generally the general public is not aware or conversant with such provisions. This is because once the land policies are adopted and land laws passed, there is no deliberate efforts made by the State to sensitize the general public on what these documents say about peoples' land rights in general and women land rights in particular (Odeny, 2013).

The vast difference between Commitments and practice

Most African Governments have ratified the international Conventions on Elimination of All forms of Discrimination Against Women (CEDAW) and made commitments to the Constitutive Act (Article 4 (I)) to gender equality and AU Protocol on the Rights of Women in Africa (2003) (ratified by 31 states to date). Implementing these high-level commitments remains a challenge because "the principle is not prioritized as a policy objective, nor serious attention is paid to how to carry through these commitments in practice, outside of a small number of dedicated projects" (C.Walker, 2002). High level commitments are not popularized or domesticated in national laws (Odeny, 2013).

Provisions in the constitution related to women's land rights

In Kenya, the new Constitution (2010) addresses women's plight to land ownership and creates the necessary legal and institutional framework to ensure full realization of women's right to land and other related resources. The Land Acts which were enacted in 2012 also have promising provisions (spousal consent in land transactions, equal recognition of men and women, and co-ownership) which if implemented can strengthen women's land rights. It is important to note that good land laws often remain unapplied because of the lack of secondary legislation, regulations, and procedures for their implementation. It is therefore essential to improve land law enforcement and develop gender- equitable regulations, procedures and strategies for implementation (FAO, 2008).

The Kenyan Constitution and the National land policy (2009) have adopted the African Union - Framework and Guidelines on land Policy by recognizing women's rights and ensuring equitable land access by the landless, women, youth, displaced persons and other vulnerable groups. However, the implementation of these provisions are yet to be put to test to see how effective they can be in enhancing and strengthening women's land rights Effective land rights are highly dependent on measures broadening access to justice and rule of law to women who to a large extent have been excluded (Odeny, 2013).

In general, legislations provided in line with the principle of gender equality in order to protect women's rights to access and control over land fail to meet its objectives due to lack of appropriate implementation. In Tanzania the current legislation guarantees equal rights for both women and men to buy, own, use and transact in land. However, customary norms in rural areas are still biased against women – as wives, widows, sisters, daughters, divorced and separated women – limiting their ownership of and control over land (Odeny, 2013). The Land Use Act (1978) of Nigeria was enacted to deal with the problem of uncontrolled speculations in urban lands, make land easily accessible to every Nigerian irrespective of

gender, unify tenure system in the country ensure equity and justice in land allocation and distribution and, amongst others, prevent fragmentation of rural lands arising from the application of the traditional principle of inheritance. In Ghana, Article 35(1) of the 1992 Constitution enjoins the state to promote the integration of all peoples and prohibit discrimination and prejudice on grounds of origin, circumstances of birth, ethnicity, gender and other beliefs. The Constitution also requires the state to guarantee property ownership and inheritance rights of all, Article 36(7). However, the land tenure and administration system in Ghana faces serious problems which undermine these Constitutional guarantees (Odeny, 2013)

Steps and Practices undertaken to accelerate the process of Women's Land rights in Africa

Many African governments have Constitutional provisions for equal rights between men and women, and have also developed land policies which uphold women's land rights. However, implementation remains a challenge for a number of reasons among which are (Odeny, 2013):

- Lack of or inadequate capacity by government institutions charged with responsibility of implementing such provisions and land policy;
- Ignorance by women thereby negating their ability to claim their land rights;
- Conflict between constitution and/or statutory laws on one hand, and customary practices on the ground on the other. In recent years, international bodies have recognized the threats posed by the limited access to land for women in sub-Saharan Africa. Various NGOs are now active in the region on the question of women's land rights. Development partners are supporting programmes focusing on land policy formulation and implementation and women's land rights issue is central in these programmes.

The World Bank, FAO, UNDP, UN WOMEN, Oxfam GB, CIDA Canada, Sida Sweden, CARE International, Action Aid International, USAID, EU, DFID, etc could be cited as examples of development partners operating in different countries under this assessment. These partners actively support land and agriculture-related programmes and projects in different countries; for example, FAO and UNDP assist Somalia, whereas Ethiopia is supported by World Bank, USAID, DFID, etc (Odeny, 2013).

Some countries in Africa have taken bold steps to enhance women's land rights. Some of the steps are:

Policies by Government

In some countries like Botswana, Malawi, Tanzania, Burkina Faso and others governments have set numbers or percentages of women to sit on land boards, land tribunals or land committees at various levels. In Malawi a recently implemented resettlement project had set 30% of beneficiary households to be women headed (Odeny, 2013).

Decentralisation and Democratization of land administration

Decentralization and democratization of customary land administration where committees and not only royalties should administer customary land. This is the case in Botswana, Namibia, Uganda, Tanzania, Malawi (on paper as system is not operational pending enactment of a new land law) and other countries. This should enhance protective attributes to women accessing land based on customary tenure (Odeny, 2013).

Initiatives by Traditional Leaders

A women's land rights project which was implemented in twelve chiefdoms in Zambia brought on board

traditional leaders as champions in advocacy for women land rights. The project also instituted a direct consultative forum between chiefs and women where they could discuss women's plight regarding their land rights. Any qualified person including women can register customary grants. This is happening in some countries, like Botswana, Ethiopia etc.

Documentation of land in Ethiopia

Land registration and certification in Ethiopia is a step forward in women's land rights. The whole process is transparent and is owned by communities. The situation has created awareness in areas of women's land rights among various stakeholders including women themselves. The 2nd level certification has shown progress in ensuring rural women's land rights.

Women's movement in Uganda

Women activists have confronted repressive customary land practices; women have been at the forefront through organizations such as the Uganda Land Alliance (ULA) and Uganda Women's Network (UWONET) in the struggle for approval of the co-ownership clause by the legislative body. The ULA coordinated efforts of lobbying legislators and campaigned for co-ownership, by producing information, education and communication (IEC) materials, used to raise awareness of the general public on the need for such a clause (Odeny, 2013).

The role of civil Society in Cameroon

the network for the defense of women's rights and gender equality (RDFES) a group of women's NGOs has issued a memorandum denouncing customary law. In addition the local partner Abri International, CONGEH (Coalition des Organisations Non Gouvernementales (ONG) et des Organisations Communautaires de Base (OCB) du Cameroun Œuvrant dans le Domaine des Établissements Humains), a coalition of more than 30 community organizations is particularly concerned with equal access to land and housing for women and reach out for the effectiveness of the right of family members' who suffer from AIDS (Odeny, 2013).

Conclusion

Despite legal protections, women are largely disadvantaged in terms of accessing or acquiring land in Africa. Various factors affecting access to land, including socio- economic status, insecurity (both historic and modern), and government policies and practices, have aggravated vulnerability among already disenfranchised groups. The study further points out the existence of gender disparity in access to and control over land in all the countries under this assessment. Issues related to land policy range from absence of land policy in some countries to gaps in implementation in others. These issues need to be addressed effectively to ensure women's access to and control over land in these countries (Odeny, 2013). It also revealed that the customary land tenure system, which remains relevant even within the statutory system, has affected women disproportionately in terms of limiting their access, control, and ownership of land by virtue of their gender (Odeny, 2013). Therefore strengthening women's land rights can be achieved by formulating land policies in countries where such policies are non-existent, reviewing policies that are inconsistent with international and regional women's rights instruments, mainstreaming gender in land policy and land administration system, carrying out advocacy and awareness creation activities on

women's land rights, establishing strong women's movement and networks, and carrying out further research.

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