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Land Rights from a Gender Perspective:

Multi-stakeholder Actions to enhance Gender and Women's Land Rights in Land Policy Formulation and Implementation in Uganda

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Abstract

The paper highlights land rights from a gender perspective as well as actions for enhancing gender and women's land rights during policy formulation and implementation. The paper emphasizes that for any land policy reform to be successful, gender aspects must be prioritized during policy formulation, if policy implementation is to lead to an inclusive and sustainable socio-economic development of a nation. Multi stakeholder actions should be emphasized during policy formulation and implementation with women and women's groups taking centre stage. The paper shares experiences in the formulation and implementation of Uganda's National Land Policy which followed a highly consultative process giving all stakeholder groups including women a significant role in advocacy on land reform primarily focusing on women land rights. The paper also suggests strong recommendations that governments and other key stakeholders need to prioritize in enhancing gender and women's land rights through a collaborative approach that ensures that policies reflect people's needs and increasing women's access to land can be a powerful tool that can lead to socio-economic development and transformation, with supporting measures ensuring that women also have the capacities to effectively use the land.

Key Words: Gender, Land Rights, Multi-stakeholder actions, Land Policy

Introduction:

Uganda's National Land Policy was approved in February 2013 by Cabinet as a policy framework designed to address the current and future challenges regarding the role of land as the primary foundation for socio-economic development and transformation of the country.³

The adoption of the policy marked the end of a long consultative and inclusive process of stakeholder consultations on the appropriate courses of action needed to address Uganda's land question.⁴ The implementation of the policy is also premised on the principle of stakeholder involvement as it addresses a variety of issues including gender and women's land rights.

Background:

Land rights are socially or legally recognized entitlements to access, use and control areas of land and related natural resources. These rights of people to land are either individually or collectively and they are determined by a number of socio-political systems that evolve over time and exist concurrently.

Looking at land rights from a gender perspective, one is basically looking at the impact of gender on people's opportunities, social roles and interactions. The success of any policy formulation and implementation is directly affected by the impact of gender and, this in the end influences the process of socio-economic development.

In the last two or so decades, gender issues have become a priority concern for sustainable development. This paper highlights land rights from a gender perspectives as well as actions taken to enhance gender and women's land rights during policy formulation and implementation. The paper emphasizes that for any land policy reform to be successful gender aspects must be prioritized during policy formulation, if policy implementation is to lead to an inclusive and sustainable socio-economic development of a nation. Multi stakeholder actions should be emphasized during policy formulation and implementation with women and women's groups taking centre stage. The paper shares experiences in the formulation and implementation of Uganda's National Land Policy which followed a highly consultative process giving all stakeholder groups including women a significant role in advocacy on land reform primarily focusing on women land rights. This paper also suggests strong recommendations that governments and other key stakeholders need to prioritize in enhancing gender and women's land rights through a collaborative approach that ensures that policies reflect people's needs and increasing women's access to land can be a powerful tool that can lead to socio-economic development and transformation, with supporting measures ensuring that women also have the capacities to effectively use the land.

³ Uganda National Land Policy 2013

⁴ Supra

increasingly become a global issue in policy formulation and implementation, and many international fora have given it the urgency it deserves. No country can boast of enacting and formulating progressive policies and laws without including gender related provisions and strategies.

Land in Uganda is a major factor of production, the most important resource for rural women. Despite the women's critical role and contribution to agriculture, rural development, and food security, women in Uganda are discriminated in terms access to, ownership of and control over land, and the income produced from it. Women's ability to access land and to claim, use and defend rights to land and other natural resources is weakened by their status within the household and community, as well as discriminatory customary or statutory laws⁵.

In many communities, traditional customs dictate the access that community members have to land and resources. Land is not considered a good that can be bought or sold, but is managed according to family and lineage structures, marriage practices and religion.

Uganda's Land Coverage and Land Policy Reforms:

Uganda covers a total surface area of approximately 241,038 square kilometers of which 18.3 per cent is water and 81.7 per cent is land.⁶ Of all available land, 42 per cent is arable, although only 21 per cent is currently utilized, mostly in the southern parts of the country.⁷ Land is fairly distributed among households throughout the country with an average land holding ranging from about 1.6 to 2.8 hectares in the south and 3.2 hectares in the north.⁸ There are four different forms of land tenure systems namely: Customary, Freehold, Leasehold and Mailo guaranteed by the 1995 Constitution and the 1998 Land Act.⁹ The greatest percentage (about 90 per cent) of the land is held under customary tenure system.¹⁰

⁵ National Development plan for Uganda 2015

⁶ NDP *Supra*

⁷ NDP *Supra*.

⁸ *Supra*.

⁹ Freehold land was given as a grant to the citizens of Uganda and existing institutions such as; Religious organizations, education institutions and other big corporate bodies by the colonial masters before independence in 1962. While after independence, leasehold has been granted from public land vested in the Government, which was invested in the Uganda Land Commission, until the promulgation of the new Constitution in 1995. Since then this role has been taken over by the District Land Boards. Mailo land in principle is a feudal land tenure system, originating from an agreement between the king of Buganda and the British Government In 1900. Today, it is treated more or less as freehold land tenure.

¹⁰ Uganda National Land Policy, 2013.

Like in most developing countries, majority of Uganda's land owners do not have land titles to guarantee their security of tenure.¹¹ The problem of accessing land titles is compounded by a number of factors such as bureaucracy, manual operations though we started computerization of the land records, corruption, low level of funding to the sector, legal and regulatory constraints, attitude, culture, squatters, historical issues, shortage of relevant skills such as land surveying, land valuing and many other related problems.¹²

Uganda has over the last decades adopted a series of macro-policy instruments such as the 1995 Constitution, the National Development Plan (NDP) I and II, the Uganda National Vision 2040¹³ among others. Mostly the NDP and vision 2040, articulate Uganda's medium-term and long-term vision to achieve social, economic and political transformation. Vision 2040, builds on the progress that has been made in addressing the strategic bottlenecks that have constrained Uganda's socio-economic development since independence, including: ideological disorientation, under-developed human resources, inadequate infrastructure, small market, lack of industrialization, under-developed services sector, under-development of agriculture, among others.¹⁴ Vision 2040 is expected to be an all-encompassing perspective plan for the next twenty five years, which will also act as a guide to any future planning. In addition, it is also expected that all Government Ministries, Departments and Agencies realign their development priorities with the Vision.¹⁵

One of the overall objectives of Vision 2040 is that, it mandates government *“to make land reforms to facilitate faster acquisition of land for planned urbanization, infrastructure development and agricultural commercialization, among other developments.”* These policy reforms must ensure that land facilities, land use regulation and land development enhance economic productivity and commercial competitiveness for wealth creation, and must stimulate

¹¹ Supra

¹² Supra

¹³ In 2007, Government approved the Comprehensive National Development Planning Frame-work policy (CNDPF) which provides for the development of a **30 year Vision** to be implemented through: three 10-year plans; six 5-year National Development Plans (NDPs); Sector Investment Plans (SIPs); Local Government Development Plans (LGDPs), Annual work plans and Budgets. Consequently, Cabinet approved the National Vision Statement, **“A Transformed Ugandan Society from a Peasant to a Modern and Prosperous Country within 30 years”**. The National Planning Authority in consultation with other government institutions and other stakeholders has thus developed a **Uganda Vision 2040** to operationalize this Vision statement.

¹⁴ See Uganda Vision 2040.

¹⁵ Supra.

the contribution of the land sector to the overall social economic development in an integrated and sustainable manner.¹⁶

Government is expected to reform and streamline land rights administration for the efficient, effective and equitable delivery of land services. In addition, government is to ensure sustainable utilization, protection and management of the environment, natural and cultural resources on land for socio-economic development as well as planned environmentally friendly, affordable and orderly human settlement.¹⁷

In all the reforms that the Government of Uganda has undertaken, gender and women issues have been given utmost importance, and the country has been applauded for formulating progressive policies and laws that address gender and women issues.

The 1995 Constitution bars discrimination of any form against women and promotes equality among men and women. This is also reflected in other legal frameworks. For instance the Land Act (Cap 227) provides for female inheritance rights over land, and requirements for spousal consent in all matters relating to land from which family derives sustenance.

Despite the existence of the legal and policy frameworks to promote gender and women's land rights, customary practices still favor male inheritance to land limiting women's land rights to access and not ownership. Although Uganda's Constitution guarantees equality between women and men along with a number of affirmative action policies and measures, including a Gender Policy, the customary practices under which land is governed continue to discriminate women in property rights.

In post conflict areas, the gender-related land issues are even more acute. This situation is made worse given the fact that 70 per cent of women are employed in agriculture and yet only a small per cent of women own registered land.¹⁸ It has been established that if there is an increase in women's accessibility to land by 5 per cent, agricultural production will be boosted by 0.3 per cent every year.¹⁹ The dominance of the land sector in the economy is evidenced by the reality that more than 43 per cent of the country's Gross Domestic Product (GDP), about 85

¹⁶ Uganda Vision 2040

¹⁷ Uganda Vision 2040

¹⁸ Supra.

¹⁹ NDP, 2010/2015.

per cent of export earnings and approximately 80 per cent of employment are generated from land-based economic enterprises.²⁰

Promotion of women's land rights

Women's land rights are crucial, as secure access to land and other natural resources is a basis for sustainable livelihoods and a key factor in assuring food security and poverty reduction²¹. This also contributes to the identity, dignity and social inclusion of the poorest and most vulnerable groups, whose property rights are very often informal and unprotected by the laws and policies on books. Even where poor women and men enjoy formally recognized tenure rights, other factors may effectively exclude them from formal administrative and legal services due to other factors.

With the increasing urbanization and population pressure on land, land rights are based on private property rights and marketability of these rights. Although this could provide access for both women and men to buy land, the global market economy worsens existing disparities as commercialization of agriculture risks excluding women further particularly as it reinforces land tenure concentration, which usually favors male heads of larger farm households.

Over seventy per cent of women are involved in agriculture and yet few of these women own land. Majority have only access rights to use the land. Because of this limitation, the government realized that there was need for multi stakeholder actions to enhance gender and women's land rights in land policy formulation so as the policy articulates and proposes strategies for enhancing women's land rights.

Involvement of stakeholder groups in Land Policy Formulation Processes

Uganda's National Land Policy formulation process was highly consultative giving all stakeholder groups including CSOs, NGOs, Farmer's Organizations, Universities, Research Institutions, Think Tanks and Media, Ministries and Government Agencies a significant role in advocacy on land reform primarily focusing on vulnerable groups. The policy formulation process took over ten years²².

²⁰ NDP, Supra.

²¹ FAO State of Food and Agriculture Report, 2011

²² NLP formulation process report 2013.

In addition, public awareness and civic education on women's land rights during the policy formulation process was high on the agenda to avoid formulating a Land Policy which is gender blind. A number of TV and Radio talk shows were organized where gender and women's land issues were discussed and recommendations picked for inclusion in the land policy.

A number of studies to identify gender issues and concerns to be addressed by the land policy were undertaken highlighting policies and laws that discriminate against women in social, legal, and inheritance and succession to property.

In all the consultative meetings that were held, it was mandatory that women and women's groups are represented. The women's representatives were also tasked to make presentations highlighting gender and women's issues that needed to be addressed by the policy. These issues were generated by women's groups during their consultations with fellow women. Some women's organisations submitted written memoranda to the Ministry of Lands, which memoranda were carefully studied by the National Land Policy Working Group and the drafting team.

The stakeholder consultative process was concluded with a delegates national land conference, which debated and built consensus on a number of issues including gender and women's land rights²³.

Because of the multi-stakeholder actions that were employed during the policy formulation process, the National Land Policy has a whole section dedicated to Women's land rights. It also goes ahead and prescribes the rights of other vulnerable groups in the society such as children, elderly persons, persons with disabilities, IDPs among others²⁴. Many people who have read our land policy have remarked that our policy is indeed gender sensitive on land matters.

Actions to enhance gender and women's land rights in land policy implementation

After the approval of the land policy by Cabinet in 2013, we embarked on the process of developing a National Land Policy Implementation Action Plan. The National Land Policy carries a thirty year vision, which is "a transformed Ugandan Society through optimal use and management of land resources for a prosperous and industrialized economy with a developed services sector".

The policy vision can only be actualized with the implementation of the land reforms envisaged by the policy. Policy implementation being a broad program calls for implementation of the

²³ Supra.

²⁴ The Uganda National Land Policy 2013.

policy in a phased manner, since not all reforms can be undertaken at ago. The implementation of the land reforms envisaged in the policy required conversion of policy principles, statements and strategies into a comprehensive program of land reforms clearly outlining the course of action. The necessitated the preparation of the National Land Policy Implementation Action Plan.

The preparation of the Implementation Action Plan was equally consultative and based on the principle of stakeholder participation. Continuous dialogue with stakeholders was carried out to ensure that the programme of actions packaged in the implementation action plan mirrors the views of the stakeholders and the envisaged reforms do not merely remain on paper but are practically implemented.

While preparing the implementation action plan, consideration was placed on the Africa Union declaration on land issues which points out that land laws must provide for equitable access to land and related resources among all land users, including women, youth and vulnerable groups. The declaration goes on to emphasize that such laws must strengthen security of land tenure for women.

The implementation action plan priorities actions/activities for implementation in the next three years. These actions/activities are also costed. One of the actions to be undertaken is enhancing women's land rights including: Reviewing all land related laws that discriminate against women, amending the Land Act Cap 227 to provide for spousal consent in mortgaging of property; undertaking public awareness and civic education on women's land rights; Partnering with education institutions in order to improve women's education, their knowledge of legal matters and also contribute to increasing women's access to land.

Other action areas enlisted in the plan include; Encouraging women to apply for positions within the land administration institutions; Working with other Government institutions such as the Justice, Law and Order Sector, Equal Opportunities Commission, among others to address issues of gender and women; Development of a Gender Strategy for the land sector with clear measurable outputs and indicators; Sensitizing government officials both political and technical on gender issues, including gender equitable participation in land policy implementation; Gathering international good practice and lessons for gender-equitable participation in land policy implementation from neighboring countries and engaging with the Civil Society, private sector and development partners to build a platform for raising issues of enhancing gender and women's land rights.

The Ministry has already embarked on the implementation of the National Land Policy. It has received some funding from the Government and the development partners to implement the envisaged land reforms. Specifically a piloting of tools from UNHabitat/GLTN and any other tools from other development partners on enhancing women's land rights will be most appropriate.

We are also engaging other stakeholders like the CSOs and the private sector in the implementation of the land policy.

Conclusion:

Research shows that, when women have access and secure rights to land, household wellbeing increases and all members of the family benefit. Research also shows that, if women are not considered with particularity and special emphasis during formulation and implementation of land reforms, they can end up worse off than before the reforms. Women's access and secure rights to land must therefore be the cornerstone of land policy implementation in any country.

Governments need to play a lead role in enhancing gender and women's land rights, but they need to work with other stakeholders to ensure that policies reflect people's needs and to help generate consensus and support for the policy outcomes. Increasing women's access to land can be a powerful tool that can lead to socio-economic development and transformation, with supporting measures ensuring that women also have the capacities to effectively use the land.