

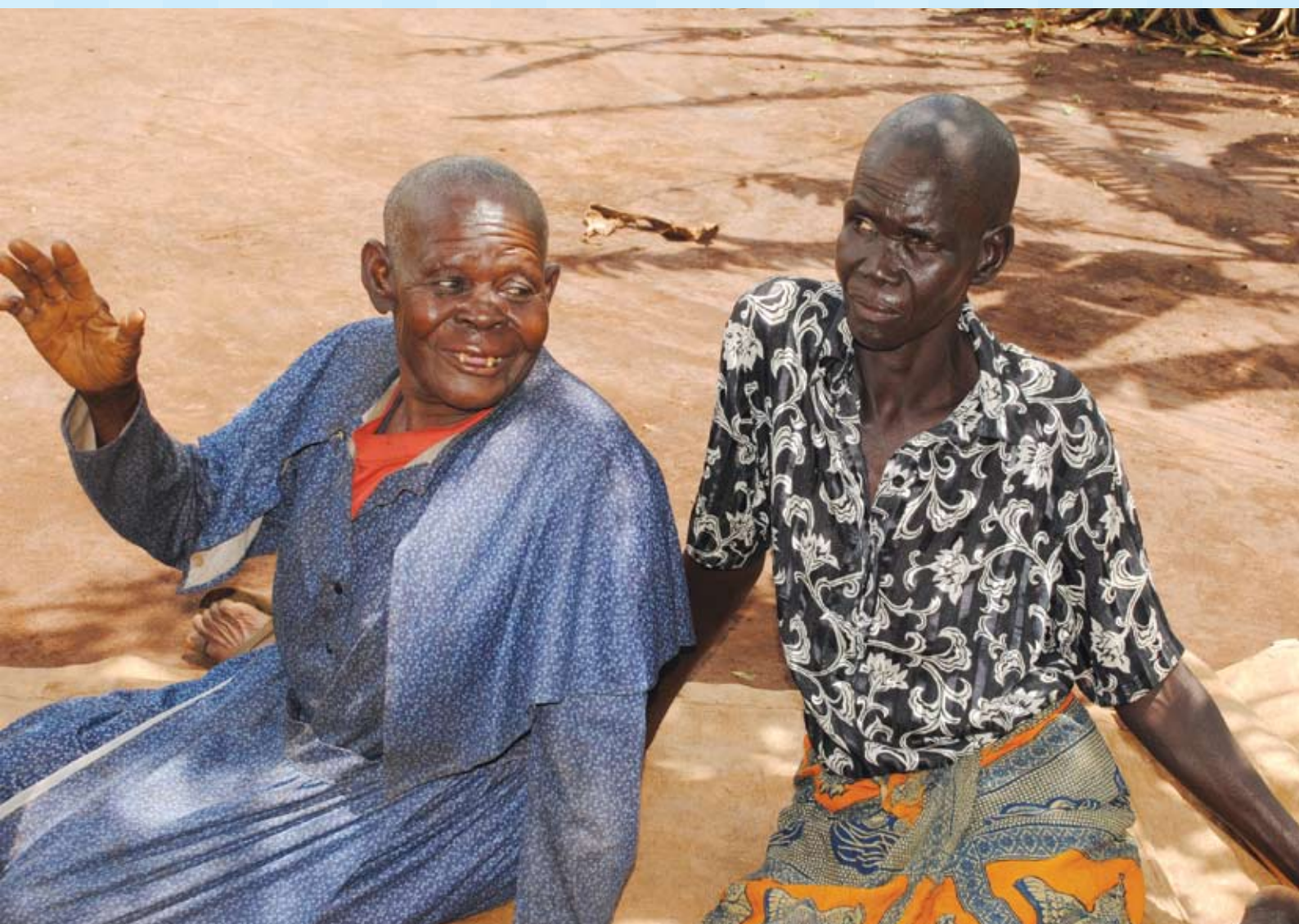


WOMEN'S LAND RIGHTS

BIANNUAL NEWSLETTER

Vol. 1: October 2011

Women's Land Rights **vs** National Development



Enhancing Women's Land Rights

Why the Ngaberu Ngalup?

For decades, the Women's movement in Uganda has been criticized for elitism and being abstract in the pursuance of its goals. This has resulted in the disregard of the many progressive and transformational propositions for law and policy reforms as not representative of the voice of the grass roots woman. The Birth of the Women's Land Rights Movement in Uganda in 2010 saw an attempt at seeking to bridge this gap.. bringing the elite women in the same space as the grass roots woman to build synergies as to what works for all and challenges faced by the womenfolk.

In the Words of Olivier de Schutter, the UN Special Rapporteur on the Right to Food Security: *"We are living at a time when pressures on land and water resources are increasing, in times of financial and energy crises, and when the food price crisis is leading to a growing rush for land for food and biofuels. In addition, investment funds have started to consider land as an asset to speculate on. The carbon credit market is another variable leading to further competition over natural resources. The combination of all these factors means that we are facing a very difficult and complex situation for land users."*

This comes at a time when the discourse of Women's land rights is gaining ground with rights to land especially customary land facing the greatest challenge of security. These challenges and times require great resolve for the voice of the woman to be heard. It requires a joint move by both the elite and grassroots women to forge common ground and understanding for the recognition of their rights to land. One main issue that cannot be ignored is the growing status of land as a commodity. In his address, de Schutter further stated that

"The role of those who work on improving secure access to land is important, but also more difficult than ever. In the past, people thought that it was enough to promote land titling programmes to expand the number of people who could use the land and make it more productive. Now, however, it is recognised that titling programmes per se are not enough. The poorest people have often been priced out. Land titling programmes have been captured by elites, women are often sidelined, and those who rely on communal lands and commons have not been sufficiently taken into consideration. In addition, the simple codification of customary forms of tenure may be problematic, especially if they discriminate against women or those who are not part of a community."

The trying times women face require innovative approaches that are inclusive rather than exclusionary; that will guarantee them tenure security and empower them to be at the negotiating table when the critical time for decision making arises.

This Newsletter is developed as a free space and forum for sharing of ideas and ideologies, with a view to enhance the women's land rights discourse in Uganda. It will as much as possible capture voices of both sections of the womenfolk with a view to building and forging a unified struggle for women's tenure security in Uganda, as the struggle for equality on land is ultimately a struggle for equal citizenship.

By: **Esther Obaikol**
Executive Director
Uganda Land Alliance

¹ At the International Land Coalition Biannual Assembly of Members Tirana - Albania 24 - 27 May 2011

Women's Land Rights and the Right to Food are inseparable

“Good stewardship of the land is essential for present and future generations”.



Land is the primary factor of production especially in agriculture, from which smallholder farmers earn their livelihood. It is from this farming that almost the entire population of Uganda subsequently draws its survival. Access to land and the right to food as recognized under Article 25 of the Universal Declaration of Human Rights and Article 11 of the International Covenant on Economic, Social and Cultural Rights are therefore inseparable. At the forefront of farming in all parts of the country, the role played by women needs not be overemphasized.

Sadly, currently in Uganda, access to and ownership of land remains a major threat to women farmers, despite being key agricultural producers. It should be noted that land issues affecting users (farmers) in Uganda are historical while others are structural and customary in nature. Land in Uganda is generally poorly managed, leading to the phenomenon of land disputes, conflicts, wrangles especially in the Northern Uganda. These have accelerated human and natural resource exploitation, resulting into displacement of farmers and creating tenure and food insecurity, due to low agricultural productivity, increased poverty levels among family farmer-households and loss of lives due to hunger.

Also worth noting is the fact that “Uganda is currently smeared with high rates of corruption cases which have broken across national

boundaries, spread to tribal and ethnic groupings, where land rights of vulnerable and voiceless groups are either poorly enforced or inadequately protected,” One participant said during the PELUM workshop on land 2010.

The Land Act in S.38A and 39 requires that before any transaction can be carried out on land on which a family resides or from which it derives sustenance, the spouse should be consulted and must give consent. The Land Act also provides in accordance with Constitution, that any customary practices which deny women, children use of any land shall be null and void. However, these provisions have largely remained just on paper and little can be seen on the ground.

In order to increase agricultural production and productivity, it is critical that the Government of Uganda considers integrating policy development processes, put in place land policies and laws that provide for equal and equitable access to and utilization of land resources, by women, who are the majority of land users and stakeholders in its preservation and conservation.

By: Richard Mugisha
CAL Officer
PELUM Uganda

Women's Land Rights in the Political Agenda



Pauline Orama ponders about the future with her child. She lost her land to in-laws following the death of her two husbands

Women's loss of land rights dates back to the advent of colonisation in Uganda. Gender focused NGOs such as Uganda Women's Network have argued that, "the issue of landlessness did not feature at all in the pre-colonial communities in Uganda", as both men and women had user rights. However, the policy by colonialists to allocate large pieces of land to their collaborators rendered others landless. Though men were able to acquire leasehold and other types of land securities, the colonial laws negatively affected women. They lost their land user rights since it became individual property of their male counterparts enforced through the written law.

Some scholars such as Mahmood Mamdani have said that written law was used to argue against customary law and soon it gained precedence. The effect was women's alienation from land matters that became a male's domain, a legacy that has continued to date as the subsequent land law reforms that followed even in the post colonial period did not improve the situation. However, the 1995 Constitution whose principles were entrenched in the 1998 Land Act transferred land back to Ugandans, and provided safety nets for women and children through provision for their consent before land sale and to legislate for women's land use rights that were ignored during the colonial period.

Women's land rights have been on the political agenda for quite some time with a number of discourses put forward by different actors, including the government, NGOs and donors. For example, in 1998 the government discourse on land focused on the need for commoditisation of land, arguing that this would foster agriculture production and overall economic development, a view that saw the omission of the co-ownership clause in the land act (a favourite clause for many NGOs and women right activists). The omission of this land redistribution clause through spousal co-ownership and control of land from law reform is because it may not completely have tallied with the broader interests of turning land into a marketable commodity. Gender focused NGOs lay emphasis on transformation of the land ownership, the other actors especially the government and institutions such as the World Bank are interested in how women can be integrated to become effective agents in poverty reduction and agricultural modernisation. Though all actors seem to agree that gender inequalities have impeded agricultural productivity and poverty eradication, they differ in focus and policy options.

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The Half full or Half empty Glass: Decentralisation and Women's Land Rights in Uganda

When we talk about decentralisation and women's land rights, there is one thing that comes to mind and that is the adjudication process. Women's land rights specifically become an issue in the case of conflicting claims. In a study conducted in Mukono and Lira districts (2008-2009) we discovered that the LC courts were an opening and at the same time a clog in women's land rights claim. I use two stories to illustrate my point.

The Story of Atim (not her real name), Lira District



Atim (right). Left is her co-wife, standing in front of Atim's house

Every Wednesday we communicated with Mary to find out about the progress of the case and as usual the story was - case adjourned. Information provided in November 2009 indicated that Atim won the case but the land grabber still refused to comply, to vacate the said land. The case dragged on for over a year, costing her time, money and weighing heavily on her emotional scale. During the fieldwork, we were made to understand that Atim's case had dragged on because she lacked witnesses and had not paid the money necessary for court to conduct a site visit. We forfeited our lunch money that day and gave it to Atim to pay. The next day we conducted a focus group discussion in her compound. Word went around that this could have been partly the reason why Atim finally won the case. In the aftermath we received several calls from the same village, from women who needed similar help, who thought we could help. Unfortunately we could not.

By July 2009, Atim had been pursuing a case at the sub-county since July 2008. Angiru grabbed part of her land. She reported the case to LCII, it was considered and she won the case. Angiru appealed at LCIII. Atim used to walk to the sub-county every Wednesday. In one of the court proceedings attended, Atim did not have a single witness. When we asked her neighbours in the village why they could not come to help Atim as witnesses they said they feared to be witnesses against Angiru because he was feared in the whole village. He was a powerful land grabber. Her co-wife whose part of the land had been grabbed by the same man indicated that she was stopped from being a witness. Also, the piece grabbed from her land was small and she could afford to ignore. During cross examination in one of the court sessions attended, Angiru was looked to be very much on top of things, well dressed and having a contest with a bare footed woman. He asked arrogant questions such as where were you in 1960's when we got this land? You are a woman, you have been married. Observation also indicated that even the court members feared Angiru. People around also suspected that the court members had received bribes from Angiru. Other people suspected that Angiru was foot dragging to make Atim lose interest in the case or that he intended to push the case further up to the magistrates court located in Lira Town (about 25Kms away) where Atim could not afford to go.

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Hon. Jane Alisemera Babiha (second left) joins participants at the National Women's Land Rights Conference as they took to the dance floor

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However, dislike of the gender equity discourse is a major point of departure between government on one side and donors and NGOs on the other. Donors, like NGOs would like a destabilisation of the status quo, since cultural transformation would further their own interests especially in regard to changing customary land practices. In other words, the donors want both, commoditisation of land and cultural transformation; the government wants the former without the latter. It is this position of government that may have stalled the anticipated progress by NGOs with regards to the women's land rights in the political agenda.

It can be said that government has used the patriarchal status quo, its bureaucracy and the weaknesses in the NGO advocacy agenda to keep the agenda in its current state. NGOs continue to demand for entitlement or rights discourses with regards to women's rights and have even tried to mobilise grassroots support as means of building local bases. It is not yet clear if government has changed its position of ensuring user rights but not control rights.

Among other challenges hindering the realization of women's land rights, includes; the non-decision

making tendencies of government manifested through provision of advice to NGOs; bureaucratic inefficiencies and verbal sympathetic claims of the recognition of the importance and urgency of the issues articulated by the gender focused NGOs; and the use of same strategies and approaches by NGOs like, the media and workshops yielding limited results in terms of policy change.

By: **Mary Ssonko Nabacwa & Waisswa Jeremy**

The Story of Namugga (not her real name, Mukono District RDCs office)

According to the story as narrated by Namugga herself she was advised to go to the RDC about 30 Kms from her Sub-county to seek help. She did not have any introductory letter because the village chairperson was supposedly the culprit. She did not go to the SubCounty because she did not know that the sub-county could help. Namugga did not have any knowledge of how to proceed in such a case and she had all her hopes in the RDCs office. She was required to present a letter from the LC1, yet it is the same LCI chairperson that had allegedly lured her into signing a sales agreement whose implications she did not understand.



Namugga is standing in front of the RDCs office, the sack bag she is holding apparently contains clothes of her children. According to the story narrated by Namugga to who ever cared to listen, she purchased land in a village in Kyampisi S/C, facilitated by the chairperson of the village as the caretaker of the land. After two years the chairperson brought people to buy the same piece of land under the pretext that he would give her another piece to build her a house in the vicinity. He apparently forced her to sign an agreement that she had sold and received money. Yet she had not received any money. She was later evicted and had been staying at the hospital where she was nursing her husband. Now the hospital was sending them away. She went to police which did not help. A friend advised her to seek help from the RDC.

These two stories demonstrate a situation full of contradictions. On the one hand, LCs and LC courts demonstrate a vent, an opening where women can pursue their land rights. On the other hand the LCs are a blockage. People are forced to use a multiplicity of channels – LCs, Community development officers, RDCs, Administrator General, Magistrates Courts, NGOs and cultural institutions. Much as this could be seen as positive in that there are possibilities of choice, the concrete conditions, demonstrate clearly that this results in confusion about which steps to take and how. And this confusion seems to hurt the women more, especially the poor and vulnerable. There is urgent need to address this maze and have a clear institutional framework of land administration at the local level. There is also need for greater civil society mobilisation to move the question of women's land rights from the realm of the private to that of the public agenda.

By: **Dr. Josephine Ahikire**
Executive Director,
Centre for Basic Research

Women Empowerment

The Road to National Development

Land rights refer to the inalienable ability of individuals to obtain, utilize, and possess land at their discretion, as long as their activities on the land do not impede on other individuals' rights. In all land tenure systems, women are excluded from owning land, and only retain secondary rights. In the agricultural sector, women contribute 83% of the labor force and yet a handful of them own land.

While there's evidently limited ownership not only of land but also housing across the country, the situation has gradually improved especially as more and more women understand their rights. The glimmer of improvement registered

Initiative for Development (SWID). Women are encouraged and supported to map community needs, after which, solutions to their problems are sought. A case in point is the Revolving Loan and Savings Scheme that has enabled some of the women to construct houses (for personal use and others for renting for income generation) and to start up businesses on the land. So far, 46 grassroots women in Jinja have been able to attain security of tenure, and 24 women are in the process of purchasing land, all with legal documents. These women are also carrying out tree planting activities on the land. Widows and HIV Positive women are not discriminated.



"Women have a right to access, own and control land. They can do developmental activities on the land"

for example in Jinja district, has been largely facilitated by dialogue meetings and the Paralegal Training programmes, where the local leaders and other authorities are invited to participate in resolving land conflicts. Through these engagements, customary beliefs that women do not own or inherit land are addressed.

These approaches are working for Women under their umbrella organization Slum Women's

As a leader representing many grassroots women in Jinja district, we all ought to go by what the Uganda's 1995 Constitution enforces. Uganda's 1995 Constitution enforces equality between men and women, including the acquisition and ownership of land. Therefore, there is need for continuous education to make women aware of their rights regarding land.

By: Joyce Nangobi
Coordinator, SWID

Sudden urbanization a danger to Ugandan farmers

In all this, the question of what happens to agricultural developments that existed prior to the rural areas changing status to urban, and which are not in line with the urban plans still remains unanswered.

A voice is sounding: sounding daily from the grassroots. Farmers; big, medium and small, are yearning to improve their household food security, and increase their basic income. Their voice has been suffocated though by the whirlwind of urbanization that has swept over their land unannounced; it has swept away their produce, leaving them with just enough for domestic consumption. So, where will the money come from?

Volunteer Efforts for Development Concerns (VEDCO), one of the Ugandan NGOs working around improving farmers' livelihoods has often listened to the farmers' voice, and helping them to achieve their goal, is the organization's very reason for existence. VEDCO warns that if the political arm does not harmonize its plans with those of the farmers, food insecurity will continue to bite.

The shift from farming for food to farming for cash cannot happen effortlessly. Farmers must increase the quality of their farm produce and productivity among others. Sadly, since many rural areas recently became town councils and municipalities, farmers have been subjected to the rather stringent Urban Authority regulations as provided in the 2008 Land Act, and which do not accommodate expansion of farmlands.

In all this, the question of what happens to agricultural developments that existed prior to the rural areas changing status to urban, and which are not in line with the urban plans, still remains unanswered. Some farmers were advised not long ago, to increase their agricultural acreage, only be



Women in Kikyusa Sub-County Luwero, preparing Cassava cuttings to increase on their plantations

faced with reality a few years later that this has to suddenly be cut to allow for urban planning. In the process, food security is being hampered, thereby frustrating the efforts of women, being the main producers of food in the households. In fact, given the circumstances, farmers are going back to the first level (food and nutrition security) instead of perfecting the agriculture for cash among their households.

More information about the effect of the rural-urban shift is available at VEDCO whose structures can also be used for further analysis of the problem.

Till next time,

Kaaya Christine.T.N
Liaison staff on Land
Resource Mobilization Manager
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Coming To Terms With Our Absurdity

To whom do land rights belong?

It is all too easy to imitate and parrot what we see and hear, but it is almost impossible to undo the effects of these simple acts. To demonstrate this simple observation, let us all take time off to reflect on our talk hence use and understanding of language, our actions hence their implications on our livelihoods and on our complex society at large.

First, we live in a world of plurality, duplicity and yet pretend to uphold our 'so-called tradition' the end result of which is confusion. However this confusion manifests itself into dormancy and oblivions to reason on one hand; intolerable subjugation and senseless egotism on the other. At this point one may ask, where I am heading with this barrage of words?

The subject of contention is land rights!! Whose land rights? Where? Take the sovereign space code-named Uganda with its many ethnic groups and within them, indisputable human beings- the women and men just like the world over. If for a moment one closes his/her eyes and disregards the colonial perversion, who owned what land, where, under what circumstances and for what? Can one sane individual attest to the fact that among the Basoga for example an individual had absolute ownership and control of land? Okay, things have changed; but does this strip half of Uganda citizens their rights in the resource they depend on as citizens?

Having done some limited work on women and land rights, I am increasingly becoming cynical about a number of assertions and the way we, as rights activists imitate and parrot what we see and hear in regards to land rights. Some of such statements are: women in Uganda do not have access to land; land in Uganda belongs to men; there is increasing landlessness particularly among the poor..... the list can be longer. For purposes of this article, I feign ignorance and ask a number of questions on each of the above



assertions, which are frequent fodder for regular seminar and conference participants on the subject of land rights in Uganda.

Women in Uganda do not have access to land and land belongs to men. A number of things that come to mind in trying to understand this statement are: What is access? For what? When? and How? Taking one by one of each of these simple but mind boggling questions, I challenge myself and others to come to viable answers with the hope of creating bigger images of each. Access in simple English language and **in the context of land rights** is defined as having the right to use. Now, if we extend the context to several other scenarios, we inevitably get into space which leads to even more complex questions of **whose** space?

The country as a sovereign, the ethnic group within the sovereign, the clan within the ethnic group, and the women and men within the clan who by nature extend their being by being wooed (on part of the women) and looking (on part of the women) into other clans to create families within the clan. This being the African and indeed Ugandan social organization, it is imperative to critically examine the access to land issue from within this organization (tradition) and from the capitalist (modernity) perspective.

From the traditional perspective and within the context of land rights, women and men cannot reproduce within themselves. If they could, then land belonging to the clan within a given space would be accessible for the women/men clan mates. This is indisputable because women have access to land in their natal homes. The fact that the clan has to bring in and send away women to other clans balances the exchange. The sent away women exchange their land rights with the wooed in women. This is regardless of the nature of partnership. I believe this settles the question of access and how and leads to the next question==*the for what?*

Women, thanks to God's wisdom, are the centre of **life**, after its creation through the process known to all of us. They bring life in the world and nurture it to maturity. In so doing, they must have means to nurture it and they do this through tilling the land and having shelter on that land for the new life to flourish. Any institution or individual against mothers' peaceful nurturing of the young is an enemy of humanity and should be dealt with in the most decisive way. So the *for what* question is settled. The next question is **when** does a woman access land?

First it is ironic that we have to ask and then answer the **when** question; but just like others, I offer my understanding. Access to land for both women and men is a birth right. From a traditional perspective and given the explanations above, those likely to dispute this should provide contrary evidence so access is given. What brings in the confusion is the failure to adhere to norms.



Ha! What norms? Yes, one can feel the objection to this notion of norms? Whether norms are necessary or not is subject for another debate. Suffice to say that there are cardinal norms crucial to peaceful human survival; under modernity, their equivalence are the laws. One such norm is marriage; its universality attests to that. There are always penalties for deviation from the norms. Can we then say that those without access may be paying

the penalty? Of course not, the fallacy is that only women pay for that penalty and this is where the problem lies. So instead of parroting 'women do not have access to land, we should instead reflect on how to uphold the norms to safeguard means of access to land.

Out of the above, the question that arises is how about the separated/divorced women? A counter question is, what happened to the women most especially mothers who fell out favor with their husbands then? Once married and with children, a woman had to have shelter to nurture and food to feed the life brought into this world. It is incredible even today that a reasonable and sensible man would have his progeny put to danger through deprivation of their principle nurturer.

All the above said, the modernity perspective also needs to be explained. While the traditional model worked before, it would be illusionary to fit it into the modernity model; even worse is the tendency to juxtapose the two.

In summary, to state that women in Uganda do not have access to land is to imitate and parrot the universalistic view. Moreover, it is not the case that every male Ugandan has access to land for women to enjoy the same rights. Neither is it possible for both women and men whatever their status to access, not to mention own land in equally. There is a misdiagnosis of the problem and worse, the illusion that it is possible for all to own land.

There is increasing landlessness particularly among the poor-The immediate question to this inevitable fact is, can anyone, country or even God stop this? Can we expect the majority to have land when the country records the highest population growth globally? Does anyone have the ability to increase land for increasing population? Should we be lamenting about the market forces and the helplessness? We need the protagonist to this situation to put forth both the short and long term solutions apart from meaningful universal education aimed at changing the traditional mind-set.

I am almost convinced that it is not very helpful for civil society to parrot the sentiment of landlessness without engaging specific communities in other economically viable activities which will demonstrate to all that landlessness may not an issue if one has alternative skills. In my view, not government, not NGOs, and certainly not the World Bank can help the landless, development has to be from within and not from without.

By: **Abby Sebina-Zziwa (PhD Anthropology)**
Makerere Institute of Social Research
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“We declare
our right on this earth...to be a human being, to
be respected as a human being, to be given the
rights of a human being in this society, on this
earth, in this day, which we intend to bring into
existence *by any means necessary.*”

Malcom X

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