

1

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Women's gains from the implementation of succession law in Uganda: voices from Wakiso and Mpigi Districts, Uganda

UGANDA LAND ALLIANCE (ULA) and
UGANDA MEDIA WOMEN'S ASSOCIATION (UMWA)

Executive summary

The 1972 Succession Act (SA) (Cap 162) identifies the persons eligible for inheritance and their respective share entitlements in Uganda. The Administrator General's Office (AGO) is responsible for implementing the Succession Act under the Administrators Act (Cap 157), and is mandated to manage and distribute properties of the deceased. However, the majority of women in rural communities are not aware of this office and its function, nor do they understand Uganda's legal provisions for inheritance. The AGO also poses a number of challenges for rural women in terms of accessibility, alienation, and cost, given its urban location. Consequently, most women have failed to exercise their rights to land and property. They remain marginalized as well as potentially victimized by others.

Current policy on the implementation of women's legal rights must be revised to address this problem. Action needs to be taken to educate and sensitize the community as well as women about their legal entitlement to land and inheritance of property. Accessibility of the AGO needs to be augmented, not only through improved communication and feedback mechanisms between it and local governance, but through the establishment of offices at the district level. These recommendations would improve the implementation of the Succession Act along with rural women's ability to benefit from those legal provisions that protect their rights and livelihoods.

The context and importance of the problem

Whereas women's rights to inherit land are fairly reflected in Uganda's legislative instruments including but not limited to the Succession Act (Cap162) of 1972, majority continue to suffer under the weight of lack of implementation. It is therefore important to articulate the legal and constitutional context of women's rights to land in Uganda in order to understand the urgent need to address associated problems

The Constitution in relation to gender rights

The Constitution of Uganda provides equality for all, and freedom from any form of discrimination based on sex, race, colour, ethnic origin, tribe, birth, creed, religion, social-economic standing, political opinion, or disability (Article 21).

Men and women are entitled to equal rights in marriage, and its dissolution (Article 31 (1)(b), and all persons are protected from deprivation of property. In addition, Article 32 mandates the state to take affirmative action in favor of groups marginalized on the basis of gender for the purpose of redressing imbalances, while Article 33(1) states that women shall be accorded full and equal dignity with men (2). The state shall provide facilitation and opportunities to enhance the realization of women's potential and advancement.

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Outline of inheritance entitlements in the Succession Act

The Succession Act defines the persons eligible for inheritance and their respective share entitlements. SA 162 provides a definition of consanguinity or kindred that transcends gender. Kindred are persons related to the deceased through parental and/or sibling ties who are bound to benefit from their estate.



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The widow/widower inherits a 15% share of the estate. The act defines children as lineal descendants and these include: legitimate children arising out of a statutory marriage, illegitimate children arising out of casual relationships, and children who have been legally adopted. The SA also recognizes dependants as beneficiaries, among whom is a spouse (wife or husband), parent, brother, sister, or grandchild, who, at the time of death, was wholly or substantially

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dependent on the deceased. A spouse becomes a legal heir in the absence of ascertainable lineal descent ties. All of the above categories are accorded equal inheritance rights, regardless of gender, although there is an implied preference for a male over a female heir. Marriage laws are vital in the assessment of women's land rights because they are directly linked to inheritance entitlements.

Root causes of problems in implementation of rights for women

Despite the provisions and protections provided to women both by law and the constitution, customary laws and practices are deeply embedded in the culture and remain dominant at the grassroots. Those traditional patriarchal practices governing divorce, inheritance, and property rights continue to place Ugandan women at a disadvantage, by denying them any right to own land. Women are seen as property themselves that can be inherited by men. And, if a woman separates from her husband and returns to her parental home, she loses all rights to land, irrespective of her contributions to its development.

In addition, the gender structure of land rights in Uganda varies across the country, but is highly unequal, as women's land rights are generally restricted to access while men are likely to have ownership rights. Only 17% of the women own land despite the fact that they constitute 50.9% of the population and comprise 70-80% of the agricultural labour force. Lack of control over land reduces women's access to and control of the proceeds from agricultural production, as well. While men can easily obtain loans with land as collateral, few women are able to do the same. This imbalance in opportunities is seen as an underlying factor in poverty among women that restricts improvement in their livelihoods and affects women's status and decision-making in society (National Gender Policy 1997). Without secure rights to land, both women's ability and incentive to participate in income-expanding economic activity are reduced.

Policy implications for women

In addition, the SA stipulation that grants 15% of the deceased's property to the surviving spouse is limited to those who are in legally recognized marriages. As cohabitation is the

most popular form of relationship in Uganda, this provision drastically disadvantages most women by failing to accord rights to co-habiting spouses, regardless of the time spent in relationships, or their efforts in the accumulation of property.

The recognition of a customary heir under the Succession Act is another challenge to women's opportunities to economic empowerment in the long term. Restriction in Sec. 2 of the Act not only implies that heirs must be male, but that they should be succeeding a deceased male as required under the rites and customs of the patrilineal system that prevails in Uganda. Apparently lawmakers did not envisage women with estates to bequeath, which is one of the issues leading to the gender-based injustices in society.

Critique of policy: Research findings

A study conducted in the districts of Wakiso and Mpigi in September 2009 exposed some of the actual practices occurring in relation to women and inheritance claims for land. Among the beneficiaries who use the land of deceased persons, 59% were children of the deceased, 10% were widows, 14% were grandchildren, 10% were new landowners, and 7% were squatters. In terms of use of land, widows are very much in a marginalized position.

The study revealed that in cases where the deceased dies intestate, some women are included among the beneficiaries of the deceased's property and are granted letters of administration by the AGO. However, the research also shows that those accorded rights to administer the deceased's estate do not always distribute the property in proportion to entitlement. Furthermore, some administrators were found to use their powers either to sell off property or to invest it without the consent of beneficiaries, particularly when those beneficiaries were women. Of those women who were affected by faulty administrators, 17% had approached the office of the AG to halt these transactions. This statistic implies that the majority of women have been exploited and deprived of their property.

Discussions revealed that most women had been motivated to go to the AGO thanks to male relatives, heirs, or caretakers with vested interests in the estates, who led them there.

Community dialogues also exhibited women's frustration with both the bureaucracy and systems of the AGO. Both women and men encountered many challenges when attempting to claim their property both in terms of public access to and use of the AGO.

Of the women interviewed in the study, 69% had gone to the AGO to obtain letters of no objection as beneficiaries of the deceased's property. But discussions revealed that most women had not been motivated to go to the AGO of their own volition; rather, male relatives, heirs, or caretakers with

vested interests in the estates, led them there. These women were vulnerable to land rights' abuses by these people because of their ignorance of the law, their limited literacy, and the alienating procedures of the AGO. It was however observed that the few women who had proper access to the AGO felt relatively secure over their land rights.

Policy recommendations

- Rural women need to be sensitized about the AGO and its functions by modes that are accessible to them. Such knowledge will enable them to utilize the services of this office effectively.
- Women need to be sensitized about the legal details of the Succession Act, Marriage and Divorce Acts, and other relevant inheritance law. Such knowledge will enable women to interpret the law so that they can demand their rights from husbands and other authorities. This knowledge will empower them to realize their land rights.
- Public education and sensitization campaigns are necessary to create goodwill for women's land and inheritance rights. These campaigns will begin to address the underlying traditional structures that undermine women's social status and their motivation to claim the rights that are guaranteed to them by law.
- There is need to introduce a feedback mechanism so that resolutions from the Administrator General's Office are communicated to the relevant local governance structures (in this case, the sub-county and parish chiefs).

Implementation of the Succession laws would be facilitated through the AGO's guidance at this local level,

- The Administrator General needs to set up fully funded offices at the district level to ease access for women and to provide efficient service with regard to inheritance issues. District offices could conduct sensitization sessions on the roles of the AGO. These offices could be facilitated to organize meetings for families who need to access these services for information, thereby reducing the current burden on sub-county and parish chiefs.

In theory, Ugandan women 'enjoy' constitutional and legal guarantees that safeguard their rights to property and their advance in society. However, the study revealed that these rights do not translate into practice. These policy recommendations would go some way to address both the underlying deep structures as well as the practical challenges women face when attempting to claim their rights to property and land. Such measured and practical actions would facilitate the implementation of the succession law and its agenda to improve the position and living conditions of Ugandan women.

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Contacts

Uganda Land Alliance (ULA)

Plot 1521 Mawanda road – Kamwokya
Tel. +256-414-540048
Fax: +256-414-540038
e-mail: ula@ulaug.org
Website: www.ulaug.org

Uganda Media Women's Association (UMWA)

Plot 226, Kisasi
P.O. Box 7263, Kampala
Tel: 256-414-595-125
Email: umwa@umwamamafm.co.ug
Website: www.umwamamafm.co.ug

About the Initiative

This policy brief 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 contact the Secretariat of the International Land Coalition or visit www.landcoalition.org.

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



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