Gender Inequality of High Income Households in Uganda: Exploring Women’s Rights to Land and Property at the Household Level

ASIIMWE Florence Akiiki*

(Received on 11 October, 2016; Accepted on 7 January, 2017)

Abstract

This paper explores how women of high income households in Uganda are deprived of control over productive resources like land and property at the household level, keeping them in a subordinate position. This not only deprives them of power but also leads them into poverty in a process referred to as the ‘feminization of poverty’. Upon divorce or separation, women have to suddenly develop survival mechanisms after spending years in a subordinate economic role within the household. Inequity in land and property ownership rights not only intersects with patriarchal cultural attitudes and beliefs but also with a patriarchal legal framework to create obstacles to women’s empowerment. The findings in this paper revealed the cases where a well-educated woman contributed to the purchase of land and property, but she had no legal claim to the property. Another woman did not use their financial contribution for the acquisition of land and property, as leverage with her husband to ensure that his name was included on titles and deeds, she ended up retaining only use rights. In these cases the husband registered the property solely in his own name. The main contribution of this paper is to understand the complex dynamics of land and property ownership rights at the household level. This paper added to the existing knowledge on gender inequality of land rights in sub-Saharan Africa and in developing countries.

Key words: gender inequality, land right, title deed, patriarchy, Uganda

* Department of Sociology and Anthropology, Makerere University E-mail: florenceakiiki@gmail.com
I Introduction

Sub-Saharan Africa is now in the age of consumerism with prediction of being the world’s leading consumer market by 2050 (Kingombe, 2014). The consumer market is driven with social and demographic changes that drive the continent’s growth engine, urbanization and the rise of the rich and middle class African consumers. The middle class (consuming USD 4 to 20 per day; 33% of the population in 2008) and rich class (>USD 20; 5% in 2008) are rapidly rising in sub-Saharan Africa and fuel the second fastest growing economic bloc in the world, although there is still a huge divide between the rich and the poor (USD 2>; 62% in 2008) (AfDB, 2011). The numbers of middle class have tripled during last 30 years, 115 thousands in 1980 to 327 thousands in 2010, according to the AfDB (2014). Market-based land reforms were introduced at early 1980s in many countries, including Kenya, Uganda, Malawi and Zambia (Evers et al., 2005). This reform could provide platform for the rich and middle class to acquire the private land. The legal security of land and property is an important issue in sub-Saharan Africa.

Studies revealed that women in developed countries are not deprived of land and property rights (Sedo and Kossoudji, 2004). Legal structures guarantee married women co-ownership of property, regardless of whether they financially contributed to property acquisition (Brion and Tinker, 1980; Little, 1994; Lundy, 2002). Hence, on separation or divorce, many women acquire property through divorce settlements (Smith, 1990).

In developing countries, on the other hand, studies revealed the inequality of land and property rights at the household level, with men dominating the major decision-making on property investments (Larsson, 1989; Matere-Lieb, 1995; Bikaako and Ssenkumba, 2003; Hasaba, 2014; Alemu, 2015). Many authors attributed these unequal gender relations to institutional, economic, social-cultural, and psychological (perception) factors (Kindi, 2010; McDonald, 2011; Burke and Kobusingye, 2014; Hannay, 2014). However, little evidence has been presented on the specific mechanisms of the unequal relations in land and property. Some authors questioned whether these factors still persist in Africa following urbanization, globalization, and information flow (Musyoki, 1998).

In developing countries, legal structures and customary practices regulate ownership of property at the household level. Within marriage, women are usually at a disadvantage following separation or divorce. Sometimes women obtain less of the matrimonial property than expected, while in other cases women are compensated for their labour during the course of the marriage (Munalula, 1995).

There are also contradictions between laws that govern property acquisition—Land Acts and Registration of Titles Acts, for example—and constitutional law regarding women’s rights to land and property at the household level (Larsson and Schlyter, 1995; Matere-Lieb, 1995; Munalula, 1995). In a number of countries, customary laws exist side by side with statutory law. In some countries, women are culturally regarded as ‘minors’, and hence cannot register land in their names without consulting with their husbands (Larsson and Schlyter, 1995; Mapetla and Sakoane-Songca, 2005; Ntimo-Makara and Makara-Khatleli, 2005). In many African countries, a woman marries into a man’s clan and therefore all the property belongs to the husband and his clan (Okumu-Wengi, 1997; Asiimwe, 2001).

In terms of economic factors, there is a general consensus that lack of income due to poor education limits
a married woman’s ability to negotiate with her husband for equal rights in land and property (Quansah, 2012; Dworkin et al., 2013). There is further general consensus that, in many households, men make the decisions on housing investment while women’s decisions are restricted to day-to-day matters of the family (Sen, 1990; Kabeer, 1994; Agarwal, 1997; Afshar, 1998; Rowlands, 1998; Deshmukh-Ranadive, 2005). Hence, land and property ownership rights involve negotiation, consensus, cooperation, sometimes assertiveness, and confidence on the part of women to make choices (Larsson and Schlyter, 1995).

Regarding economic factors, the way women spend their money at the household level impacts their rights to ownership of land and property (Moser, 1993). For example, husbands spend their income on land, housing and their children’s education, while wives spend their income on day-to-day items like food, clothing, and other domestic goods. Upon separation or divorce, a married woman has nothing to show as proof of her contribution to matrimonial property (Moser, 1993; Dow and Puseletso, 1994; Larsson and Schlyter, 1995; Narayan et al., 2000; Vogler, 2005; Deere and Doss, 2006).

Regarding psychological factors, authors argued that the attitudes of women about themselves, men, and other women contribute to women’s lack of ownership rights to land and property. For example, women themselves tend to identify themselves, instead, as homemakers responsible for the wellbeing of their children, not to value their work and their contribution to the home (Sen, 1990; Senauer, 1990; Larsson and Schlyter, 1995; Miraftab, 1993, 2001; Behice, 2003). Women regard men as breadwinners and decision makers when it comes to housing investments, even as these roles have changed as a result of social and economic changes (Musyoki, 1998; Narayan et al., 2000). As a result, even in situations where they could assert their rights to homeownership, they do not see it as an important issue while they are happily married (Oruwari, 1993). Men take advantage of this attitude to exclude women from co-ownership of land and property. It is only during divorce that women realize the mistake they have made, by which point it is often too late to reverse the situation. Hence, the way of a married woman to look at life and her role in the family helps determine her ownership rights of land and property at the household level (Miraftab, 2001). The perception of the women for themselves also depends on the various networks they belong to (Griffiths, 1997).

This paper aimed to present the evidence for the ways of the married women to end up with only use rights to matrimonial land and property of the high income households in Uganda, even in situations where married women have contributed financially to the purchase of the property. The position of the married women was determined by the gender power relations that pertain between women and their husbands. The author showed that the married women who are deprived of land and property rights produced diverse ways of homeownership experiences.

II Methodology

The study was based on a qualitative research design and aimed to describe the men’s and women’s experiences with regard to land and property ownership rights at the household level. To obtain the information on micro politics between husband and wife in the households, there was a need to interpret their actions, strategies, and outcomes (Larsson, 1995).
The research area is Banda and Kiwatule Parishes which are located at the fringe of the capital city of Uganda, Kampala (Figure 1). Both parishes are newly planned residential areas and there are luxurious mansions built by the rich and middle class under the high economic growth rate. The author made interviews from two women on the right of land and property within the household. Two women, Mrs. X lived in Banda Parish and Mrs. Y lived in Kiwatule Parish. The qualitative approach helped the researcher to interpret activities, events, and information based on men’s and women’s knowledge, their perspectives on the issues involved, and their own experiences in various circumstances. The study investigated the social dynamics that caused this inequality in the everyday life experiences through intensive interviews.

III Lack of Awareness of Land and Property Ownership: The Story of Mrs. X

This is the life story of a highly educated woman who was unable to co-own a home with her husband. The story demonstrated how a married woman’s lack of awareness of her ownership rights, unquestioning attitude towards life in marriage, and misplaced trust in a husband can undermine her homeownership rights. Mrs. X is a highly educated, employed married woman who was unable to become a homeowner despite contributing half of the costs of the home project. Mrs. X ended up as a user of the home she contributed to because she was not aware of her ownership rights, and trusted her husband to take care of her interests. Her husband failed to
recognize her financial contribution to the home project, due, at least in part. The home belongs to the man by a patriarchal cultural ideology in southern Uganda.

Mrs. X said, “I am 52 years old. I was born in southwestern part of Uganda. I am currently a consultant. I am the first born in a family of fifteen siblings. I grew up in a caring and protective middle-class Catholic family with strong Catholic values. My father was a teacher and my mother was a housewife. I had 20 years of good formal education. I hold a bachelor and master degree from the national university. I met my husband, Mr. D in 1980, and we wedded in church in the same year. We are blessed with four children. We first lived in a company-owned house provided by my husband’s employer before we moved to a rented house in Kampala in 1993. Both of us contributed to the rental expenses because we had a joint account and either of us could withdraw money independently. However, in cases we had to commit big sums of money to buy a family asset, say land, we would first agree. In late 1980, we agreed to buy a plot of land in Banda. It is on this agreement that my husband withdrew money from the joint account to pay for the plot of land.”

In 1990, Mr. D acquired the title deed for the plot land registered solely in his name. When Mrs. X asked why he registered the land solely in his name, Mr. D said,

“I am 51 years old. I am a teaching staff at national university. I hold a bachelor and master degree in the university in Kenya. Although the title deed of this plot is in my names... we bought the property jointly and we have been building the house jointly. Well, legally it is in my names, but for all practical purposes it belongs to both of us and we have been contributing money and building the house jointly. All the money we used for building came from our salaries. Actually, when I acquired the title deed, I gave it to my wife to keep in safe custody.”

When I asked Mrs. X why her name was not on the title, she answered,

“You know right from the beginning that I intended to make a home with my husband. It does not matter where the money comes from, it is our money, and these are our children. In 1993 we embarked on the construction of our home. All the finances for the home project came from our joint account. My husband and I had our salaries and allowances to the account, but I contributed more money than my husband because I had a better job. For example I borrowed a loan twice from my bank against my salary.”

Although Mrs. X paid most of the construction costs of the home, she legally has no control over the home. This is because legally the plot of land belongs to her husband. Mr. D recognized her contribution to the home and entrusted his wife with the title deed. Although he gave her some control over the home, Mr. D acted in a patriarchal way by putting his name alone on the title deed. Legally the home belongs to him alone, because the matrimonial home is registered solely in his name. His action demonstrated that when men are in control of the purchase and registration of land, they are likely to have the land registered solely in their names.

Ownership of personal property is determined by the names on title deeds. Since Mr. D acquired the title deed solely in his name, he could deny the ownership rights of Mrs. X. This means that Mrs. X’s financial contribution to the purchase of the land plot and the construction costs was not recorded. Hence, legally she has only use rights to the home she substantially contributed to. Upon divorce or separation, she would have to prove in court that she financially contributed to the home. This rule was settled by the High Court of Civil
Suit No. 203 in 1991 and No. 825 in 1996. These were cases where the wives and their husbands had jointly bought land but the title deeds were registered solely in the husbands’ names because of a mutual trust that existed between the couples. Later the husbands sold the homes and transferred them to other persons.

IV Denied Co-Ownership due to Patriarchal Beliefs: The Story of Mrs. Y

Mrs. Y is a highly educated and professional married woman who was denied full co-ownership rights due to the patriarchal beliefs of her husband. Although Mrs. Y agreed to tell her full story, her husband, Mr. C refused to talk to the researcher about issues concerning the family property.

From Mrs. Y: “I am 49 years old. I have been married for over twenty years. I am a professional worker. We live in Banda Parish in a three bed-roomed house with our three children. The house is tile-roofed, fenced, with water, electricity and servants’ quarters. I am the first born of my mother. My mother had only two of us. I was born into a rich polygamous family of fifteen siblings in the suburb of Kampala. My father was a sub-county chief in ethnic local government. He had big farms of coffee plantations and he earned a good income to educate all his children. I had more than 18 years of the advanced education for the professional career. From 1988 I embarked on a degree course at national university and completed in 1991. I then acquired a high paying job in 1992 with a private company as a professional.

I met Mr. C in the 1970s at the working place where both of us worked as the same professional. In 1985 we were married in church. We were blessed with three children, all boys. My husband has three other children, two girls and a boy, from a previous relationship. We first lived in a government-owned house provided by husband’s employer. Although both of us planned together to buy a plot of land and to build our home, when Mr. C identified a plot of land in Banda in 1990 he paid for it without consulting me. He had the plot of land registered solely in his name. I think my husband bought the plot of land without consulting me because he did not want me to contribute and later assert my ownership rights, judging from his behaviour later on. Mr. C was aware that I had money and I would have been willing to contribute if he had told me.

In 1992 Mr. C embarked on the construction of the home. I paid some of the construction costs because by that time I already had a good job with the public sector. When Mr. C received his retirement package in 1994, he spent most of the money on the house. He built the matrimonial home from foundation up to window level, and bought poles and timber for roofing, but ran out of his money. When Mr. C was financially stuck, I was at that time very reluctant to invest any more of my money because the title deed was registered solely in my husband's name. Besides, Mr. C had other children from a previous marriage.

Realising that at any time we could be evicted from the government house, since my husband had retired, I borrowed more money from my employer, bought tiles, doors, and windows, plastered the walls, and completed the floor. We then moved from the government-owned house to our uncompleted house in 1995.

Later I became more worried about my future in his house. In 1999, I asked him to change the title deed from sole ownership to joint ownership. To convince my husband, I referred him to a number of stories I had read through the press media and heard from my friends about husbands evicting their wives from
houses. He was adamantly against changing the title deed of the house. As a result there was tension in our relationship.

When he totally refused to change the title deed, I threatened to stop financing the home project. Because he was having a financial problem, he finally agreed to sign the transfer forms, but on condition that all the three children’s names were included on the title deed. I did not agree with his idea to include the children’s names on the title deed of the matrimonial home, because I thought that would in future bring problems. I gave him three reasons why I did not want the children’s names to be included on the title deed. Firstly I felt that including children on the title deed would guarantee their rights and hence more powers. Secondly, I stated that when children know they own property, they do not work, and do not concentrate on their studies. They anticipate their parents’ death. Thirdly, children tend to have conflicts with each other over property ownership issues. In spite of the reasons I put forward for not including the children’s names on the title deed, my husband insisted that the children’s names be included or he would not sign the transfer forms. Although I continued to negotiate with him to exclude the children from the title deed, my efforts were in vain and it took us a long time to agree on the change of ownership. After a long process of negotiation with him, I finally compromised and agreed to include the children’s names on the title deed. I took him to my lawyer and he signed the transfer forms in 2005 in my favour and that of our three children.”

Mr. C’s insistence on including his children’s names could be attributed to patriarchal male ideology that the house belongs to the male line from father to sons. If he did not include the children’s names and he died, the house would automatically belong to Mrs. Y and her relatives. She failed to convince her husband to exclude the children’s names from the title deed because she was treading on sensitive ground related to family property and the patriarchal sentiments attached to it. Hence, she insisted that only her name would be included on the title deed and she was confronting patriarchal culture and custom in southern Uganda.

She was able to negotiate and convince her husband to include her name on the title deed because she was in control of the household’s finances. If she had not had a good education and a good income, she would not have had any leverage in asking her husband to include her name on the title deed. If her husband had enough money to complete the house on his own, he would probably not have changed the status of ownership, judging from his behaviour.

If she had not had male children, her husband would most likely have been reluctant to sign the transfer forms because it would mean moving patriarchal property to another clan when the girls were married. In the context of these patriarchal dynamics of ownership, she would lose all her investments in the home to her husband.

He looked at his children as a way to compromise, and still maintained his family’s interests. Even if he died, he was sure that his family interests were catered to. The inclusion of children’s names on the title deed hurt Mrs. Y so much that, up to the time of this interview, she had failed to come to terms with the situation of owning only one fifth of the value of the matrimonial home after funding almost 75 per cent of its construction. Bitterness was visible on her face as she was telling her story. To Mrs. Y, her husband insistence on including the children’s names on the title deed was putting her at the level of a child, a behaviour she called ‘okusomoza’
in local Ganda language, literally meaning ‘under-looking her’. Although Mr. Y contributed three quarters of the home cost, she only owns one fifth of her home.

V Discussion

1 Married women and matrimonial property in Uganda

This paper has analysed the experiences of two women in the different household situations with regard to women’s land and property rights. Findings showed that even though women made substantial financial contributions directly or indirectly to family property, the men had total control in decision-making regarding ownership rights. However, the life stories also demonstrated that women with high incomes could have greater influence over such decision-making, although that does necessarily mean equality in homeownership, as many authors have suggested (Moser, 1993; Chant, 2006). For example, although Mrs. X substantially contributed to the home project, her husband did not include her name on the title deed. The findings partly concur with previous studies stating that men make ‘major’ decisions on housing investments, while women make decisions on activities related to domestic activities (Sen, 1990; Cubbins, 1991; Larsson and Schlyter, 1995; Matere-Lieb, 1995; Agarwal, 1997; Behice, 2003; Kalabamu, 2005).

In this case, the major decision concerns the registration of the matrimonial home. The life stories presented that married women were involved in decision-making concerning housing investment, however, they were less involved in the crucial stage of registering the title deed for the land on which the matrimonial home was built. While married women made decisions on where to buy land and where to obtain finances to fund their homes, they were not involved in the decision-making at the crucial stage of registration. As a result, they ended up with only use rights to their homes. This implied that if women were to safeguard their own interests in the home, they had to step into the male sphere of decision-making—not only at the initial stage of property acquisition but also at the crucial stage of registration of the title deed (Chant, 2006; Datta, 2008).

In this regard, the findings of this study partly concurred with those of other studies, which showed that men made important decisions on matters outside the home, for example housing investments and acquisition of title deeds. The husbands’ actions to exclude their wives’ names from title deeds, even in situations where the wives made substantial financial contributions to home construction, could be attributed to a cultural image and an ideology of patriarchy in Uganda. Husbands preferred to have full control of the matrimonial property where the wives reside because of their competing interests. There are ideological, cultural, and economic reasons for the way resources are allocated in the household.

Having the matrimonial home solely registered in a husband’s name gives him control over the wife. The findings of this study revealed that there was a dominant gender construct, in which men believe that women should not own property, especially land and housing (Ntege, 1993; Larsson and Schlyter, 1995; Matere-Lieb, 1995; Datta, 2008). When women own property, they tend to be ‘self-assertive and unruly and therefore unmarriageable’ (Moser, 1993). Therefore, to control their wives, husbands ensure that they do not include their names on title deeds. In situations where the married women do not challenge this dominant gender contract, they end up with only use rights to their home.
In Uganda, the rate of the female-headed households was 30.1% of all households in 2010 according to the national statics (UBOS, 2010). This high rate of female-headed households is connected with high divorce rate and the death of spouses. Upon separation or divorce, married women have nothing to show as proof of their financial contribution to the home, whereas men’s expenditures are reflected in the title deed as proof of their financial contribution (Larsson and Schlyter, 1995; Kalabamu, 2005). To acquire beneficial interest in their homes, married women have to petition in court. In such cases, married women are at the mercy of court decisions and, sometimes, the amount of beneficial interest in the property depends on the judge presiding over the case (Larsson and Schlyter, 1995; Munalula, 1995).

2 Patriarchal perception and attitudes to land ownership in Uganda

Many studies have revealed that husbands and wives perceive each other in terms of their gender roles. Wives perceive themselves or are perceived by their husbands as homemakers, while husbands perceive themselves or are perceived by their wives as land and property owners, breadwinners, and decision makers (Sayne, 1993; Larsson, 1995; Musyoki, 1998; Narayan et al., 2000; Miraftab, 2001).

Previous studies suggested that married women did not concern themselves with their land and property ownership rights in the home, preferring to be docile to save their marriages (Oruwari, 1993). Men took advantage of this ‘I don’t mind’ attitude to exclude their wives from ownership of land and property (Oruwari, 1993; Miraftab, 2001).

In Uganda, husbands still maintain patriarchal cultural beliefs that land and property belong to the man as the head of the household, regardless of whether the wife has financially contributed to the property. This cultural ideology is so powerful that it leads husbands to disregard their wives’ substantial financial contributions. As a result, they do not include their wives’ names on title deeds, even when the wives have financially contributed to the purchase of land and construction of property. Even when these married women kept the title deeds, legally, they only retained use rights to the property.

The life stories demonstrated that the married women trusted their husbands and their husbands automatically registered their homes solely in their own names. The life story of this paper revealed that men actually took advantage of women’s trust to exclude them from co-ownership and they did not see any need to include their names on title deeds.

In Uganda, it is difficult for a married woman to co-own a home with her husband. There are various factors that account for gender inequality in home ownership, including economic, social-cultural, psychological, and institutional factors (Schlyter, 1988; Rowlands, 1998; Miraftab, 2006).

Studies on women’s rights proposed legal reforms in order to reduce the gender inequality (Schlyter, 1988). Munalula (1995) argued that legal reforms could provide a framework for women to assert their rights, but they could not entirely guarantee women homeownership on their own. The findings confirmed that, while legal reforms are important, the women have to go hand in hand with social changes at an interpersonal level.
VI Conclusion

Education has been identified as one of the ways for women to utilize the existing opportunities, structures and legal frameworks to protect and exercise their rights. With education, women can bargain for resources within the household, have autonomy in decision-making, and participate in society’s public spheres (Kritz and Makinwa-Adebusoye, 1999; Miraftab, 1999; Birdsall et al., 2005).

The two life stories demonstrated that although some married women had income and were well educated, this alone did not guarantee home ownership. There are influences beyond income and education. Other studies also showed that education does not necessarily lead to land and property rights (Owuari, 1993; Tusingwire and Tumushabe, 1999; Mugambe-Nabajja, 2004). In reality of Uganda, education and awareness are two different issues when it comes to land and property dynamics. In cases where married women were ignorant of their ownership rights, they ended up with only use rights to their property, even when they had contributed financially to home construction.

Lack of awareness is one of the things that deprive many married women of property ownership rights, regardless of whether they are educated. Although one would expect an educated woman with income to be able to assert her ownership rights, education did not necessarily mean awareness of rights concerning home ownership. It could be concluded that, to change the framework of domestic power struggles, women must be made aware of their ownership rights.

Acknowledgements

This research was supported by a Grant-in-Aid for scientific research (25580172, 16H06318). I am indeed grateful to Dr. Shuichi Oyama (the Centre for African Area Studies, Kyoto University) for providing an opportunity to write this paper. I thank you so much, women and men of Banda and Kiwatule, for the time you spared to tell me these enriching life stories.

References


ウガンダの高所得世帯におけるジェンダー間の不平等
—世帯における女性の土地と財産に対する権利—

アシムウェ・フローレンス・アキイキ（マケレレ大学社会学・人類学教室）

(2016年10月11日受付、2017年1月7日受理)

本稿では、ウガンダの高収入世帯において、土地や財産の所有について女性が副次的な位置づけで、女性による土地や財産の管理がいかにばられてきたのかについて分析する。女性の財産所有に対する権利は弱く、「貧困の女性化」といわれるように女性は貧困状態におちいっている。女性は結婚後に家計にとって副次的な役割しか担うことができず、離婚や別居することになると、自分自身で生きていかなければならない。土地や財産所有に関するジェンダー間の不平等は、家父長制を重んじる文化や社会の価値観だけでなく、女性のエンパワーメントの障害をつくりだす法制度によっても生み出されてきた。本稿では、高学歴の女性が、土地購入や家屋の建築に際して経済的な貢献をしたにもかかわらず、所有権を取得できない事例を示している。また、別の事例では、女性がみずからの名前を土地所有証明書に入れることができず、女性は土地の所有権を保有できず、土地の使用権のみを保有するにすぎなくなっている。これらの事例では、夫が財産をみずから単独の所有物として登録している。本稿は、ウガンダにおける世帯の所有する土地や財産の権利の複雑な動態を理解する一助となり、サハラ以南アフリカだけでなく、発展途上国において女性がもつ土地・財産に対する権利の現状に関する知見を提供するものである。

キーワード：ジェンダー間の不平等、土地権利、土地所有証明書、家父長制、ウガンダ