

UGANDA LAND ALLIANCE

PRESS BRIEF ON CO-OWNERSHIP 12/12/2000

The Uganda Land Alliance was formed in May 1995 as a consortium of local and international NGOs lobbying for fair land laws. The Alliance is made of over 40 NGOs and individuals and its main mandate is **to advocate for pro-poor laws and policies on land**. The Alliance took up the co-ownership issue not as a women issue but as a gender and development concern that affects the lives of poor people in Uganda and in this respect women form that majority. Promoting women in land legislation is a move to tackle the main constraints to economic development which land reform sets out to achieve. Co-ownership is about giving women control over land, which they lack. Women have access to land through their male relations either as husbands or as fathers but this access has not been accompanied by rights of control or ownership over what is produced on the land.

The issue of Co-ownership has been misunderstood by many people who have thought that it is about making women rich and taking land from men. After press reports on 7th December 2000, the Uganda Land Alliance met with the Vice-President to further discuss co-ownership. The Vice-President who represented government made it clear that the government is not willing to consider the co-ownership clause under the Land Act. She emphasized the fact that cabinet had made a decision to consider the matter in the Domestic Relations Bill. The Alliance sees this move as avoiding the issue especially because the DRB proposals have been lying around for too long due to controversies on types of marriage and other issues.

Co-ownership of land is about interests held in land by more than one person. The clause advanced by the Alliance on co-ownership of land by spouses means that married couples would hold land on which they derive their livelihoods in either joint tenancy or tenancy in common. The word "spouses" is used to refer to both men and women in a marriage relationship. In this joint ownership or ownership in common both parties would have equal rights on the land without anyone taking undue advantage of the other. It is hoped that this clause will help advance the situation of women on land who have become very vulnerable since they can be chased from the land any time. **It is important for people to understand that the land that can be co-owned is that land where a family derives its livelihood or the principle place of abode. If parties in a marriage have any other land they are not obliged to co-own it. But that if that other land becomes the source of income for the family then it would fall under co-ownership.**

The Land Alliance has spent enormous time discussing this issue both with policy makers and with the general public. Research has been carried out by professional people at different times and a video documentary of voices of poor women recorded. Several women have come up to give their experiences and all

this information is authentic. Conclusions made by the Alliance have also been made in a study carried out in eight districts in Uganda by the Ministry of Lands' Project on the implementation of the Land Act in August 2000. The study also emphasizes conclusions arrived at by the Alliance about the growing of cash crops and food crops and the restrictions faced by women since they must not make money from the land. (It is unfortunate that the V.P. thinks these are matters of the past century unless of course she means that matters of 1999 should not be addressed since they belong to the past century. As if they do not affect our livelihoods.) The study by the Ministry notes that: -

- Both men and women have access to land while ownership and authority over land is almost entirely the preserve of men whether as household heads or as clan members.
- Customary protection is almost non-existent and this has increased intra family disputes involving women's rights on land.
- Women provide the bulk of agricultural labor particularly in food crop cultivation since men will not allow them to grow cash crops. This is also a conclusion the Alliance has found to be true. Women have little or no control over crop income mainly due to lack of control since men always say they cannot share the money with the women since the land belongs to them. The women can own the food they grow from the farm (which is used to feed the family).

The study carried out by the Ministry of Lands has further validated the research carried out by the Land Alliance. Both studies by the Alliance and the Ministry recommend for co-ownership as a necessary step in the process of poverty eradication in Uganda and the enhancement of equality.

Co-ownership is further justified by the considerations that

- i) Most women in Uganda are producers on land and have access but no control on land. Co-ownership would give them control and improve their economic situation.
- ii) S.40 of the Land Act requires spouses to give consent before any transactions on land. This can only be possible if the Spouse required to give consent has an interest in the land. Without the clause on co-ownership this section is incomplete and will remain unenforceable.

Although government through her Excellency the Vice-President insists that all property including land will be protected by the DRB, this cannot be a stand for the ULA because matters of land ownership must be addressed by the substantive land law. Government must be committed to address all kinds of inequalities by addressing real issues. The failure to provide for the co-ownership clause in the Land Act is an inconsistency since the 1995 Constitution in articles 32, 33, and 21(4) advocate for affirmative action and equality of men and women.

The Plan for Modernization of Agriculture recognizes the inequalities that exist between men and women and makes recommendation for Co-ownership. Since women contribute the biggest percentage to agriculture their land rights

protection will go a long way in improving productivity on land. The law therefore should recognize their efforts by the inclusion of the co-ownership clause in the Land Act 1998.

The Land Alliance is not advocating for women to own land because women who have the means can and do own land. ULA is advocating for the protection of poor women on land, who only have access as long as they are married and are producing for the family. When these women lose their husbands or when couples separate it is always they who lose out and are never paid for their contributions. It is therefore imperative that the relevant law addresses this inequality.

The notion that customary land protects women is no longer true since land has become a commodity for the highest bidder. A woman can no longer live on customary land comfortably. The law now provides that customary tenure can be converted into freehold thus raising its market value. It is also true that customary land is being sold off by either "clan leaders" or male inheritors. Where is the protection for women?

The Government of Uganda has failed to protect women when it is within its power to do so to provide for real tangible rights when they are called upon to do so. We are concerned about Government's marginalisation of issues concerning women and poverty. We also urge government not to distort the view of what co-ownership means but try to understand it. We expect that the Government would translate its laws that encourage de facto discrimination against women into laws that actively promote and affirm rights of women. The Matembe amendment under the Land Act would be such one clause. In order to achieve equitable and sustainable development in the country, gender inequalities under the law need to be dealt with decisively.