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**TITLE: DISPOSSESSION AND MANAGEMENT OF
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**AUTHOR: Jennifer Okumu Wengi
National Coordinator
Women and Law in East Africa
P.O.Box 3478
Kampala-Uganda**

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DISPOSSESSION AND MANAGEMENT OF COMMON PROPERTY: WOMEN AND INHERITANCE IN EAST AFRICA

Jennifer Okumu Wengi

East Africa Region

Introduction:

This paper discusses the inheritance regime in the East African region, its implications for women and how it affects their access to property. It is based on a study by Women and Law in East Africa Research Project (1995) that investigated inheritance laws and practices in Uganda, Kenya and Tanzania. Inheritance is taken to denote the process by, and the order in which persons succeed to property or title. It involves transmission of property inter vivos and after the death of a father, a spouse or a relative. Such transmission affects the relationship to both productive resources such as land and personal valuables. The underlying social and economic dimensions of property are reflected in the rules of inheritance and heredity. The paper examines the process of inheritance to describe how the various categories of women own, utilise, access, manage, dispose off and control property. Such approach it is hoped, makes it possible to describe the position of women, their real lived experiences and their role and potential in the communal exploitation and utilisation of resources to create various living experiences, and livelihoods.

Several premises and a number of perspectives are adopted that take women as the starting point. This is the women's law methodology that has been used in the study to describe and explain the position of women from the women's point of view. It enables the understanding of property and other conceptual tools as understood by the women themselves. Other perspectives are also employed to blend legal positivism and the anthropological paradigm of legal pluralism to uncover gender biases that are etched into law and the rules and practices governing inheritance. There is however an assumption that state law is a dominant factor. The interaction of all these perspectives are seen as influencing the character of property, property relations, its utilisation, distribution and

the effect of this interplay on the lives of women. Property as a central analytical or conceptual category is used to itself highlight important dimensions of gender relations in society that give rise to inequality in access to private and communal property. Since property reflects the social construction of resources it becomes possible to use it to critically analyse the interaction of kinship, family and economic relations. The paper attempts to make culturally specific evaluations of property and property relations in the context of dynamic historical, legal and political change. State interventionism that constructs the family, clan, and village communities into corporate entities and its effect on the relative autonomy of women is examined. Another premise relates to the investigation of the relationship between women and men and how this is influenced by the relative access to, control over, and transmission of property and how this affects the position of women in society.

The above broad premises justify some hypothetical propositions the first of which is that inheritance as a process, is significant in extending parental and other controls over property, either privately owned by individuals or by the community. This has an effect on the relative autonomy of the different categories of women, from the girl child to the widow. Secondly, women, being socially mobile, are capable of inheriting property, including land in their village of marriage or remarriage, and, in their natal homes. The rules of inheritance are made largely to exclude the perceived mischief of multiple heredity by women. But rather than succumbing to this, women could exploit this potential to achieve social and economic autonomy. Finally, emerging state intervention by way of constitutional and legislative enactments, aims at freeing women as a productive resource from restrictive social relations. This may provide a basis for giving women autonomy outside communal and descent group constructs. It is therefore assumed that such intervention, as has been promulgated in Uganda's new constitution, is seminal to the economic independence and hence empowerment of women.

The rise of private property: Women Excluded

Land is a critical resource, the dominant notion of which is described by Julius Nyerere (1968):

To us in Africa, land was always recognised as belonging to the community. Each individual within our society had a right to use the landBut the African's right to land was simply the right to use it; he had no other right to it, nor did it occur to him to try and claim it.

This view, that in the traditional tenure, land was not owned by the individual but by the community and that the individual had an absolute inheritable right to use and possess land, is held by most scholars. Communal tenure, and communal ownerships imply common exploitation and management. Most people in the region today however farm individually though they may offer communal labour. In the other context each individual member of a group has the right to use land as a group. This is mainly for hunting, grazing or collection of firewood. In another scenario, there exists significant group control or interest. The right to use the land is exclusively limited to individuals and families, of the group. The group may be an extended family, lineage, clan, a village or a tribe. Obol Ochola (1971) asserts that this right does not only extend to arable land, but also to belts of forests, bush, water ways, fishing grounds and grazing land. The role of the family, clan or lineage may be limited to dispute resolution as land is passed over through the process of inheritance. The variations of ownership patterns controls and management regimes therefore relate to certain types of land resources and their user.

According to Gayer, (1957), the clan among Bagisu in Uganda, exercised certain rights within the areas of its control. They settled disputes and exercised a right of option to buy land offered for sale by a clan member. The clan could declare land transactions not approved by the clan null and void. While the individual had ownership, the community or clan had grazing rights, free use of water, firewood, clay deposits and grass for thatching. Among the Masai, property was owned by clans and it was inherited along patriarchal lines. Settlement was determined, by water points and a clan claimed ownership of a particular area based on the availability of water. All members of the clan had access to the water point and surrounding grazing land (Kajiado District Social Profile 1986). The rights to use water resources or grazing areas were passed on from

father to son. Women had user rights by virtue of their belonging to the clan. The Luo and Kikuyu of Kenya followed similar patterns and land ownership was based on paternal kinship. Women had no disposal rights and no right to land in their place of birth.

In Uganda the pre colonial land tenure systems ensured that everyone had access to land without necessarily owning particular portions. The general community had access to land for water, firewood, salt licks for their animals and pasture. (Walubiri, 1994). Private ownership of land however emerged at the turn of the century in Buganda and later on, elsewhere in Uganda. Jjuko (1982) has argued that women's subordination developed through the rise of private ownership of property and monogamy. He asserted that women's power over property in Buganda historically waned with the decline of matriarchy and the eclipse of mother right. In his study 'Matriarchy in Tribal Buganda', Jjuko described the rise of totemism and its related taboos, and associated them to the centrality of women in the clan rituals. He then related the decline of women's power to the successive social transformations that saw economic activities change from hunting and gathering to pastoralism and agriculture. These transformations, accordingly ushered in male power. He therefore placed a high premium on the historical materialist context of female subordination in Buganda and how it arose directly from the decline of gentile power and of mother right. Okot Bitek (1971) also described how in the Bunyoro Kingdom the queen mother enjoyed considerable powers. She kept her own court and had the power of life and death over the people in her estate. This power enjoyed by royal women eventually subsided.

The historical context cannot be fully appreciated without demonstrating how the colonial state effectively legislated patriarchy and excluded women from property ownership through law. The Uganda Order In Council (1902) supplanted the existing legal frameworks with 19th century English laws that generally subordinated women in the area of personal law. By the 1900 Uganda Agreement, land, the most critical resource in Buganda, was allotted to predominantly males on the basis of patriarchy. Land was

allotted to male chiefs and on religious lines (Okumu Wengi 1995). Women did not feature in the land allotments with the ironical exception of the Queen of England who was given 9000 square miles of "waste and uncultivated land" or the common bush that was later to become "public land" by virtue of the Public Lands Act (1969). The *Namasole* (Queen mother) received only 16 square miles while Mwanga's mother (grandmother of the Kabaka) received 10 square miles of land. The rest of the 19,600 square miles of land in Buganda went to the chiefs as *mailo* land while 15,000 square miles of land were reserved as forests and placed under the colonial government. This was the beginning of the rise of private individual land ownership in Buganda. By 1936, 4138 land titles had been prepared for the male beneficiaries of this land grant. In the kingdom areas of Ankole and Toro, and, in Kigezi, freehold titles were issued with the entire bulk of the land being taken by males. There is no evidence that for instance the pilot scheme for registration of titles in Kigezi took into account special consideration for women. There is also no evidence that in issuing titles to land, Controlling Authorities, District Land Boards and the Uganda Land Commission have given any special concern for women. The legal regime for land management and distribution is gender neutral in text but its operation has significantly undermined women's capacity to acquire ownership of land. In Uganda, studies have shown that only 7% of women cultivate their own land. Another study in Kabale shows that 93% of the males were readily accessible to land while only 32% females are. On average, women control 16.3% farm land/holdings in Uganda, while men control the remaining 83.7%.

According to Kigula (1996) the traditional patricentric land tenure relations which disenfranchised women by denying them fully fledged land rights, is a major cause of land disputes in Uganda. According to him, although polygamy was on the decline in Kigezi, one of the communities he studied, multiple child birth by women was a direct result of women's urge to acquire male hereditary capacity through their sons. This led to high population pressure on land resulting into intra familial land disputes, land and family corporate fragmentation. Kigula concludes that this factor contributed to the

further disintegration of the stockaded compound structure that ensured peaceful co-residence and cooperation.

In Kenya, land was appropriated for the settlers. Land available to communities gradually decreased but the full impact was not realised until the 1940s when the land issue emerged due to the creation and consolidation of the reserve system. This system together with other measures taken by the government of the time, such as its taxation policy and the prohibition of growing cash crops by Africans, disrupted land relations among the pastoral and agricultural communities. This was further exacerbated after independence by the introduction of the Registered Land Act, by which most of the land was given to individuals as opposed to groups or clans and forests and other resources became government property. Traditional tenures had been decisively weakened.

In Tanzania, the land tenure systems reflect the colonial land structures introduced by Germans in the 19th century and continued in the British Land Ordinance. The only recognised system of tenures is the right of occupancy system which can be held

- a) Through a granted right of occupancy.
- b) Through a deemed /customary right of occupancy acquired through- allocation by a village council, inheritance, clearing etc.

Under customary law, land being a major means of livelihood, its control reflects the significant role of the clan or tribe and the claims of clan or tribe takes precedence over other claims especially those of women. The developments after independence did not effectively negate the customary or traditional land holding practices regardless of their origin (James and Fimbo 1973). The present land tenure practices and law in Tanzania with regard to either public land and clan land are still biased against women who find it strenuous to acquire or inherit land both in the urban or rural areas. The Local Customary law Declaration order (No. 4 of 1963) embodies the patrilineal principle of inheritance which gives control to males over property whether self acquired, or derived from the clan or the tribe.

A case study based on farm management in Kagera region in Tanzania showed that a third of the 20 women headed households in the sample were widows- they did not own banana or coffee farms (*Kibanja*) which they operated on behalf of their children under trusteeship from the clan. Women only control a small number of farm holdings, yet their contribution to agricultural production through their labour is not matched by their control over the most productive factor, land. Married women do have access rights to land by virtue of their being married but female heads of households have no guarantee to accessibility, control and ownership of land and depend on the generosity of fathers and siblings. The Kagera study also indicates that childless widows stand little chance of living on the deceased husband's land. Usually the only option for them as widows or divorced women is to return to their own clan land controlled by their brothers where in most cases they are not welcome.

It can thus be stated that the legal and administrative framework for public land management during the colonial and post colonial periods in Uganda, Kenya and Tanzania is founded on the generality of law that excludes considerations of women's interest in land. This has worked to fortify the historical exclusion of women from ownership of land. The post independence constitutions of Kenya and Uganda for example contained provisions that significantly permitted enactment of personal laws that were discriminatory on grounds of sex. As such laws on adoption, marriage, divorce, burial, succession to property on death of a person and other areas of personal law were saliently discriminatory on sex grounds. Women were the decisive objects of these laws such that they were subject of legal discrimination. In many other cases the same position resulted through the operation of gender neutral laws that obscure women. Moreover the operation of gender specific customs, norms and practices, further placed women at a disadvantage. Then to compound matters, the interaction of these multiple systems of laws led to conflicts, convergence and divergences that imposed burdens on women, as women. Such burdens constrained women from ownership, use, management and control of resources for their benefit and constituted a dissincentive to the resource capacity and productivity of women.

Inheritance Laws and Practices.

Uganda, Kenya and Tanzania depend mainly on agricultural production and the majority of the population are peasant subsistence farmers. The social structures, that is, the clan and family power and value systems, reflect and advance male dominance in virtually all societies in the region. The family as a unit of production and reproduction is therefore structurally and functionally male dominated and consequently the patriarchal nature of most ethnic groups determine the pattern and rights of property ownership. This directs the nature and practice of inheritance. In most communities that have been investigated in the region, land is the most important item of property that is highly valued but is also only inherited by males. Among the Iteso in Uganda land is communally owned by the clan, but women are specifically excluded from exerting independent legal capacity in the clan or communal entity. Land consistently passes through the male line either horizontally or vertically. The sons and brothers of a deceased man can inherit his land and pass it on to male descendants or male relatives. The towering figure of the clan stands looming in the background to "oversee" that land is not alienated. Whenever necessary the clan would step in as caretaker where there was no male kin to fill the gap. This practice is widespread in Uganda and in the entire East African region. According to Kigula (1996):

Almost all intra familial land disputes were said to be solved by elders of the family lineage or the clan. Although the role of the clan has diminished over time in various arenas of the social and political set up of the Baganda...the clan elders and leaders still have measurable influence in land dispute arbitration in the cases that involve members of families belonging to a given clan.

The clan authority also tends to limit women's assertion of their rights outside the family forum. "The patricentric land tenure relations in both Masaka and Kabarole work against women's assertion of their land rights in the public fora in which the men are key actors, with little, if any sympathy, for women's cause" (Kigula 1996).

Tibeijuka (1996) describes the effect of the practices that alienate women from land rights in the Kagera region of Tanzania when she asserts:-

No steps have been taken to improve the security of their tenure in their nuptial villages and clans. This amounts to the exploitation of women labour because in the event of divorce, or widowhood women are forced to leave villages where they had contributed to communal programmes without any compensation. While in some communities in the whole region daughters may, if unmarried, inherit in their fathers estate, practically on average a woman is excluded because she is married and lives and operates the land in her husband's estate which she is usually not allowed to inherit because she is not a clan member.

Inheritance practice among the Bagisu of Uganda has been described by Gayer (1957) as follows:-

On the death of a father all his land is divided between the sons. The father's eldest brother receives a cow as an executor's fee but no land. Adult sons normally receive their share of the land before their father's death. But if they are not yet adult, when their father dies, the eldest uncle holds the land in trust and divides it to the minors coming of age. The sons of different wives usually inherit from the (banana) plantation and fields which were under their mothers care. Women cannot inherit, but a widow who is unlikely to marry again, or, an elderly unmarried woman, is allowed to live undisturbed, in her plantation, until death, when the land would be taken over by a true owner or trustee. If there are no sons, the land passes to the deceased's brother; if there are no brothers to the nephew and if there are no nephews to the first cousins. The situation is also similar to other groups in Uganda and has led to land fragmentation particularly in densely populated areas.

Apart from land, most ethnic groups in Uganda, Kenya and Tanzania recognise as property, domestic animals, milk and milk products in the pastoral and mixed agricultural communities. Bride price, except among a few groups, is a significant component of

property that is even claimed posthumously. Enforcement of such claims would usually arise when a woman dies before bride price is paid for her. Her natal family are entitled to stay burial and or deny burial denying the deceased's husband the right to bury her, until the bride price has been paid or arrangements agreed upon for its payment has made between the families. Among the Masai, while bride price is paid in the form of cattle, a bride is offered or allocated a herd of livestock by the husband. This provides her not only with a sense of belonging but also an initial "capital" upon which to build her stock. In case of death, the woman's stock is inherited by her last born son. This perpetuates the same male hegemony over ownership and control of resources. Among the Hima of Uganda, a woman was traditionally given a particular animal from where she obtained milk and ghee. However the commercial sale of milk has become a major occupation of men in the last decade, alienating women from control of and access to this traditional arrangement.

The changing patterns of livelihoods has brought about wider conceptions of property such that today real estates, large land holdings, motor vehicles, commercial investments and cash bank balances, insurance policies and shares in companies are subject of inheritance. Variations in property forms occur depending on the resource character and the product and forms of its user. Inheritance of all forms of property follows the male line in all the ethnic groups studied. This was so even in cases where land was communally owned among the Iteso and the Lugbara of Uganda or where individual land ownership prevailed as in Buganda, Muranga in Kenya and the Kagera region in Tanzania. It is of considerable interest that among the Bakiga and the Baganda, daughters usually easily inherited land of uneconomic categories. Among the Bakiga, a small token piece of land, known as "*Ekyemiziga*" is reserved for daughters in mourning. It serves as atonement for grown women married elsewhere weeping intensely at their fathers burial. Otherwise women in Kigezi are strictly excluded from inheriting land from their fathers. This exclusion is strictly adhered to even if it necessitates violating any testamentary disposition to the contrary which is considered deviant. The limited right to inherit a token ground (*Ekyemiziga*) has today been largely

replaced by a money gift to the daughters and it can be said that the practice is largely ritualistic. The land, on account of its size and quality, also has little productive value.

Among the Baganda, daughters often get land within which are the common burial grounds for the clan (*ebigya*). Such land attracts no exchange potential, demand or value due to the anticipated fear of spiritual concentration on it. In other words where individual land ownership has developed the tendency has been to permit daughters to inherit property with little or no economic or exchange value. The women beneficiaries can be daughters or widows who benefit through express testamentary disposition of land or its transfer by way of gifts *inter vivos*. Among the Baganda, where knowledge of laws is more pronounced, and will making is relatively common, inheritance of key forms of property by women is on the increase.

However in communities where the clans control the land, women have hardly inherit property, land or animals even through bequests. Distribution of land by the man during his own lifetime among the Iteso or Haya of Tanzania for instance ensures male lineage. Only in very exceptional cases, a daughter who is well to do and or educated, is named an heir. Even when this happens she is not entitled to inherit the land. Among the Lugbara of Uganda where women are not known to own land at all, the question of inheritance of land by a woman is inconceivable. If anything both among the Iteso and the Lugbara women are themselves "owned" by and under the control of their husbands. Bride price and prospects for it cast a value on a daughter and ensure the mutual claim to property over her by her own father as well as her future husband. Among the Lugbara a practice was recorded that relates to child betrothal. A female child is "adopted" by the mother of her future husband ensuring early domicile in the home of marriage. In this extreme case the possibility of a woman reverting to take property from her natal home is securely remote. Inheritance of land from the husband on the other hand is unheard of.

Widow inheritance which is practiced in the region perhaps provides evidence that a woman never acquired capacity to own property on her own. For the widow it is coping strategy since death of a spouse results in automatic dispossession, the estate being placed in the hands of a male heir or guardian under the general authority of the clan council. The clan authority as an administrative and dispute settlement machinery excludes women from its membership and participation. In other words, women in these circumstances are devoid of a *locus standi* and have no legal capacity to represent their husband's estates or to espouse any interests therein. They have a contingent beneficial interest that is either in the form of a trust for the male siblings or that can mature when a widow "accepts" to be inherited by a brother of her deceased husband. Among the Iteso a widow forms part of the inheritance estate. In Mbeya and Arumira, in Tanzania widow inheritance is still a strong custom. This custom operates as a means to secure control of the deceased's estate by the person inheriting the widow. Some widows succumb in order to ensure their survival and their children's continued access to the deceased's estate. However among all the groups studied, widow inheritance is today on the decline due to the AIDS pandemic. As a result of this and economic empowerment in some cases, women are beginning to opt out of widow inheritance. Changes in gender roles have greatly enhanced women's ability to be leaders in the communities they live in. More women are now managing and controlling their own wealth. Christianity and education have also had an influence on women. An increasing number of widows who are able to make it on their own without being inherited tend to resist the practice.

The management of a deceased man's estate in East Africa usually begins with an audit of his family members. Certain criteria are applied to determine whether a woman could be regarded as a widow who could exercise certain rights obligations and privileges in the deceased's estate. The heir and guardian are usually installed by the clan authority as trustees or middle men between the widow and her husband's estate. Their existence pushes away the widow from direct access, control and application of the property. She hardly takes part in decision making on the disposal of property. This is

the position among the Lugbara, Iteso and to some extent the Baganda of Uganda. In the first place, for a widow to be entitled to property, she must be recognised as such, having gone through a marriage and got acceptance into the family or the community. The concept of marriage is greatly influenced by cultural practices and attitudes of the society in question, religion and modern practices. Among the Iteso, Lugbara and Bakiga, bride price ranked as the most important determinant of marriage. In fact among the Kikuyu, where bride price is not paid, a marriage is not recognised as such. This may jeopardise the position of the children of such marriage in regard to inheritance. The Uganda Succession Act as amended by Decree 22 of 1972 defines a wife or husband for purposes of succession as a person validly married to the deceased according to the laws of Uganda. The Customary Marriages (Registration) Decree does not mention bride price as determining a marriage. Thus brideprice emphasised in customary laws, is not an essential ingredient to statutory marriages. This represents a divergence between the statutory laws and reality as seen from the practices and customs of the people.

A widow, whether legal or not, is placed in a precarious or vulnerable position such that her fate is determined more by extraneous than intrinsic factors such as the fact of cohabitation. In the case of **Erinesti Babumba and others Vs Nakasi Kizito** (1987), the High Court of Uganda denied a woman who mothered children of the deceased grant of letters of administration because she was not necessarily a widow. Similarly in **Gladys Omella Vs Nicholas Etyang** (1993) the status of one of two widows who applied for letters of administration was hotly contested by the deceased's father and brother. The main premises were that they had not perceived or 'accepted' her as a wife to the deceased, and she could not be his widow.

On the other hand widowers hardly exist since the demise of a wife would not necessarily change the marital status of the men. For purposes of inheritance the status of widower is meaningless in view of the fact that matri estates are virtually non-existent. Widowhood or the state of losing a spouse is therefore a decidedly female issue.

(Jennifer Okumu Wengi et al 1995). Once a woman has qualified as a widow, it does not automatically mean that she has access to property. She is to an extent qualified to deal with intermediaries such as the heir and guardian. Heir or guardian (*Omusika, Omukuza* or *endalami*) are male terminologies and rarely are women appointed to these positions. The position of heir is restricted to sons of the deceased with the priority being given to the eldest. The choice of a daughter as heir is thus a deviation from the norm. The Uganda Succession Amendment Decree endorses this male precedence.

There is a convergence between customary and statutory Law in that both have the effect of denying females the opportunity to inherit ownership rights to land and to become heirs. Among the communities of Morogoro in Tanzania, a woman maintains a piece of land given to her by her father in law. This cannot be taken away from her. The problem is that she cannot dispose of it or alienate it. If she dies ownership reverts to the male children. Among the Iteso, the daughters or mothers are given a priority to select an heir. They usually choose a responsible brother with the hope that he would ensure their protection in case they experience marital problems and return to the home of their late father. A legal guardian or caretaker, can be a mother or father of the deceased; brothers and sisters of the deceased father, the mothers, brothers and the mothers father. It should be noted that the statutory law does not give a mother an automatic right to guardianship of her children. The customary practice on the other hand restricts guardianship to male relatives. The guardian's duties are wider and include running the family and caretaking the property.

Women are particularly circumvented by the generality of the statutory laws and the gender specific nature of customs and practices. Rights to property are constructed to partially exclude females and to fortify men's control of resources. The institutional and informal interventions are inadequate to contain the enormity of problems associated with patrilineal inheritance and the culturally inbuilt exclusion of women's rights. Yet the formal mechanisms are largely inaccessible to the majority of women in the region whose knowledge of the law is extremely limited. The existence of the different laws,

that is, statutory laws and customary laws and the administrative structures which work alongside the two systems of laws create confusion. The distinction between private and communal property is still unclear to most women and it is only after their husbands die that they suddenly realise their subdued position within a home. By this time their fathers estates have been taken over by their male kins.

State Intervention.

The national objectives and Directive Principles of state policy in the new Ugandan Constitution (1995) set out the policy framework for resource use, distribution and management. For instance the state is empowered, in furtherance of social justice, to regulate the acquisition, ownership, use and disposition of land and other property. It is also enjoined to protect important natural resources including land, water, wetlands, minerals, oil, fauna and flora. The state and society at large are also enjoined to preserve and protect public property and to promote sustainable development, and management, of land and water resources to minimise damage and destruction. In so doing the state is directed to create and develop parks, reserves and conservation programmes and to promote the rational use of resources so as to protect and safeguard the biodiversity of Uganda.

In this framework the family is recognised as the natural and basic unit of society which is given protection. Within the family, equality of men and women is guaranteed and parliament is required to make laws for the protection of the rights of widows and widowers to inherit the property of their deceased spouses. In realising these objectives the constitution provides for positive discrimination of groups that are disadvantaged by reasons created by history, tradition or custom. The constitution also enfranchises all bona fide occupants of land even if such land is under mailo or freehold tenure. In so doing certain categories of squatters could acquire registrable interests and customary tenants may get title deeds. These far reaching provisions reconstruct resource management by state intervention and attempt to empower persons otherwise dispossessed by the rise of private rights in land since the colonial days. For instance

ranchlands in Ankole and Masaka that had resulted in dispossession of nomadic pastoralists have been repossessed by the state and subdivided. Nomadic pastoralists have also occupied these ranchlands and have laid claim to them as *bona fide* occupants. Women were among the agitators as reported in the press:

A group of 91 people including old women and men on Easter Sunday stormed the home of President Yoweri Museveni at Rwakitura Nyabushozi Mbarara district to ask him to intervene to stop their eviction from their *bibanja's* (New Vision April 22, 1995).

The constitutional provisions also introduce the emergence of the family and not the clan or kinship community as the focal unit of production, ownership and management of resources. It is envisaged that the equal status declaration will equalise women and men's rights to family property. The constitution thus reverses the legal discrimination that had enabled the existence of gender biased personal laws. It has also set an agenda of legal change that emphasises equal rights and inheritance rights of widows. In the process it has also reversed the discriminatory criteria that only entitled males to inherit land and other property from their fathers. This is achieved by the constitutional equality of the sexes among children in the family. It can therefore be argued that the constitutional regime has affirmed the double right of a female to inherit property as a daughter and as a widow. It has therefore intervened to deconstruct the historical exclusion of women from acquiring property generally and through inheritance in particular. Women in Uganda, studies have confirmed, live their lives largely outside of the formal legal system, and in the subsistence and informal sector, within the customary systems of law. Indeed, most Ugandan Africans, until 1972, were not governed by the Succession Act. In the post 1972 situation, customary law of succession and inheritance, was revalidated, and aspects of it made part of statutory law. What the new constitution has done is to expressly provide that any custom that is inconsistent with the constitution shall be void, thus introducing a new criterion of validity of customs and practices. How this will translate in practice will become clearer as the multiple systems of laws and practices interact within the new constitutional context.

In Tanzania the constitutional provisions provide a framework for pursuing women's rights. Article 13 of the 1977 constitution states that all persons are equal before the law and are entitled without any discrimination, to equal opportunity and protection of the law. This is effectively a good starting point for future amendments of discriminatory laws. The law reform programme in Tanzania has tackled the law of succession and it has recommended that a unified succession law be put in place. It has also recommended specifically that the law should limit the right of inheritance to family members, dependants and close relatives who are dependent on the deceased at the time of his death. This is aimed at highlighting and protecting women's economic interests. Her right to dispose of her property through inheritance and the right to inherit immovable property for life are all guaranteed. Agitation for constitutional changes in Kenya is high and is likely to lead to a replication of the constitutional changes in the other states. The revival of cooperation between the three East African states is seminal to the regional harmonisation of policies and laws relating to women's rights to common resources.

Conclusion

Inheritance is a mode of transmission of property that in most cases has followed the male line. Women in the whole East African region have been historically dispossessed of ownership of property and the widespread practice of inheritance by males ensures that women continue to be practically excluded from acquiring and controlling property. At the death of a spouse the clan system deems it necessary to install an intermediary. Widows do not exercise rights over management, disposal or alienation of property due to communal authority of the clan and the moral regard to the beneficial interests of the children. However due to increasing knowledge of law and will making, more widows and, in some cases, daughters are beginning to acquire property through inheritance and through purchase in their own right. This gives them the significant power of making bequests according to their own wishes and interests. Property as an analytical tool, highlights the power relations in which women have been overshadowed by individual rights exercised by men and protected by group interest of the clans. This group interest

also gives management authority to its agents such as the male guardians and heirs who stand in between women and property. The state has continued to intervene to restructure social units such as the family and the village by creation of village 'resistance' (local) councils in Uganda and "ten cells" in the ujamaa era in Tanzania. Such interventions through legal and administrative measures have a bearing on the changing patterns of authority over property, exchange rights, distribution, entitlements and management systems. Recent constitutional changes provide new direction that introduce women's rights and power over resource management, utilisation, and acquisition of property. Inheritance however remains as one of the major ways by which persons acquire rights to property and it is therefore a significant area of concern since its mechanics affect the real lived experiences of women. As more women (daughters and widows) acquire property through inheritance from their parents as well as from their husbands, they also acquire the power to dispose of it. This provides the key to reversing women's historical dispossession and their regaining real authority to manage and control property in the region.

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