

Engendering the Mainstream through Village Bylaws: A Case of Tanzania

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Introduction

Land Laws¹ in Tanzania are among the most progressive laws on gender equality in land access and ownership in the Sub-Saharan Africa (Knight, 2010). Despite these progressive laws, women have little representation in the land allocation decisions including in the meetings of the Village Council² and the Village Assembly³ (Pedersen and Haule 2013, Dancer and Tsikata 2015, Salcedo-La Vina and Morarji, 2016, and Kisambu, 2016). Even though Tanzania's land and local government laws provide for minimum ratios of women's representation, in practice women are rarely represented in an effective way. Women are often excluded from community land dealings, as these are viewed as the preserve of men. Women's contribution to village assembly meetings is often minimal and not taken into account, despite the presence of a small number of women at these meetings (Kisambu, 2016).

While women's participation in land allocations decisions is limited in various ways, the Government of Tanzania is committed toward promoting investments, particularly in agricultural sector which is often in the village lands. In the last eight years, the government of Tanzania has introduced four major agricultural initiatives focusing on commercial farming. Kilimo Kwanza was launched on 2009; the Southern Agricultural Growth Corridor blue print in 2010; the G8 New Alliance supported by USAID was approved in 2012; and the Big Result Now was launched in 2014 (Massay, 2015, Sulle, 2015). The recent wave of large scale land acquisitions (LSLAs) for agribusiness investments promoted by the initiatives has had far-reaching implications for rural citizens in Tanzania. Whilst some investment has brought development benefits, many concerns have been raised in relation to how the land has been acquired, the transparency of the acquisitions, and the sharing of economic benefits with rural populations. Recent research shows that women who are major actors in the agriculture sector have experienced more negative outcomes than men (Dancer and Tsikata, 2015).

One of the ways to improve women's participation in land allocation decisions at the village level is to develop village level bylaws which complement and strengthen equal participation provisions that are provided by land laws. Moreover, these bylaws are more context specific and are informed by practices and ways of life of people in the particular village. This case study is based on the work of three organizations namely, World Resource Institute (WRI), Tanzania Women Lawyers Association (TAWLA) and Lawyer's Environmental Action Team (LEAT) that have developed these bylaws. Although these organizations have succeeded in developing bylaws and having them adopted in the pilot villages, they have not engaged with the investors in the consultation processes. While it might be too early to take stock of the results of this work, the case study provides a lot of learning on how rural women can be involved in decision making processes by engendering the mainstream using bylaws.

¹ The Land Act, 1999 and the Village Land Act, 1999.

² The village council comprises 25 members, with a minimum of 8 women. Council members are elected by the village assembly. This is the administrative body responsible for the governance of land and natural resource at the village level. It is a legal entity capable to sue and to be sued and to enter into any contractual agreement on behalf of all villagers.

³ The village assembly is composed of all villagers who are ordinarily resident in the village and are over the age of 18. The assembly meets on a quarterly basis. This is the highest decision-making body in the village (Local Government District Authorities Act, sections 55, 103 and 141).

Intervention

WRI, LEAT and TAWLA conducted a scoping study in Kidugalo and Vilabwa villages in Kisaware District, one of the many districts in Tanzania with ongoing agribusiness investments. The study found shortcomings of women's participation in consultation processes linked to the investments. Research identified some of the root causes of women's limited participation, including high levels of illiteracy amongst women, the timing of village assembly and village council meetings, the burden of domestic chores, including cooking and fetching water, and the weight of local customary practices restricting the ability of women to speak out. The project also reviewed the regulatory framework, highlighting the entries that national law offers to promote gender equality in land relations and their implementation gaps. One of the challenges identified was law enforcement. The provisions in the land laws that promote women's rights are not implemented by the institutions mandated to manage and administer land. A strong recommendation was therefore made to develop gender-sensitive village by-laws to address the gaps in village-level governance bodies.

Instead of just allowing the Village Council to draft the bylaws, TAWLA, LEAT and WRI decided to provide the strategic guidance in making sure that the bylaws are gender sensitive. This approach was considered effective way of developing a best case study that can influence a more gender sensitive approaches in the law making process at the national level. It is also a less time consuming approach that can have a direct impact to the community as opposed to the national level advocacy for law reform. Thus, this is a bottom up way of using the municipal bodies of drafting legislations to fill the lacunae in the national laws.

Before developing the bylaws, the key gender sensitive principles were drafted to be the foundation of the bylaws by organizations. The consultations with women groups, village leaders, community paralegals, researchers and district council officials were then conducted. The consultations conducted served the purpose of sensitizing the community on the key principles and gathering their views on the same. District Council is required under the law to approve or reject the village bylaws. Thus, consulting them was a buy in strategy and opportunity to share research findings, policy gaps, and key principles.

Key Principles

1. Gender quotas in leadership of village-level governance bodies (village council village committees, village land council, etc.).
2. Men-to-women rotation of leadership (village chair person, village land council, chairs in different committees).
3. 50% of men and 50% of women in councils and committees (equal representation- promote women's representation, especially in village councils).
4. Specific quorums for village assembly meetings that includes equal representation of men and women.
5. Meeting quorums to be equally comprised of men and women (village assembly, village committee, village council).

The drafting of bylaws was done by the district level taskforce constituted by the legal officer, gender officer, community development officer, and the village chairpersons of the two villages selected during the research stage. After the draft bylaws were in place, more consultations with village councils, women groups, youth, men, and paralegals were conducted to gather inputs and to validate the bylaws. At this stage, the proposal for gender rotational position of the village

chairperson was criticized as it conflicts with the local government laws and is something that has to be determined by the political environment of the village. Then, the taskforce prepared the final bylaws accommodating the views of stakeholders consulted.

The model bylaws were then submitted to the Village Councils for further discussion and approval in which few things were changed. The Village Council submitted the bylaws to the Village Assembly, the final approving authority at the village level. The Village Assembly approved bylaws without any reservations. Then the minutes of the Village Assembly were submitted the District Council for approval and registration.

Analysis and Outcome

This project was implemented between 2014 and 2015. So far, two villages piloted under the project have approved and adopted bylaws. The efforts are ongoing to push the District Council to issue a circular⁴ that can make the bylaws operational in all 64 villages of Kisarawe District Council. The same organizations that have pioneered the project have developed the draft national level model bylaws which are now being discussed by stakeholders before submission to the responsible minister for further administrative actions. This is a major step toward scaling up this innovation to the national level.

TAWLA has been doing weekly informal discussions with women groups who meet every Saturday in the two villages on the importance of their participation in the decision making process. Most women are part of a self-help group where, other than discussing different issues that affect them, they collectively make savings and decide ways to help each other. It is expected that, through these meetings women's demand for a greater participation in land governance will increase.

Already two more villages have adopted the bylaws in September 2016 making the total of 4 villages. Other than adoption of the bylaws and advocacy at the national level, the other outcome is the improved accountability and responsive governance which is attributed by the new knowledge and understanding among the community members who are now questioning the duty bearers on issues related to administration and management of village land.

Although one of the reasons for low turn-up and inadequate participation of women in village meetings is timing when the meetings are convened, the bylaws could not specify convenient time for consultations and meetings on land allocation and overall land governance decisions. Moreover, the bylaws could not put in place a requirement for a gender rotational system of leadership at the village level. All these were considered practically impossible to enforce as they depend on many other factors and might not conform to the spirit of the local government laws. These are critical areas which require interventions in terms of more awareness rising on the importance of women's participation on land governance from other actors.

Conclusion and Recommendations

⁴ Administrative order

There are number of factors that can be linked to the successful adoption of village model bylaws. First, the villages and region piloted had already experienced the impacts of LSLAs. One of the biggest biofuel projects which acquired more than 8000 ha is located in the region. The said investment project failed barely four years after land acquisition leaving most villagers destitute. The region is also in the agricultural investment corridor of Tanzania and is likely to experience major investments in the near future. Second, which is also linked to the first, is that this project was based on research work which identified some gaps and provided recommendations. It was therefore easy to engage stakeholders with research findings. Third, there was buy-in from the community, village governments and district council in all stages of the project. The whole process was participatory and was done in accordance with the due process of bylaws drafting. Lastly, the organizations that implemented this project complemented each other. One with global perspectives and experience on governance of natural resources, another on local and national experience on environment and natural resource management, and the last with local and nations expertise on women, law and gender issues. The blending of experience and expertise has not only helped in clear articulation of the problem and the solution but also in building the rapport and confidence with stakeholders.

Despite the fact that this project has succeeded to the great extent, this case study points out that it has failed to consult and engage with investors. Given the potential increase of LSLAs in Tanzania, there is no way investors can be sidelined if meaningful and sustainable results are to be achieved. The role and significance of private sector is not just in the business and economy of the country, it is in the last decade, been more visible in the policy making process. For example, the Kilimo Kwanza Policy of 2006, which is the blue print of commercial and green revolution in Tanzania, was drafted and launched by the National Business Council. This is uncommon in a country where most policies are formulated by the ruling party's central committee or cabinet (Sulle, 2015). The Southern Agricultural Growth Corridor was also influenced by the private sector (Sulle, 2015, Laltaika, 2015). And most recently, there are growing interests of engaging with the private sector both from the government and donor community. For instance, DFID's LEGEND Challenge Fund, among other things, is promoting healthy and sustained engagement of investors by other actors such as CSOs in realizations of sustainable investments. The Tanzania Partnership Accountability Committee of Feed the Future has land working group which is composed of different stakeholders including investors. These are spaces and opportunities which are put in recognition of the role of investors. On the practical aspect, sometimes the government may fail to ensure adequate participation of women in land allocation decisions, the investor, if made aware of the importance of women participation, can demand that women be adequately involved throughout the investment lifecycle. Therefore, there is need to engage with investors in a more strategic way.

Generally, the bylaws developed are based on the assumption that the law can help shape and change the society. Although real change will require time, these bylaws provide entries for other actors and communities members to demand a more engendered system which helps women to effectively engage in the governance of land. Law is therefore not an end but the means to an end and a catalyst to construct and deconstruct the mainstream toward engenderness. Other projects such as the Responsible Investment in Property and Land (RIPL)

implemented by Landesa, TNRF in Tanzania, and COLANDEF in Ghana can borrow the leaf from this project.

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