WOMEN AND LAND OWNERSHIP RIGHTS IN KILIMANJARO

A Tension between Women Land Ownership Rights and Culture

A case of Moshi Rural District Tanzania

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DECLARATION

I hereby declare that, the work in this thesis is my own and has not been submitted for any other degree or examination in any University. In cases where other people's ideas have been used, acknowledgement and complete reference has been made.

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DEDICATION

This thesis is dedicated to my beloved parents for their love, care and support

And

To all children that have no safe place to live in.

ACKNOWLEDGEMENT

I wish to extend my thanks to my beloved parents Mr. Ernest Raphael Tesha and Mrs. Agnes Ernest Tesha for their love and support throughout my academic carrier. If it was not for them, I would not have been where I am today. Special thanks to all my sisters and brothers for their motivation.

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Raphael Ernest Asantemungu

ABSTRACT

Despite the efforts and strategies geared towards women in realizing property rights in terms of empowerment, participation and decision making in the global context today many African societies are still characterized by social economic and political inequalities between men and women. This situation is worse in Tanzania rural areas where women land rights are violated as result of culture being regarded as a daily routine that provide the basis and ways in which land is owned and distributed.

This study focuses on women and land ownership rights. An attempt has been made to examine the contexts in which the state laws and policies give women rights to own land. With a special use of Rights based Approaches and feminist perspectives in particular WDC. The study has articulated some reasons as to why women land rights are not fully realized at a village and clan level in Moshi Rural in Tanzania.

A qualitative research methodology is the main tool for generating research materials during the research process. Emphasis in this is laid on research interviews, field observation and a study of secondary research sources has also been used in situations where it is preferred.

The study has examined the ways in which land rights for women are offered and practiced at the local level. In this regard, it is revealed that women's land rights are facing many challenges which are grounded in culture in the way power relations, participation and empowerment is shaped. Moreover, it is revealed that Land Laws for women which are defined by the statutory laws are facing contradictions with customary laws something which has created conflict and tension with land rights for women. In this way it has been observed that, the duty holders for rights play a limited role in helping women to realize their rights.

In addition, the task for promoting land rights in terms of advocacy and legal aid provision for women which is largely done by NGOs is facing some problems in terms of coverage. The study finds that, NGOs are town oriented while many problems for women's land rights rife in rural areas. This situation has made many women to have limited knowledge about these NGOs and their activities.

Moreover, the study reveals that land is the powerful means of livelihood provisions for women hence denial for women land rights has a profound impacts for their lives. For example lack for women land rights could make women to find it difficult to get food, settlement, credit and many other live necessities. This has increased the level of poverty on the part of women.

With respect to remedy the challenges and difficulties faced by women in land ownership rights, an immediate law and policy reforms pertaining land rights have been suggested, with an effort to sensitize the society about these reforms. These could go hand in hand with effective implementation of reformed laws to be practiced both at national and local level.

LIST OF ACRONYMS

a.s.l   above the sea level

CEDAW   Convention of All Forms of Discrimination against Women

GAD   Gender and Development

IMF   International Monetary Fund

KWIECO   Kilimanjaro Women Information Exchange and Consultancy Organization

NGO   Non Governmental Organizations

PRSPs   Poverty Reduction Strategy Papers

RBAs   Rights Based Approaches

SAPs   Structural Adjustment Programmes

TAHEA   Tanzania Home Economics Association

TAMWA   Tanzania Media Women Association

TAWLA   Tanzania Women Lawyers Association

TGNP   Tanzania Gender Networking Programme

UNCEF   United Nations Children's Fund

UNDP   United Nations Development Programmes

URT   United Republic of Tanzania

WAD   Women and Development

WCD   Women Culture and Development

WID   Women in Development

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CHAPTER ONE

GENERAL INTRODUCTION

1.0. Introduction

This study examines the gender relationship between men and women in land ownership rights in Moshi rural in Kilimanjaro Tanzania. With the application of Rights Based Approaches (RBAs), the study investigates how women rights are practiced and negotiated in the society. It seeks to know how society and culture affect the entire policies of the country in terms of women land rights, and the way in which culture shapes the practices of the people in understanding these land rights.

Land as a major form of asset, stands as one of the useful natural resource that generate a means of survival of a person (Ellis, 2000). It is from land that most of the needs that shape human beings come from when it is well utilized. The land when utilized gives wide range of needs such as food, settlement sites, building materials, recreational areas and many others. Although such resource has many advantages to human beings, its control and its accessibilities differ in many ways especially in gender relation in terms of ownership and accessibility particularly in rural areas (Shivji, 1998). This view as seen by Shivji is based on the study from Third World countries.

Globally, gender and development originated in the particular era of feminist thinking that was embedded in politics of the time (Cornwall et al. 2007). Later, it took the formation approaches to address the problem of inequalities among men and women particularly in the question of control of assets, empowerment, decision making and participation in social political and economic affairs of individual. These approaches are famous in feminist studies. Some of these approach are; Women in Development (WID), Women and Development (WAD) and Gender and Development (GAD). More description about the rise of these approaches is presented in chapter three.

However, the main concern in this section is the description of the global nature of gender inequality in terms of property and land ownership rights. Different studies in different areas across the Third World have identified gender inequality problems in terms of asset control and ownership resources. Most of the studies about this revealed that, areas with gender inequality problems are found in countries such as Asia, Latin America and Africa. In Asia

for example, Agarwal (2003) in her study about gender and land rights in India revealed that there are social and administrative bias which discriminate women in land ownership among the Hindus communities in Northern India. In these communities especially those which were traditionally patrilineal (i.e. where inheritance was through the male line) there was strong male resistance to endowing daughters with land. Similar studies were conducted in Africa and Latin America. In Latin America, specifically in Mexican studies about gender and property ownership like land was a growing concern (Varley, 2007). In this regard, property ownership seemed to discriminate women and for this reason the government took some measures to remedy the situation. Varley revealed these measures which have been taken by the Mexican government to regulate issues of property ownership. Within these measures, includes the legislation concerning marital property where property gained after marriage is held in common among the married couples (man and woman). In this regard, Varley shows some shortcomings within this legislation which affects women's accessibility and ownership of property at large. Some of these shortcomings are the extent to which the legislation extends to all co-residence couples. In this context, the legislation does not work in some areas. In these areas property ownership follows traditional systems and for this reason the legislation does not work. Within this area, it was seen that, despite the legislation to grant property ownership in common between men and women, there are still some problems in ensuring equality between men and women in property ownership among the Mexican communities.

In Africa, Tanzania in particular, the asset 'land' is the main source of livelihood maintenance especially in rural areas where agrarian life is dominant (Ellis, 2000, Sanga, 2009). It is referred as a main resource where food and other valuable stuffs are derived, yet this asset is not equally accessed and distributed. The inequality behind distribution lies in the ownership and control of the asset. The controlling of land in rural areas in Tanzania follows the gender setting (Shivji, 1998). Women are the ones without full access and control of this resource (Benschop, 2002). The reasons as to why women are not considered in the issue of ownership and control of land is said to be rooted from traditions and customs. The patriarchal structure in many societies excludes most of women's right on control and ownership of land in the rural areas (Manji, 1996). Women's right to land ownership is constrained by the norms present in the society which have been practiced and inherited from one generation to another. Social norms weaken women bargaining possibilities over subsistence and other resources (Agarwal, 2003). The norms affect the entire society in policies and laws. Women and men

enjoy equal inheritance rights under statutory law; however the application of this law is limited because women are still discriminated in land inheritance rights (Benschop, 2002). The role of the state according to Rights Based Approaches is to formulate laws and policies which do not discriminate people (Tsikata, 2007). However the problem, as it has been observed by Benschop (2002) lies in the implementation of the law. Often the other society is not flexible or ready to change the norms that govern their daily practices. It is this dilemma between the law and the daily practices that analyses the relationship culture and land tights for women in this thesis.

This chapter is made up of seven sections. After this introduction, I will present a background of the study. This is followed by the research problem, research questions, and research objectives, significance of the study and how the thesis is organized.

1.1. Background to the study

Issues concerning women's rights have been addressed in the favour of gender relations and equality, which means that, the equal access and control of resources between women and men in the society. The relations are said to be socially constructed (Ellis, 2000, Sardenberg, 2007). These socially constructed relations are usually unequal in terms of power, decision making, control over events, freedom of action, ownership of resources and so on (Ellis, 2000). Gender is seen as a fundamental dimension study about power in subordination and inequality. It is in this dimension that inequality and ownership of resources emerges. Since gender is a socially constructed relation, the society as agent based on its cultural beliefs formulates discriminatory norms which tend to segregate women (Bhavnani et al. 2000). The norms could affect and control women's lives in terms of decision making, participation in a particular activity, division of labour and ownership and control of resources.

One of the main sources of income in many rural areas in Tanzania is land. It is estimated that more than 80% of the population in Tanzania live in rural areas and are engaging in agriculture (Sanga, 2009). In Sub-Saharan Africa, women are said to be the major contributors to agricultural production in terms of time and labour compared to men (Ellis, 2000). Land clearing, sowing, weeding and harvesting is undertaken by women who do not have power or control over decision making capabilities on the land (ibid). It is even worse in some cases where harvest sales and income obtained remains under men's control. Tanzania, being the part of Sub-Saharan Africa, majority of women usually offer most of their time in production of the crops and sometimes end up not reaping the benefits of their labour. This

case is actually found in some rural areas with patrilineal communities. Fifty one percent (51%) of women in rural areas in Tanzania are agricultural producers yet, they do not have control over the benefits of the land (TAHEA, 2010). Although the production systems in the village are family based with the main laborers being women and children, it is the men in the family and the clan elders in the extended systems who make the ultimate decision on the use and disposal of the resources (Shivji, 1998). They have to depend on good will of others to determine rewards for their labour (TAHEA, 2010).

Women empowerment in Tanzania is seen as the main means of reducing rural poverty. In its Millennium Development Goals Report (2008), the country has indicated that, it has shown progress in poverty reduction by empowering women and promoting gender equality. While empowerment for women is given attention in the public, in the rural areas it has remained silent or not working at all. This is seen in the control and ownership of land and other resources but land stands as the main one (TAHEA, 2010). Land as explained above is the basic source for livelihood provision in the rural area but this resource is not fairly distributed. Customary laws and traditions deny women this right in many rural areas especially in patrilineal communities (Benschop, 2002, Yngstrom, 2002). The public policy and laws that guarantee women ownership of land have conflict with the customary laws. The customary laws still hold strong ties with people in the rural areas. This law is found in the Customary Declaration Order of 1963 (Manji, 1996) which regulate marriages and property ownership among the patrilineal communities. This law excludes women from inheriting clan or family land. This has brought a lot of contradictions and tensions on the ongoing land reforms and policies in the country.

While rural women are contributing more through their labour in order to provide for their families, they do this under a number of difficulties due to the lack of control of resources. As it gets harder to provide for one's family, many find themselves in poverty and the level of poverty increases in the rural areas especially on the side of women and the children. Income in the hands of mothers has greater positive effects on family health than the same income in the hands of fathers (Ellis, 2000). The cash income in the hands of women is utilized primarily for the family welfare purposes than the cash income in the hands of men who use it for personal consumption for some cases.

Land ownership rights for women are therefore a crucial issue that can change women economic status towards a better livelihood and development in general.

1.2. Research Problem

Being a signatory of the Universal Declaration on Human rights and its affiliation to promote human rights, Tanzania also ratified the Convention of All forms of Discrimination against Women (CEDAW) in 1986. In this ratification the country agree to promote gender rights such as empowering women socially, politically and economically. In addition to this, the country agrees to create legal schemes which will work in favour of women by promoting legislative reforms. In addition to CEDAW ratification, the country also has a powerful instrument that promotes equality for all people without any form of discrimination. This is the Constitution of the United Republic of Tanzania article 9 Under "Fundamental Objectives and Directive Principles of the State Policy" The article states that;

"The object of this constitution is to facilitate building of United Republic as a nation of equal and free individuals enjoying freedom, justice, fraternity and concord…. therefore the state authority and all agencies are obliged to direct their policies and programmes towards ensuring… that, human dignity and other human rights are respected, laws of land are upheld and enforced…." (URT, 1977:18)

Since the Constitution of the United Republic of Tanzania was made to promote human rights without any form of discrimination for its citizen, it is then not clear as to why there are still some forms of oppression and injustice in property ownership such as land on the part of women in Tanzania. Moshi Rural being part of Tanzania like any other rural area in the country; there are women who contribute more time for resource (land) utilization and production for the family maintenance but they don't have ultimate decision and control over that resource (land). In this case it can be seen that, their rights as given by both the state and the international instruments are denied. This has led me to identify the following research question.

- What constitute land rights for women in Tanzania and how are these rights understood, practiced and accessed at the local level?

1.3. Research objectives

In an attempt to find answer for the above mentioned question, this research project was undertaken with a mission of four specific objectives. These are;

1. Identifying the ways in which women land rights are offered and practiced in Tanzania.

2. Examine the cultural challenges which women face in accessing land ownership rights.
3. Identifying ways and the role of stakeholders in promoting women's land rights.
4. Assessing the impact of access to land on women's lives in Moshi Rural.

1.4. Significance of the study

This research project is ought to provide significant effects both academically and socially. This is because the study intends to generate knowledge about how land ownership for women is guaranteed and the way the land ownership rights are practiced at the grassroots level. It also seeks to know about how women may benefit from land ownership and the way the land is being used as asset for livelihood maintenance. Such knowledge may be used by the policy makers and planners on how to improve the existed policies on land ownership rights that could benefit both men and women in the society.

In conclusion, the overall significance of this study is to generate knowledge on how people relate to each other under several perceptions and attitudes that govern their daily life rather than formal laws and policies which are introduced to be used as a tool to govern daily experience and practices of individuals in the society.

1.5. Thesis organization

This thesis is divided into eight chapters. Chapter one gives the general introduction, background to the study, research problem, research objectives, significance of the study and thesis organization. The chapter includes information from various sources which are related to the subject of study. It lays the foundation upon which other chapters have to be organized.

Chapter two gives the general introduction about development path of Tanzania, starting from independence to the current situation. It also describes the study area by showing its geographical location, climate, economic activities, culture and gender status of women.

Chapter three forms the basis of important theoretical perspective upon which analysis is formed. The chapter also forms the theoretical base of important aspects related to women and land ownership rights by borrowing views from rights based approaches and women culture and development. In this regard, concepts like power relation, empowerment and participation have been linked directly with the theory in which the analysis has been drawn.

Chapter four reviews the methodology used in the study. It elaborates the methods used, types of data collected, validity reliability and reflexivity issues, ethical conditions, and problems

and limitation faced during data collection. Chapter five gives the contextual framework of legal issues related to women land ownership rights in Tanzania. It gives an overview of historical framework of land rights in Tanzania as well as the current land systems. Chapters six and seven presents and discuss the research findings related to the topic of study. Lastly, chapter eight contains conclusions, recommendations and suggestions for further studies.

CHAPTER TWO

DESCRIPTION OF THE STUDY AREA

2.0. Introduction

The description of this chapter will concentrate on Kilimanjaro region which is one of the administrative regions in Tanzania with a focus in Moshi Rural district where the field study was conducted. The chapter intends to give a detailed description of the study area by focusing on geographical position, climate, soils, economic activities, culture and gender and economic status in the area. Before going deeper in describing the area where field work was conducted, it is therefore important to understand the historical background of the country from independence to the present.

2.1.1. Historical Background from Independence to present

The United Republic of Tanzania is made up by two areas formally known as Tanganyika which is the mainland Tanzania, and Zanzibar. Zanzibar is made up of Islands of Unguja and Pemba in the Indian Ocean. Tanganyika became an independent state from the British colonial rule in 1961 and a republic in the following year. Zanzibar gained a sovereign state status in 1963. In April 1964, Tanganyika and Zanzibar united and formed one country which is now known as United Republic of Tanzania (Berry, 1971)

Geographically, Tanzania is located in Eastern Africa between longitude 29^0 and 41^0 East and latitude 1^0 and 12^0 South and is bordered by Indian Ocean in the eastern part, Rwanda, Burundi and Democratic Republic of Congo in the Western part, Zambia, Malawi and Mozambique in the Southern part, Uganda and Kenya in the Northern part. The country is made up of 26 administrative regions and 120 different tribes (ibid). The main economic activity in the country is agriculture. Farmers hold small plots of land in which they produce different kinds of crops. The country has also plantations owned by private people but this is practiced in very few areas. The country is engaged in production of sisal, pyrethrum, cotton, cashew nut, coffee and tea. It also produces a variety of food crops such as maize, beans, sorghum, potatoes, bananas and vegetables (UNDP, 2010).

Despite having good fertile land and other potential resources, the country is still poor and is among the least industrialized countries in the world. The country is blessed with many natural resources such as forest, wildlife, lakes; sea and minerals but still its people are poor and a great number of them live below the poverty line. The resources are underutilized and

farmers still use poor technology by relying on traditional tools such as hoes for production. The country is also facing the problem of poor infrastructure which limits the accessibility in movements and finding of the market for the goods which are produced in the upcountry.

Historically, the efforts to build the economy of the country started six years after independence. The economy was deteriorated by rapid population growth which increased poverty and unemployment in urban areas (Lugalla, 1997). These efforts were composed of different policies which the country believed could save it out of poverty. One of the most important attempts was made in 1967 in Arusha city the third largest city in the country. This attempt was called Arusha Declaration (ibid). The attempt sought economic progress for all people in the country by encouraging nationalization of the private property such as land, banks, industries and housing. This attempt aimed at reducing inequality which existed between the poor and the rich during colonial era. The Declaration changed the existing capitalist mode of production to the socialist one. All major means of production was shifted to central planning with the government controlling of the economy (ibid).

However, despite the Arusha Declaration, Tanzania started to face social and economic crisis which began in the mid of 1970s, manifested itself in internal and external macroeconomic imbalances. Agricultural production declined, leading to a shortage of foreign earnings which affected the existing government (Mchallo, 1994, Lugalla, 1997). Between 1974 and 1988 real wages fell by 83% and the state failed to provide even the minimum social services (Kiondo et al. 2000). In response to these problems, more people became self employed and many organized themselves into welfare organizations that could be based on religious, regional, ethnic or professional affiliation (ibid).

The coming of Structural Adjustment Programmes (SAPs) in 1980s, which is now inherited by Poverty Reduction Strategy Papers (PRSPs), was thought as a solution (reform) to the economic bankruptcy by the government (Mchallo, 1994). The programme had many strategies to increase productivity of the nation. Some of these strategies included trade liberalization, democracy, cost sharing and removal of agricultural subsidies (Grosen and Coskun, 2010). The country's revenue started to grow from 1986 after the implementation of SAPs policies. For example its real growth averaged 3.3 percent annually during the reform period between 1987 and 1998 (ibid). Moreover, the budget deficit decreased from 11 percent of the GDP in 1986 to 4.6 percent in 1998 (ibid). In addition, the annual average growth rate of GDP of the last three years (2007) was 7.3 percent (UNDP, 2010). However, despite the

economic growth, it is unfortunate that many people within the country especially rural communities are still poor (Lugalla, 1997). Agriculture performance in the country which many people in rural areas depend on deteriorated due to absence of equipments and technology. Development which was thought to be present to the rural communities was also affected. The government withdrew from giving subsidies to the farmers and there was a continuous crop failure in many areas. Some of the most affected farmers were coffee growers in Kilimanjaro. At the same time the government withdrew also from providing social services to the people. This situation increased cost of living in many areas in the country. The increase in cost of living affected many poor people in the region and many victims were women since they had a lot of responsibilities at home which needed income to be solved. Poverty increased among many people especially rural in areas, the growth of the economy was only seen in the government sectors but this did not affect the local people.

2.1.2. Emergency of Civil Society

Civil society could be defined as "the public realm of organized social activity located between the state and the private household" (Kiondo et al. 2000:2).The emergency of civil society in Tanzania could be seen as an answer to development problems (ibid). During *ujamaa* policy under the so called 'African Socialism' civil society in Tanzania were suppressed. The failure of this policy (*ujamaa*) in 1980s created economic and social problems in the country (ibid). These problems could therefore be seen as one of the factors which led to the emergency of civil society such as non-governmental organizations (NGOs) which came with several alternatives to remedy the situation. Civil society in the country then emerged along with neo liberal policies (SAPS). The growth of these organizations was slow during the 1980s but it increased in the 1990s (ibid). Currently it could now be learned that, the civil society groups such as NGOs provide a chance for discussion of various issues affecting people in the society. Since poverty was the order of the day affecting many peoples in rural areas, many topics and research of many NGOs raised their issues on what could be the cause or source of poverty and possible solutions for it. The most marginalized groups were women. Women were seen as the most vulnerable group who were most affected with poverty. The fact about this description could be seen in Convention of All Forms of Discrimination against Women (CEDAW) of which Tanzania is a member since 1986, as discussed in chapter one. Therefore many NGOs and policy makers had to address the situation with the key focus to issues affecting women.

One of the most important ways of poverty reduction was directed to issues of participation, decision making, democracy and capacity building. This was suggested to be done in key sectors and resources (land) of the society. Power was seen as an important feature for acquiring wealth in every sector of the economy. Since rural areas were poorer than the urban, therefore people from those areas had to be given power to control their resources (land) for their livelihood. In this case, men were well off than women in terms power to control resources. Women are seen poor because, in many issues affecting them they don't have ultimate power to control and own resources due to different reasons one of them being customs and traditions embedded in culture (Benschop, 2002). The main economic resource in the rural areas is land. Land in rural areas is a main source of livelihood and income. In many cases, civil society emerged with the focus on empowering women in securing their rights especially access to land and decision making which were mostly violated under the 'umbrella' of culture. Some of these civil society included TAHEA, TGNP, TAWLA, TAMWA, and many others. Civil society managed to deliver the message of awareness and provide legal assistant to the disadvantaged group particularly women in some areas within the country. Most of these civil society groups questioned the performance of the government in ensuring gender equality in control of resources (land) because gender inequality was seen as main obstacle towards achieving sustainable livelihood.

Currently, there are many civil society organizations programmes which concerns with many issues affecting women in Tanzania. The issues which are addressed deliver the message of awareness and legal aid provision in terms of economic, cultural and social rights affecting people in the country. However, most of these organizations are urban oriented and do not reach in many rural areas.

2.2. Description of the study area

Kilimanjaro region is located in the north eastern part of Tanzania Mainland. It lies south of the equator between latitudes $2^0 25^1$ and $4^0 15^1$. The longitudes of the region are $30^0 25^1 30^{11}$ and $38^0 10^1 45^{11}$ east of Greenwhich. The region has a common border with Kenya in the north and to the south east it shares border with Tanga region; to the south and west, the region borders with Arusha region. The region has six districts which are Hai, Mwanga, Same, Rombo, Moshi urban, and Moshi rural (URT, 1998). There are two main ethnic groups in Kilimanjaro region which are Pare the minority, who resides in southern plains and highlands and Chagga the majority, who are found in the northern highlands (ibid).

The Chagga are believed to stay in the area over several centuries with their main activity being agriculture (Tagseth, 2010).

The study was conducted in Moshi Rural district. The district has a total of 31 wards and 150 villages. The villages which were selected for this study came from Vunjo West which is one of the wards in Moshi Rural. The selected villages were Uparo, Nduoni, Iwa, Kwamare and Kanji.

Moshi rural district, bordered to the north by the Rombo district, to the west by Hai district, to the East by the Mwanga district, and Kenya and to the south by Manyara region. The district occupies an area of 3,054.3 square kilometers on the southern slopes of Mount Kilimanjaro (URT, 1998).

According to the 2002 Tanzanian national census, the population of Moshi Rural district was 402,431. The district like any Chagga land has a rapid population growth and is having land scarcity. It was reported in the census that, between 1978 and 1998 the population growth was 1.9% (ibid). It is believed that, the rapid population growth in the region is as a result of a number of different factors such as lack of family planning, absence of many tropical diseases like malaria, improved health care and presence of enough food to feed the growing population. It must be noted that, Kilimanjaro region is one of the leading regions in Tanzania which are provided with good social services like water, health education and power (electricity). The population growth is believed to be attributed by the presence of these attractive social services which encourage many people to remain in the region although there are some especially the youth, who migrate to other towns within the country. Food can be considered as one of the fundamental factors that discourage intensive migration and at the same time encourage reproduction. The presence of enough food could be seen as been attributed to the presence of good climate and fertile soils which stimulate production of different agricultural crops. Food crops like bananas, maize, sorghum, beans, potatoes and fruits tree are well nourished in the region. Apart from food crops, the region is well known for its production of Arabica coffee which is a chief cash crop in the region. The production of cash crops by the peasants seems to offer employment for the people in the region and discourage migration, something that has also contributed to the population growth in the region. The provision of good health care has reduced mortality rate for many children who are born in the region. It is believed that, at least every ward in Moshi rural has at least three dispensaries or health centre which provides service to the people. For example, it is

estimated that, Moshi rural has 30 government dispensaries and 55 private dispensaries which makes a total of 85 dispensaries (ibid).

Figure 1: Map of Moshi Rural District
Source: Cartographic Unit. University of Dar es Salaam, Tanzania.

2.3. Climate, soils and economic activities

2.3.1. Climate

There is considerable local variation of climate in Kilimanjaro region because of the influence of altitude. The presence of the Mt. Kilimanjaro which is the highest mountain with snow cape in Africa makes this possible. The variations in climate are important in defining agricultural activities in different zones. It is actually observed that, much of the region is characterized by mountain type of climate (URT, 1998).

Basically, the region has three main climatic zones each differ from one another in terms of temperature, altitude and precipitation. The zones are lower belt or flat plain (50-900m a.s.l), middle belt or gentle plain and moderate sloping hills (900-1100m a.s.l) and upper belt or sloping hills and plateau (1100-1800m a.s.l). The temperature varies with increase of altitude. This influence changes in climate from one zone to another (ibid). It is estimated that the distance from one belt to another could be 6-7km.

The annual average rainfall in the lower belt is 700 and 900mm while the temperatures are above 30^0 centigrade. Common crops grown in this area include maize, cotton, rice, sorghum, cassava and pigeon peas. Rice is grown under irrigation system due to lack of enough rain. Domestic animals that thrive well in this area are beef cattle, goats and sheep. The population density in this zone is low with less than 50 people per sq.km. Low density is due to unfavorable climate, explaining by the devastating effects of frequent floods during long rains and dry nature of the zone (ibid).

In the middle belt which can also be termed as intermediate zone lies between 900 and 1100 meters above the sea level. The annual rainfall ranges between 800mm and 1250mm. The annual temperature in this zone varies from 20^0 - 30^0 centigrade. It has moderate fertility soils which allow the cultivation for crops like coffee, bananas, maize and beans. The zone is also suitable for dairy cattle, goats, pigs, rabbits and poultry farming. The zone has high population density of 250 persons per sq. km leading to problems of land shortage and soil erosion (ibid).

The upper belt lies between 1000 and 1800 meters above the seal level. The annual average rainfall falls between 1250 and 2000mm. The temperature ranges between 15 and 20 centigrade. The zone has good fertile soil which comes from volcanic rocks of Mount Kilimanjaro. The soil is rich in magnesium and calcium. The main agricultural crops grown in this zone are coffee, bananas, fruits and irish potatoes. This zone has a very high population pressure than any other belt. The zone has 650 people per sq.km (ibid).

The table below shows the studied villages and the likelihood of climatic belt which could lie according to above explanation. It should be noted that the climatic belts are distinguished by altitude from the sea level as one move to the mountain (Mt. Kilimanjaro).

Table 1: Climatic Zones of Study Area

Climatic zone	Studied villages
Upper belt (1000m to 18,00m a.s.l)	Nduoni and Kanji
Middle belt (900m to 1,100m a.s.l)	Iwa and Kwamare
Lower belt (50m to 900m a.s.l)	Uparo.

2.3.2. Soils

Kilimanjaro region is the home of the highest mountain in Africa. The region bears the name of the mountain (Mt. Kilimanjaro). This mountain was formed due to volcanic activities which happened in the region many years ago. This geological activity which functioned thousands of years ago has a great influence on the type of soil which is currently found in Kilimanjaro region. The presence of the huge volcanic cone is enough evidence of presence of volcanic rocks. Since Mount Kilimanjaro is of volcanic origin the soil around the mountain and its slopes is also volcanic type. The soil is rich in nutrients and allows production of different crops. According to Mnkeni in Tagseth (2001), histosols and nitosols are dominant in the higher areas while fluvisols and vertosols dominate the lower parts of the region. The higher areas have good soil and good climate than the lowland areas. The presence of good soil and climate has attracted growth of permanent crops hence permanent settlement. The crops which are grown in this area are coffee, bananas, yam, potatoes, fruits and to some extent maize. The situation of having permanent settlement forced people to acquire land for production of food. Although there might be a slight variation of soil types between the climatic belts, but this does not pose a great difference in the region. Generally speaking the type of soil which is found most parts of Moshi Rural is volcanic type.

2.3.3. Economic activities

The main economic activity in Moshi Rural is agriculture which is operated by small farmers holding small plots of land. These plots are named as *kihamba* and *shamba* by the local vernacular (Øyan, 2000). Kihamba, is the home garden close to residential house (mainly upper belt or highland zone) where trees are intercropped with food crops as well as cash crops like coffee. While shamba, is a farm plot somehow away (middle or lowland zone) from the home garden where seasonal crops like maize, beans and groundnuts are grown (ibid).

The production is very low because farmers in this area use poor tools and low technology for production. The farmers depend on agriculture for their livelihood (URT, 1998, Øyan, 2000).

Due to the problems of overpopulation and land scarcity in the middle and upper belt, most people from the two belts own plots of land in the lower belt for production of food mainly maize. The lower belt also serves as area for the production of fodder for dairy cattle and other domesticated animals under zero grazing in the middle and upper belt (ibid).

2.4. Culture

Like many Tanzanians in different areas of the country, the people of Moshi rural do not exhibit great difference in cultural behaviors with their fellows. Customs and traditions of the area is the result of long term taboos and norms which were practiced by the ancestors long ago and inherited by the current generation. There are many ways in daily life in which traditions and culture is manifested. This situation is reflected from family level to the public. Culture determines division of labour in the family, decision making and allocation of different resources and ownership. Moshi rural is a patriarchal society in which men have more power than women. This is reflected in way men and women occupy different positions and roles in the society (Kyauki, 2005).

Traditionally, men are the head of the family. They are the main decision makers in the family. They control resources such as land and other property. They also make a decision on what to be done about the resources. Since men are controllers of the resources, they also hold power on how to divide the resources. To some extent women may be given power over some resources such as banana trees in the farm which have no high economic value. The men hold control over coffee and other resources with high economic value. Although women are the main producer of food and cash crops due to their constant employment of labour, they do not have a power to control it (ibid).

Women in Moshi rural do most of the household activities for production and reproduction. They are responsible for taking care of the family in many ways. Taking care of the family is seen in many activities they normally engage in. They have to make sure the family gets food for the day, fetching water, washing of the husband and children's clothes, collecting firewood, cutting grass for the cattle (cows, pigs and goats) and taking care of the garden around the house by supplying manure and weeding it. They also cultivate crops in the distant farms where beans and maize in the middle and lower belt of the area are grown (ibid).

2.5. Gender and economic status in Moshi rural district

Being a patriarchal community, Moshi rural has different ways in which people are related in terms of gender. The position of women and men differ in terms of economic power. The situation has been attributed to the prevailing culture which is shared by almost every household in the district.

Economically, men are better off than women. This is due to the prevailing culture which put women in a subordinate position. The way men are made to be controllers and owners of the resources is enough to justify their economic position compared to women. Men control resource such as land of which a women is the main producer (tiller). The income obtained from the land let us say by selling coffee is vested in the hands of the husband. In this way women are forced to ask for permission to use income or resources from their spouses. Men have a decisive power in the family over what to produce and how to use it. Although women and children may contribute a lot in the production process but still they have limited access in the use of the wealth of the family (Kyauki, 2005). Based on this situation, it can be enough to argue that, women do not own economic resources in their families. Since land is regarded as a main economic resource for Moshi rural this resource is regarded to be the property on men (Kyauki, 2005, Øyan, 2000). When a woman gets married in her spouses' family she does not own any kind of resource in that family. Women in many patrilineal societies in Tanzania are considered to be the property of men and they do not own any resources. Even from her father's home where she was born, a woman is not provided with land which is the main source of livelihood. They do not give land to women with the assumption that, when they get married they will get land from their husbands (ibid). This assumption is actually wrong, because as she gets married, the situation does not change since she is positioned in the subordinate situation as before. This is a historical inheritance character which operated even before the coming of colonial rule (ibid)

With the inheritance of traditions and customs, women are discriminated in the resource ownership especially land until today. The situation has affected their economic power for the long time and that is why most of them do not have high economic status as men in the district.

CHAPTER THREE

THEORETICAL FRAMEWORK

3.0. Introduction

In a research situation, theory is taken to be a set of explanatory concepts that are useful for explaining a particular phenomenon, situation or activity (Kitchin and Tate, 2000). Silverman (1994: 1) in Kitchin and Tate (2000:33) has stated that "without theory there is nothing to research". This indicates that theory is very important in undertaking a research study. Whenever research takes place, a researcher is either assessing the validity of the theory using deductive approach or trying to construct a theory using inductive approach (ibid). For this reason therefore, the chapter intends to give a theoretical framework and analytical approach that have been used for this study. As regards to the nature of the research topic, the Rights Based Approaches (RBAs) have been used as a theoretical tool to obtain the findings. I applied the use of RBAs because the topic is about "Women and land ownership rights" hence the use of RBAs is seen as one way of assessing the way land rights for women are defined and guaranteed. However, a particular reference to feminist studies has been made and concepts related to Women Culture and Development (WCD) views have been used as a way of widening the analytical approach for this study.

In the following paragraphs Rights Based Approaches are discussed as a theoretical tool and will later be followed by Feminist theoretical Framework.

3.1. Rights Based Approaches (RBAs)

3.1.1. Historical background of Rights Based Approaches

The historical dimension of Rights Based Approaches can be traced in the discourse of international development agencies, emerging in the post Cold War period in the early 1990s (Cornwall et al. 2007, Mikkelsen (2005). Within the United Nation systems, the Rights Based Approaches is dated back to 1948 when authors of Universal Declaration of Human Rights (1948) articulated economic, social, cultural, civil and political human rights in a single document (Mikkelsen, 2005). The efforts to translate the human rights document into legally binding obligations were challenged by ideological divisions between the western liberal democracies and the eastern bloc (ibid). However, the end of the Cold War reduced the ideological differences and increased freedom and awareness of understanding human rights globally. Furthermore, the rights based approaches were developed and adopted by several

organizations such as CARE, Save the Children, UNICEF and UNDP. For instance the UNDP on its strategies to human development focuses on human rights with the presentation of an integrated approach to development by drawing upon the principles of international human rights as strategies of human development to advance dignity and wellbeing (ibid).

In the field of development studies and alternative development in particular, RBAs evolved as a response to poverty. There was growing recognition that, poverty is more than economic needs and that, growth centered development has to address more complex and fundamental causes of poverty and inequality such as discrimination, exploitation and abuse (Boesen and Martin, 2007). Moreover, it was recognized that, poverty is caused by the structures of power and inequalities embedded in the local, national and global context rather than individual circumstances and capacities (ibid). In this respect therefore, the RBAs recognize poverty as injustice and aspects like marginalization, discrimination and exploitations were considered to be a central cause of poverty. In order to address this concern, United Nations Development Programmes (UNDP) recognized the need of using 'capability' approach to analyse and address development challenges (Fakuda-Parr, 2003). In acknowledging this concern UNDPs from 2000s decided to draw some philosophical concepts particularly the 'capability approach' from Amartya Sen to be included in development policies in order to reduce poverty (ibid). In this regard, 'the capability approach' is the idea that, the purpose of development should put into consideration the improvement of human lives by expanding the range of things that a person can be and do, such as to be healthy and well nourished, to be knowledgeable and to participate in community life (ibid). From this approach, development is about removing the obstacles to what a person can do in life; such obstacles could be illiteracy, ill healthy, lack of access to resources and lack of civil political freedom (ibid). Therefore the focus on development was seen from this point of view rather than development economics which focuses on national income (ibid). According to Amartya Sen, as argued by Fakuda-Parr, the approach to development growth and social well being improvement by Neoliberal scholars faces some challenges and limitations because it is based on utility maximization in the view of services and commodities as 'basic needs' while ignoring capabilities of one individual in reaching these needs.

In putting emphasis on capabilities in form of capacity building, RBAs in UNDP were considered to be used as a framework to address the obstacles to capabilities such as right to participation, right to education, right to food, health habitat and economic security. Moreover, more emphasis was put on gender equality to address the obstacles (UNDP, 1994).

In its annual report of 1994, UNDP emphasized gender equality as a means of addressing the obstacles in a more transparent way. Within this report, equality of rights between men and women was seen as a fundamental principle, and legal, economic, political or cultural barriers that prevent the exercise of equal rights should be identified and removed through comprehensive policy reforms and strong affirmative action (UNDP, 1994). The emphasis was put on gender in development policies in order to address inequalities. In this respect RBAs are seen as the best way in initiating these objectives (Tsikata, 2007).

Today the Rights Based Approaches are claimed to be applied in the growing number of development co-operations and organizations. But the majority of these organizations are actually applying human rights perspectives. The human rights perspective is the first step towards achieving rights based approaches, until the organization's capabilities have been adequately developed to allow full scale rights based approaches (Mikkelsen, 2005).

3.2. Meaning and Application

Rights based approaches as already discussed earlier is a conceptual framework for the process of human development that is normally based on the international human rights standards and operationally directed to promoting and protecting human rights (Mikkelsen, 2005). In addition, the framework integrates norms, principles standards and goals of international human rights system into the plans and process of development (Boesen and Martin, 2007). The adoption of rights based approaches by various UN agencies, bilateral development agencies and international development NGOs has allowed human rights language to enter the world of development programming as a legitimate friend (Cornwall and Nyamu-Musembi, 2004). Cornwall and Nyamu-Musembi point out various justifications for the value of rights in development which can be classified into three broad categories which are normative, pragmatic and ethical. Here, I will concentrate on the normative classification. Normative justification considers rights as values and politics to be at the very heart of development. The normative framework has explicit linkage to human rights; greater accountability on the part of the states and international actors; a stress on the empowerment, participation and non-discrimination; with attention to vulnerable groups (Tsikata, 2007). By stipulating an internationally agreed set of norms, backed by international law, rights based approaches provides a stronger basis for citizens to make claims for their states and for holding states to account for their duties to enhance the access of their citizen to the realization of their rights. It calls for existing resources to be shared more equally, and assisting the marginalized groups to assert their rights to those resources (Cornwall and

Nyamu-Musembi, 2004). Tsikata (2007) points several advantages of RBAs. Some of these include the following:

- The identification of rights, and the duties to respect, protect and fulfill them, as well as the holders of such rights and duties, thereby enhancing accountability.
- A normative stance on the side of the oppressed and excluded, thus compelling a focus on vulnerable groups such as women.
- Efforts directed at the roots of structural injustice.
- Legitimacy because the governments have signed agreements which remain independent of the interests of the single government.

With respect to the above mentioned advantages of RBAs by Tsikata, the following elements can be observed;

The first element is the identification of rights. How can such rights be identified and what are these rights? In my view answering this question depends on the particular society or country's policies and laws and how these articulate the rights of every individual in that society. The policies and constitution offers guidelines on how rights are guaranteed and identified in a particular society. However, there are human rights which are universally recognized by the United Nations in which every nation which is the signatory of these rights must respect and maintain them. When the individual recognizes his/her rights, he or she will be in a better position to claim them. Claiming for rights is impossible if the person does not know them.

The second element is the duties to respect protect and fulfill the rights. The respect and protection of such rights depends on how the state is serious in using its different instruments to implement the rights. These instruments could be the legal system, ministries, and different legal stakeholders in the society. The instruments are therefore responsible to check and provide action to any practice that tends to violate the rights as mentioned in accordance to the policies and laws.

Thirdly, the RBAs focus on the oppressed and the vulnerable groups such as women. Women in many ways have been forgotten in the society in the way their rights are respected and protected (Boesen and Martin, 2007). In this regard, gender discrimination limits the accessibility of women's rights in the society in different situations, such as access and control of resources and participation in decision making.

Fourthly, the RBAs direct its efforts at the roots of structural injustices. A structural injustice is the way the society practice, respect and fulfills the rights of its people (Tsikata, 2007). When the society does not fulfill such rights it could then be viewed as structural injustice in that society. In my view the roots of structural injustices can be found in two sources. First it can exist in the state laws and constitution on how the state guarantees and practice people's rights. Secondly, the roots of structural injustices may be found at the local level in the society such as family, clan and tribe and it can exist under situation of sex gender and age. How are rights negotiated and respected at this level? This may depend on various factors, such as culture, norms, traditions and customs. Culture influences the ways people view rights and negotiate them. The ways people view and negotiate rights may vary according to ethnicity, education, power relation, age and gender. In this negotiation, injustices may exist between individuals. However, the state is accountable to the great deal on how it defines and implements the rights at the grassroots level (ibid). The state silence in defining and upholding the rights may influence the existence of injustice. In addition, since the nation states have signed agreements which remain independent of the interests of the single government, there is therefore legitimacy in provision of rights. The governments which are UN signatory of Universal Declaration of Human Rights are then responsible to make sure the rights are respected and protected in the society (ibid). The government is responsible to define and protect these rights to its people regardless of race, sex, political status and gender.

Cornwall et al. (2007), points out some other elements of RBAs which are closely related to human development and the position of international organizations in defining them as it has already been discussed earlier in the context of origin of Rights Based Approaches. She views the RBAs under the context of United Nations Agencies especially UNICEF and UNDP. Within this context as it has been described earlier, in this chapter, UNDP saw the need to develop a human rights framework for all dimensions for its work in anti poverty and sustainable human development. In this framework, some of the basic elements are defined to reflect the RBAs in its development work. Some of these elements are rights of participation, rights to education, rights to food, health, habitat and economic security, rights to work, rights to land, rights to equality, rule of law and administrative due process. The UNDP encourages the policymakers in the individual countries to make connections between development and human rights (ibid). This means that, the development policies should recognize and protect human rights in the individual countries. By emphasizing on the National Action Plans the UNDP is trying to avoid the impression that the rights agenda is an external or top down

imposition (ibid). This implies that, nation states are responsible to include the elements of right based in their national development policies. In this way any development project is supposed to have Rights Based Approaches elements.

The preceding paragraph discuses the application of RBAs to this topic of study (Women and Land Ownership rights).

3.3. Application of RBAs

Within the context of RBAs, different categories of rights may be identified. Since the topic focuses on "Women and land ownership rights" a great attention is put on land rights to see how it works with the RBAs. The attention is put on the following matters. Firstly the Rights Based Approaches seeks to know how land rights are identified and practiced in the society with particular interest to women. Within this view, it will explore the extent to which the individuals especially women know their land rights and the way they struggle to claim for such rights. It will try to find out the structural injustices which exist at the society, and the way it links women and men in land rights policies found in the country. In this respect, the RBAs will try to explore the existence of Women land rights as defined by land laws, marriage laws and constitution of United Republic of Tanzania. Within this context, the study will explore the validity and implementation of these laws at the local level. This means, the study will put into account the way the society and local people practice these rights under customs, norms and traditions. Secondly, it will seek to know how land rights are protected, respected and fulfilled by different stakeholders and if they enhance accountability. Stakeholders here refer to the legal instruments in the government, NGOs and the local people in the society such as traditional leaders. Attention will be put on the state laws and policies about land rights and the way are defined and implemented.

However, in respect to the nature of the topic, it is also important to link the theory with the status of Women's rights in Tanzania. In this regard, as it will also be seen in chapter five, a reference is made to the Convention on the Elimination of All Forms of Discrimination (CEDAW) and its linkage to women's rights in Tanzania. Tanzania became a signatory of this convention in 1986 (CEDAW, 1996). In its report which was submitted to United Nations in 1996, Tanzania adhered to the policies of convention and showed its development concern to abide with the principles and implementation which was reached from 1990 to 1996 (ibid). Within this report, it was indicated that, the country has achieved some levels of development in rising up the status of women. Some of the areas in which the report claim this

achievement, concerns the giving of women access to credit, training programmes and empowering women through the legal system. In this respect, measures were taken to reduce inequality and discrimination between men and women in the areas of education, health, employment, participation in the political and public life, access to use and control resources and many other areas (ibid). In this regard, since the topic is related to the access and ownership of resources with a special focus to women, the view and the link of the RBAs theory with CEDAW in Tanzania is important.

3.4. Critique of the Rights based Approaches

While the Rights Based Approaches is applied in this study, in order to understand, women's land ownership rights, it may not be sufficient to understand the challenges of class, gender, race, kinship and other social relations in the society (Tsikata, 2007). These challenges are manifested in several ways, and are seen from the public and political arena to social grassroots in the society. For instance, the approach ignores the social power which is held by men and creates gender inequality in the family and public sphere of work and politics that assume subordination of women by men (Kenneth, 1998). Gender inequality is something which cannot be separated from the social construction of knowledge that serves to support the patriarchal order (ibid). Social power and domination in the society which is seen under the context of culture and in terms of gender, class, kinship and other social relations challenge the universality of RBAs and its accountability in a particular social context (Tsikata, 2007).

In addition, Rights Based Approaches seem to contradict with globalization under the market principles of neo-liberal market approaches (ibid). The supply of commodities and services depend on the forces of the market. This means that, the market is determined by the forces of demand and supply of services to individuals. Such commodities and services depend on the purchasing power of individuals. In this way, it is difficult for the low income earners such as poor people to get free services such as health, education, food, shelter and others. It is important to note that, Rights Based Approaches holds that someone for whom a number of human rights remain unfulfilled such as right to food, health, education, information, participation and powerlessness is a poor person (Mikkelsen, 2005). Such a person deserves the Rights Based Approaches to work in his/her favour to improve his/her situation.

In addition, most of the Third World countries, have adopted Poverty Reduction Strategy Papers (PRSPs) which is the inheritance of long term consequences of Structural Adjustment

Programmes (SAPs) as a condition by the World Bank and IMF to obtain concessional loans. The World Bank and IMF based on SAPs principles want developing countries to distant themselves from providing free services to its people in order to minimize state expenditure as one way of getting grants and loans as mentioned above. However, this situation has made many states to distance themselves from helping people in form of provision of assistance in various social and economic sectors such as health, education, and agriculture and so on. Having missed this important opportunity by the poor, the level of poverty among the marginalized groups has risen. As it has been described earlier, Rights Based Approaches came as framework to address poverty and at the same time increase capabilities by removing obstacles to capabilities such as ill health, illiteracy, access of resources and lack of political freedom, this ideal may sound to be difficult to implement in the society at the local level. Education is one of the powerful tools that can be used to remove the obstacles of capabilities, but then this education may be difficult to get for most of the poor people because due to lack of money.

Owing to these criticisms, for the purpose of analysis, development of feminist studies with a focus on Women Culture and Development (WCD) is discussed in the following paragraphs as another analytical tool which will be employed with RBAs to analyse the findings for this study. However, despite the above criticisms the Rights Based Approaches theory is still important and will play a major role as analytical tool in this study because it carries among other things the challenges which are embedded on culture in terms of power relations, empowerment and participations. These challenges are somewhat the means and the ways in which act as an obstacle towards realizing equality between men and women in terms of ownership and control of resources.

3.5. Development of Feminist Studies

Feminism in development studies emerged in the 1970s as a response to marginalization of women in development. This response is seen in the framework of Women in Development (WID), Women and Development (WAD) and Gender and Development (GAD) (Datta and Mc Ilwaine, 2003). In this response, each approach has been shaped by different understandings of both feminism and development (ibid). WID insists on the inclusion of women's role in economic system through necessary legal and administrative changes while WAD emerged as a critique to WID and insists on a focus on relationship between women and men in the development process rather than integrating them in the economic system (Bhavnani et al. 2003). Both WID and WAD shared an essentially static conceptualization of

women as a homogeneous, undifferentiated group whose condition was determined by their sex (Datta and Mc Ilwaine, 2003).

By the early 1980s feminist studies shifted their focus from women to gender discourse within the framework of GAD. GAD aims not only to integrate women in development but also look for the potential in development initiatives to transform unequal social/gender relations and to empower women (Canadian Council for International Corporation 1991 in Bhavnani et al. 2003). The main framework within GAD is to promote equality in terms of power sharing between men and women as fundamental human rights (Datta and Mc Ilwaine, 2003). The framework was transformed from "needs-based" to a "right-based" and was first acknowledged at the UN conference on Human rights in Vienna 1993 and this approach is used by most planners, policy makers, the World Bank and IMF to discuss relationship between development process and women inequalities (Bhavnani et al. 2003, Datta and Mc Ilwaine, 2003).

However, Bhavnani et al. (2003) point out that, aid agencies and development practitioners tend to use the concept of gender in reductionist ways failing to grapple issues of power, social and cultural political context that frame women's ability to resist conditions of subordination and oppression. The three approaches (WID, WAD, and GAD) fall short of larger analytical ways in which capitalism, patriarchy, and ethnicity shape and are shaped by women (ibid). Due to this short fall a further analytical approach with a focus on women, culture and development is used as an approach to address women's conditions of subordinations and oppression. Feminist studies suggest that, both policies and analyses are impoverished if adequate attention is not paid to women (Bhavnani et al. 2000). Since women live in the society with cultural practices which is part of their lives, the approach to Women, Culture and Development (WCD) is necessary to be used. The following paragraphs discuss this approach.

3.5.1. Women Culture and Development

Women, Culture and Development have been chosen in this study to analyse cultural practices in relation to 'women land ownership rights'. By using this approach, I assumed that in the society which the study was conducted with a particular topic on 'Women and Land ownership rights' is shaped by culture that provide the room and justification for existence of different views and practices about women's land rights.

Lamert (1997a:21 in Wilbert and Robin 2002) defined culture as a complex of socially reproduced values, rules, beliefs, art, penal codes, laws, political ideas and other such diversions by which a society represents the view of the world as its members believe or ought to be.

Within this context of the socially reproduced values, beliefs, laws and political ideas have made the culture to be part of lived experiences of individuals in the society. The ways individual interact produce some forms of settings such as values, norms, and traditions which are given meaning. These values and other ways of life shape the way people live and act in the society. In this circumstance, a particular form of practice can be produced to oppress or discriminate a certain group due its situation of gender, age, and sex. In order to understand how these inequalities are produced a reference is made to WCD which is a lens through which the relationship among all categories of inequality can be seen locally, specific, and historically contingent (Bhavnani et al. 2000).

Bhavnani et al. (2003), point out some reasons why culture is important in addressing issues affecting women, especially in the Third World. They view culture, as something which cannot be separated from the lives of most women. For them, culture is the lived experience which shape women in the political, social and economic life. It views how inequalities are challenged and reproduced. They insist that, to speak about culture with development consists of issues related to the everyday experience, practice, ideology and politics of the Third World women, and thus may provide clearer ideas for development change and which shapes the aspects of people's lives.

As Bhavnani et al. (2003), view culture in the Third World women as lived experience and something which cannot be separated from them, it is therefore important to note that, any policy which is aimed at boosting women's lives in the Third World should take into account the issues of culture. Laws and policies which are made to transform women's lives have faced several challenges in the ground of implementation due to resistance from cultural habits. This kind of resistance is manifested under patriarchal structure which denies women certain kinds of rights including land ownership rights.

The society where individuals reside is composed of men and women. Within this composition each of them has a way of influencing power and control of actions but this depends on how the society is shaped by cultural norms and the way the interaction between individuals is conducted (Sewell, 2010). For instance, if the society is based on a patriarchal

order, women will obviously lose the capability to influence control over men. With the norms and beliefs which are present in patriarchal structure, men gain power and control over women. This is because as a matter of enabling conditions, the patriarchal structure, does not provide opportunities for women to exercise power and control over many resources in the society. On the other hand if the society is not composed of patriarchal structure, it will be easy to some extent to realize women in influencing power and control over resources. In influencing such power, the enabling conditions which may be grounded from culture may not be challenged by men's agency so long as the culture allows them to do so (Lieblich et al. 2010). However, the challenges may form so long as the oppressed agents realize that they are oppressed or dominated by other men.

Through the concept of structure as discussed above and other related concepts of culture the study about 'Women and Land ownership rights' in this project will address several issues like power relations, participation and empowerment in the society between agents (men and women) and the way women get opportunities or barriers in exercising power and control over resources.

3.6. Analytical Framework

With the use of Rights Based Approaches, and feminist approaches such as WCD, the framework for analysis and description of the findings, will link both approaches by depicting the tension between rights and culture in order to look for the challenges in implementation of rights for women in owning land. Therefore, the following section gives a short description about this tension and the way it interlinks between rights and cultural practices which are practiced in the society.

3.6.1. The tension between rights and culture

One of the most challenging issues on the Rights Based Approaches is the tension between rights, and culture. Mikkelsen (2005) argues that, there is a considerable challenge, especially to effectively implementing a Rights Based Approaches to development. This situation is manifested from the grassroots level to the public and the main reasons for these challenges are seen under the issues of power relation, participation and empowerment, and the way these issues define land rights in relation to rights based approach.

At the local level (grassroots level), culture defines participation, power relations and empowerment, and the way people interact. As Rights Based Approaches emphasize on empowerment and participation to be the main ways of achieving rights (OHCHR, in Tsikata

2007), the situation is challenged in the way power is shared and influenced under customs, values and traditions in many societies in Third World countries. RBAs call for the existing resources to be shared equally and assisting the marginalized groups to get use of those resources (Cornwall and Nyamu-Musembi, 2004). Indeed, the control over resources, and decision making in many Third World countries follows issues of power in which patriarchal order dominate the system. In real sense power relations are gendered and in many ways. Women are seen as inferior to men and unable to exercise power over decision making and control over resources. For this reason, participation and empowerment is limited for them. This means that, to change norms which discriminate women, needs their presence in decision making about the matters affecting them and the society in general and without their presence, nothing could change. Men, who dominate power under patriarchy order, will still hold it because of their influence in the society.

As already stated above, culture influences issues of power relations empowerment and participation and which ultimately define power and control over resources among men and women in the society, therefore for this reason and for the purpose of analysis, it is important to define these terms (participation, power relations and empowerment).

3.6.1.1. Participation
Participation has been the key element in development initiatives in the whole process of poverty reduction in the field of development studies. In these initiatives, many organizations both government and non-governmental organizations (NGOs) are trying to influence and widen participation in day to day local politics in project design and implementation (Rigg, 2007) in order to achieve the intended development goals. Indeed, participation is seen as the most important issue in the development programs in order to respond to the growing social divisions, rising inequality and failure of the development policies at both local and public spheres of individuals (Perrons, 2008). At the local level, participation attempts to draw on local knowledge and make plans more appropriate to local needs by influencing them in making decisions that affect their future (ibid). However, the term 'participation' has been defined by the World Bank as a 'process through which stakeholders' influence and share control over development initiatives and the decisions and resources which affect them (World Bank, 2008). Within the context of contemporary development theory, participation has often been linked to claims of 'empowerment' and 'transformation' (Hickey and Mohan, 2005). This means that, the ultimate end of participation, is transformation and changes of social structures and policies to give more room for democracy, decision making and control

over resources with engagement of issues of power and politics (ibid). In reaching this kind of transformation, (Rigg, 2007:152) demonstrates a table that shows levels of modes of participation by using sources from Agarwal (2001:1624) and Cornwall (2003:1327). This table is shown below.

Table 2: Types of Participation

Form/levels of participation	Characteristics features
Level I: nominal participation	**Legitimization**
Nominal participation	Membership in a group
Passive participation	Being informed of decisions or attending meetings and listening in on decision-making without speaking up
Functional participation	Enlisting the support of local people to minimize dissent and maximize compliance
Level II instrumental participation	**Managerialism**
Consultative participation	Being asked an opinion in specific matters without guarantee of influencing decisions
Instrumental participation	Enlisting 'volunteers' to take part in tasks and activities; delegating responsibility
Active participation	Expressing opinions, whether or not solicited, or taking initiatives of others sorts
Level III: transformative participation	**Empowering**
Interactive (empowering) participation	Having voice and influence in the groups decisions
Transformative participation	Building political capabilities, critical consciousness and confidence; demanding rights; enhancing accountability

Source: (Rigg, 2007: 152)

However, the idea of transformative participation that seeks to challenge the existing power relations in order to enhance changes is related to citizenship (Hickey and Mohan, 2004). The following paragraph discusses this relationship and the way it can enhance transformation.

3.6.1.2. Participation and citizenship

In order to realize transformative participation as already discussed above, it is important to connect it with the idea of citizenship. Hickey and Mohan (2004) indicate some factors which

may contribute to transformative participation. They related transformative participation to issues of participatory governance and democratic decentralization. For them, democratic decentralization is a key aspect of participatory governance agenda and is associated with institutionalization of participation through regular elections, council hearing participatory budgeting and devolution of power to local authorities.

Moreover, Hickey and Mohan point that; successful participation that results in transformation should show some of the following elements;

First, the approach to be used should closely engage with the underlying process of development rather than remain constrained within the specific policy processes or interventions.

Second, each approach should be characterized by explicit focus on and pursuit of participation as 'citizenship' to the extent that, it brings people into the political process within a particular communities to be given opportunities to claim their rights to participation and control of resources. In this way participation and citizenship aims at addressing the patterns of domination and subordination in particular political communities and help the individuals and groups to claim their rights to participation and equal sharing of resources (ibid). Turner (1993:2), define citizenship as " a set of practices (judicial, political, economic and cultural) which define a person as a competent member of society, and which as a consequence shape the flow of resources to persons and social groups". Turner identifies two important aspects of citizenship in this definition. These aspects are practices and the general ideal of inequality, power differences and social classes. In the context of practice, the idea of citizenship help to understand how social contraction of norms are produced while inequality and power differences help us to understand the problem of distribution of resources in the society.

The third element which enhances transformative participation as argued by Hickey and Mohan (2004) is a pre-condition that, the modes of accumulating political and economic power in a given context are (to a significant degree) structurally disentwined from each other. This means any project which is aimed at integrating transformative participation should somehow be separated from politics and economic context.

Within these elements, Hickey and Mohan drew example of successful project which to some extent applied the mentioned elements in Brazil for the case of REFLECT. For them

REFLECT, has managed to address the patterns of domination and subordination through the use of appropriate approaches and conditions for transformative participation and citizenship as discussed above.

Thus based on this understanding, the link between participation and citizenship is found in terms of interaction between institutional norms and agency led practices that aim at challenging issues of domination and subordination (Hickey and Mohan, 2004).

In this study therefore, participation like empowerment was looked at in two ways. First, it was looked at the local level and the public level. At the local level, participation will be looked at the family and clan level in the way women and men are involved in issues of leadership, decision making and control over resources particularly land. At the public level, participation was viewed in the way public instruments (both governmental and non-governmental) involve women with skills, knowledge and awareness about how they can claim their land rights in their communities.

In short therefore, I can say that, through the use of RBAs, I explored how participation and citizenship is enhanced and practiced among the Chagga communities in the study area. In this regard, the study has examined how land rights for women as citizens are practiced and guaranteed by the local communities in the study area.

3.6.1.3. Power relations

Power relations in this study, is defined in the way individuals interact in decision making and control over resources and other assets which affect their daily lives within the household or within society which they are living (Kabeer, 1997). At this level, power relations may depend on traditions and customs of the society. In the intra-household power relation, patriarchal power in many cultures forms the bedrock of norms and rules which contain oppressive features (ibid). Traditions and customs may influence how the power relations look like. For example in many societies dominated by patriarchal structure, power relation is oppressive in nature especially in terms of gender relations. In this way, women are seen being oppressed and subordinated by men in the family. Access and control of family resources such as land is vested in men who also decide about the income produced from such resources.

However, apart from power relations which may be seen at the family level as discussed above, power relations may also be seen at the clan level, and in this way it may be regarded

as intra-family power relations. At this level, the clan leaders, or village leaders may influence and exercise power to other families within the social context of that particular community or society. Shivji (1998) shows this relationship by drawing examples from African societies about power relations and influence of clan and village leaders about decision making about the allocation and disposal of land. In this respect, clan leaders and village leaders are given power under customary system over issues of resources such as land within their communities. In this regard, the above described concept of power relations could be related to what Allen (1997) calls the aspect of power which has ability to command or control the actions of others as well as ability to control and deploy resources. In a simple way it could be viewed as '*power over*' (that is ability to command or control the action of others) and *power to* (that is ability to control and deploy resources). However, there is another concept of power which has also been discussed by Allen but not described above. This is *power within*. This concept of power is related to operation of everyday techniques, strategies and practices. In this way, the nature of this power could be within individual themselves as in the way they manage their everyday life and exercising their freedom towards achievement of certain ends. It could be a business strategies that individual does in order to get money for buying other life necessities, it could be a farming activity that give a person does means of getting food or any other form of work that leads to generation of life necessities.

3.6.1.4. Empowerment

Empowerment is common concept in development studies which evolved over time since the late of 1970's and early 1980's (Ngan Ling-Chow, 2008). The term covers many issues that begin with voice and power from the household at local level to public spheres of life. The final goal of empowerment is to change the dominant ideology and practice of domination and subordination that affect economic, social and political life of individuals (ibid).

Like transformative participation, empowerment aims at changing the existing power structures and institutions which reinforce discrimination in order to gain access and control over material and knowledge resources (ibid).

Ngan Ling-Chow (2008: 78) defines empowerment as a "process of capacity building to take control of resources, to make decisions about strategic life choices and to challenge the power of gender regimes that constrains one's options and well being..." Thus therefore, empowerment practice seeks to create community with clients in order to challenge with them the contradictions faced as vulnerable, hurt, or oppressed persons in the midst of an affluent or

powerful society (Allen, 2001). As it has been explained under power relations, empowerment could also directly related with issues of power which is understood as 'power within' or self efficacy 'power with' or the capacity to organize with others or common struggle or to effect changes 'power to' (Rawlands 1995 in Ngan Ling-Chow 2008).

Friedmann (1992: 33-34), identifies three kinds of power which are disposed to household in their pursuit of life and livelihood. These are social, political, and psychological power.

Social power as Friedmann explains is concerned with access to certain basis of household production, such as information, knowledge and skills, participation in social organizations and financial resources. While political power, concerns the access of individual household members to the process by which decisions particularly those that affect their own future are made. Political power is also concerned with power of having voice in a collective action to influence decision making. It is also concerned with power to vote for democratic process but most important, the power to effect changes when merges with large political association such as social movement which raises the voice of the oppressed and dominated to be heard in order to change their conditions. On the other way round, the final kind of power as explained by Friedmann is psychological power. For him, psychological power is described as an individual sense of potency demonstrated in self confident. Psychological power is the result of social and political environment in the process of empowerment. With confident and personal potency, psychological power gives a room for household to continuing struggling to increase effectiveness of social and political power.

However, as regards to Human rights agenda, empowerment is considered to be one of the main issues which can challenge and change practices related to domination and subordination. The UNDP (1994) in its Human development report saw the need of rising individual capabilities through empowering them. The main aim behind this strategy was to make equal opportunities between men and women by enlarging their choices. In respect to RBAs framework as discussed earlier, empowerment is seen as a principle to implement the framework. It is therefore within this context, the issue of empowerment is linked with human rights. Based on this concept of empowerment, this study has related issues of empowerment with power to control and decision over resources as well as power in terms of personal freedom in everyday strategies. Power to control and make decision over resources was looked at in a way that men and women controlled land in the study area. Moreover, the issue

of empowerment was also observed in terms of skills and knowledge about land ownership rights for women in the study area.

Therefore, the above theoretical tools and analytical framework formed the basis of this study. Although they have been elaborated upon, it is important to relate them under the subject of study which is about Women and Land ownership rights in Moshi rural Tanzania. In this regard, RBAs and WCD was used. The RBAs explored the extent in which land rights ownership for women are practiced and offered at the local level. Along with this line, WCD was also used to explore how traditions and customs embedded on culture affect women land ownership rights in the study area. In this respect, participation, power relations and empowerment was explored in order to understand how these issues relate with culture and the way they affect land rights ownership for women.

The next chapter gives a detail description about how research materials were collected, analyzed and presented.

CHAPTER FOUR

RESEARCH METHODOLOGIES

4.0. Introduction

This chapter attempts to explain the methodology and procedures which were used to collect data in the field. (Kitchin and Tate 2000:6) define methodology as "the set of rules and procedures which can be used to investigate a phenomenon or situation...." The method which is chosen in this study is qualitative technique. Kitchin and Tate define qualitative data as ones which consist of words, pictures and sounds and are usually unstructured in nature. Qualitative research with the use of qualitative techniques aims at understanding human action by using non-numeric data with the employment of different methods such as open-ended interviews, unstructured interviews, observation and document analysis that generates data (ibid). Therefore , since my research project dealt with investigating human experiences about the issues affecting women in relation to land ownership rights, the employment of this method was necessary.

Therefore, in the sections that follow, I will describe an overview of why this method was chosen, and the reasons for the use of different qualitative techniques to collect data. In addition, choice of study area, choice of informants, and sampling technique will be described. I will also address the problems and limitations faced during field work.

4.1. Why Qualitative methodologies?

Dwyer and Limb (2001) give some basic reasons as to why a researcher should use qualitative methods. For them, qualitative methods are used when a researcher wants to study multitude of practices and the way people are related in their everyday experiences and everyday space. The qualitative method in this study has been used to explore people's life and their everyday behaviors which are governed by their customs and traditions. Within this context, the interest was to find out how culture which is embedded in customs and traditions affects women in land ownership rights. With this respect, the method was useful since I needed to get the deeper feelings of people on how they interact and the way they view women's land rights in their everyday life. Dwyer and Limb suggest that, the main fundamental issues tackled by qualitative researchers are concerned either with social structures or individual experience. In this way, geographers are concerned with the analysis of social structure which may be social, cultural, economical or environmental (ibid). Structures constrain individuals and enable certain behaviors, but in some circumstances individuals also have the capacity to break rather

than reproduce the mould. On the other hand individuals do not have all powerful free will which would enable them to overcome the powerful structures embedded in the society such as capitalism, patriarchal or racism (ibid). This is to say that, qualitative research is about studying the socially constructed nature of reality, and the intimate relationship between the researcher and what is studied. It seeks answers to questions that show how social experiences are created and given meaning (Denzin, N. and Lincoln, 2003). As a researcher I studied how social practices are constructed and maintained. Since I was interested to study those practices that discriminate women to own land, I therefore searched for views and attitudes that govern such practices. The views were collected by using interviews, focus group discussions and observation which have been employed in this study in order to generate rich and varied data. These methods as suggested by Kitchin and Tate (2000) seek to answer questions which quantitative means cannot answer. In getting to know people's experience and interaction in their daily life I gave individuals opportunity to answer several questions which touch their experience and practices in their daily life. From their answers I managed to gather useful data which explain how women in Kilimanjaro are facing several challenges on the basis of culture in realizing their land ownership rights.

In light of the above mentioned qualities of qualitative method and in relation to the nature of this study, qualitative method was employed to ensure smooth collection of information.

4.2. Sampling technique
Sampling as defined by (Rice, 2008:23) "is the acquisition of information about a relatively small part of the larger group or population, usually with the aim of making inferential generalizations about the larger group". Sampling is necessary because it is often not possible or practicable to obtain information from an entire population.

The sampling technique which has been used in this study is purposive. Kumar, R. (2005:179) argues that "the primary consideration of purposive sampling is the judgment of the researcher as to who can provide the best information to achieve the objectives of the study" I decided to select purposive sampling focusing in Moshi Rural in Kilimanjaro to study practices that discriminate women to own land because the social structure of the people in the area can reflect some important features which is shared by many people in Tanzania. In this sampling technique, I selected groups of people who in one way or another share the practices or experience that discriminate women to own land. In this regard, married women and men were interviewed to give their views and perceptions about women and land

ownership rights. Moreover, clan leaders, widows, NGO workers and government officials were also interviewed on the same topic.

4.3. Choice of the study area

The study was conducted in Moshi Rural, a District in Kilimanjaro region of Tanzania. In the District, five villages were chosen which included, Uparo, Iwa, Kwamare, Nduoni and Kanji. I chose to study this area because people who live in this area are farmers who produce crops and raise cattle. They hold small plots of land in which the agricultural activities are practiced. By considering the topic of my study and the objectives, choosing this area was practical. Since I needed to study women and land ownership rights I was interested to select an area where system of land holdings is practiced and the value of land is given meaning. The second reason for the choice of this area was the way the area was connected to the main road. The area is accessible during the rain and dry season due to improved surface of the roads. By considering the issue of time management and accessibility to my informants, I chose this area because it could initiate me to save time by using local transport facilities to get into the studied villages.

In addition, the idea of selecting five villages came due to the following reasons. First, the villages in the area have got too small geographical coverage and studying only one village could sometimes lead to the collection of insufficient data. Second, the area is likely to be divided into three climatic zones of which every village could be assumed to be located in its own climatic zone where agriculture with small land holdings and animal keeping are conducted. Third, the population in those three climatic zones has one common system of engaging in agriculture in the lower climatic zone where food crops like maize and beans are grown. In this area, individuals from the middle and high climatic zones own small pieces of land for food crop production in the lower climatic zone. More about these climatic zones and their characteristics are explained in chapter four.

4.4. Techniques of data collection

In collecting information for this study, I decided to use two main techniques of data collection. These are primary and secondary techniques.

4.4.1 Primary data techniques

Primary data is that information which is collected by the researcher directly from the field. The data generated from primary research is more context oriented to the study and is recorded by using the knowledge of the researcher. It makes a researcher to know exactly how

data was produced in the field. In the collection of primary data I used the following methods to generate information.

4.4.1.1. Interviews

Kvale, S. (1996:125) define interview as "an interpersonal situation, a conversation between two partners about a theme of mutual interest." It is a face to face verbal interchange between the interviewer and the interviewee. In this process, the interviewer's interest is to gather and examine information in terms of experience, feelings or opinions that closed questions could never hope to capture (Kitchin and Tate 2000). It allows the researcher to produce rich and varied data set in a less formal setting. This method was relevant to my project of study because I needed to collect diverse opinions and experiences which are shared among the people of Moshi Rural in Kilimanjaro. This method is excellent in gaining access to information about events, opinions and experiences. While the opinions differ in terms of class, education status, age and sex, the method has allowed me to understand how meanings differ among people. By using this method, I managed to gather information related to practices which discriminate women to own land in Moshi Rural in Kilimanjaro region. I managed to hear from people themselves, their views and opinions on how they view land issues and ownership rights. The nature of questions asked was in form of open ended interviews. About 40 interviewees were selected and asked questions. These respondents were divided in five groups. These groups included married couples, widows, NGOs, village leaders/clan leaders and government officials. Interviewees also varied in terms of age and education; in respect to age I categorized them as young generation and old generation while in terms of education I categorized them as low and highly educated. The young generation in my view comprised of those who were aged between 28 and 45 while the old generation comprised of those who were 46 and above. In regards to education, those whom I could place as having low education were those with primary education or none while those whom I categorized as having high education were those with secondary or college education. An interview guide specific for each group was prepared in order to enable me to gather rich and varied information about the study.

Before going to the field to collect data, I decided to choose a research assistant who was a resident of the neighboring village. I chose him because he was very familiar with the study area as he could know all the villages which I intended to conduct the study. He could show me how to get into people's home who were to be involved in the interview. My research assistant and I visited the study area to seek permission for conducting a research study from

the village authority. By realizing the importance of accessibility, my research assistant and I went to the village government of each village to be studied to ask for permission. After getting permission from the village government we seeked for the accommodation. The place had to be very near to the villages in order to gain easy access to our informants and minimize time because it is important early on a research project to think about issues of access to social groups that I wish to conduct my research project (Crang and Cook, 2007).

The following day after my research assistant and I were assured of permission and accommodation from the village authority, the actual field work started. While going to collect information we were accompanied by one of the village leaders who were showing us people who could be interviewed. During interviews I had to introduce myself together with my research assistant. We presented ourselves as students and explained the purpose of our visit. Some respondents were scared of us because they thought we were sent by the government but we assured them that, we were not sent by the government or any other organization and that the study was part of our studies which is required for the fulfillment of our course, and that the information given will remain confidential and not exposed anywhere by any means. Since we had also the village leader with us he encouraged them to trust us and be free to engage in conversation. After removing such doubts respondents were flexible in answering the questions which were intended but this took quite some days as my research assistance and I kept on collecting information. However, it was not all the areas/circumstances where respondents were scared in giving us information; some respondents were free to give us information without being afraid. Some gave us warm welcome with some food and local beer/brew known as *mbege* by the local vernacular. The interview lasted for between 20 and 30minutes to one respondent and even more than that if the respondents found it interesting to give more information.

In the discussion and conversation with the respondents, we carefully took notes and sometimes recording. After the conversation I and my research assistant cross-checked the answers which we noted down to see if we carefully noted the intended answers for the study. In a situation where we noted down some of the issues which were not much needed we decided to review the interview guide and planned for fresh notes taking in the next day.

The communication language was not a problem as we could understand each other in Swahili language which is spoken everywhere in the country. At some point however, the respondents were comfortable in speaking the ethnic language which is Chagga. This was not

a problem for us as my research assistant and I could speak Chagga as well. Therefore the interview guide had to be translated in Swahili or Chagga in order to allow smooth conversation as very few people could speak English language.

4.4.1.2. Interview with the key informants.

Key informants are people who are knowledgeable about the topic of the study. The interview with the key informant can help the researcher to be familiar with the research environment. In this study I chose to interview some of the clan leaders who are aware about the customs and practices in the area. These leaders normally maintain the culture of the area and its people. Two clan leaders were selected from two villages.

Apart from clan leaders I also conducted interview with leaders of NGOs and government officials. Those selected from the NGOs dealt with issues affecting women such as providing advocacy and legal assistance for women who happen to face problems like violation and discrimination. The government officials on the other hand dealt with making and evaluating different policies related to land ownership and control.

4.4.1.3 Focus group discussion

Focus group is defined as a one off-meeting between four and eight individuals who are brought together to discuss a particular topic chosen by the researcher who moderate or structure the discussion; it is an efficient and interesting way of gaining insight into the ways in which people construct environmental and social issues; share their knowledge, experiences and prejudices, and argue their different point of view (Bedford and Burgess, 2001). The group setting is generally characterized by dynamism and energy as people respond to the contribution of others. Interaction between members of the group is a key characteristic of this research method, where interaction is different between interviewer and interviewee (ibid). In this project, I chose to conduct focus group discussion because I wanted to get access to multiple and transpersonal understandings that characterize social behavior (ibid). I decided to recruit six people one day before the discussion day and arranged with them the meeting point. The people who participated in the group discussion did not have a prior contact with me during the interview session. The members were two widows, two married women and two married men. Before recruiting the group members, my research assistant and I chose an area possible for the meeting. The area which we chose was close to those respondents whom we focused to be the members of the discussion. In the process of recruiting these respondents we visited the households where we could get access to a day before the meeting. In reaching them we presented the topic to be discussed, the time, and the

place of meeting. In the actual day of meeting before starting the dialogue I gave a short introduction of the research being carried and the reasons for the members to participate in the discussion. After the introduction the group members introduced themselves then we began the discussions. The discussion took almost two hours. In the discussion process I and my research assistant were taking notes of the main points. After the end of the discussion I thanked the members for their kind participation in the discussion.

4.4.1.4 Notes taking

Note taking is a process of recording information for the future reference. In the process of collecting data in the field my research assistant and I were taking record of the situation and behavior of the informants. Interesting information and behaviors was put in record for the future reference. The field notes provided with me the important information which I needed in this study. It helped me to draw back the memories and events which I experienced during data collecting process.

4.4.1.5. Tape recording and photo taking

In the process of data collection, the research assistant and I were sometimes recording what was being said by our respondents. However, the whole process of recording faced some technical problems in shifting the sound from the tape devices to permanent storage software. This gave me some difficulties to get all the views that the device could record in the field. I managed to quote some information which people said in the field as recorded by the tape device but I was not able to store the information in a permanent storage device due to technique problems as described above. Some of the recorded information was written and stored in form of notes taking in the notes book and it is from this notes book where most of the analytical descriptions are derived. In addition, to this recorded information as mentioned above, my research assistant and I managed to take notes during conversation with the respondents and after the data collection and conversation ended during the day we were relating what has been noted down and what was also being recorded. In the situations where both information were similar with what was recorded and written down, we could let the information remain as it was but if the information was lacking during notes taking, we could add it with the information recorded.

Photo taking was also conducted during my field work. In this process, situations which was seen could be helpful in analysis were taken. This included land, and its produce like crops, settlements and some household members. These photos are shown in the preceding chapters which describe the data.

4.4.1.6. Observation

Observation is the way of taking part in understanding world views and ways of life of actual people in the context of their everyday lived experiences (Crang, and Cook, 2007). Observation is therefore based on the presumption that, by studying people in their natural settings where they live and work, social scientist will maximize the ability to grasp the motives, values, beliefs, concerns, troubles, and interests that underline human behavior (Gray, S et al. 2007). In grasping this information, observation could be considered as one of the additional evidence that will support the information collected by other means like interview or focus group discussion.

In the observation process, I used to join the local people in the public during evening hours after work. In doing this, I wanted to get familiar with the people and build trust and confidence between me and them. In this process I shared with them a lot of good stories and sometimes brought in the issues of land ownership without putting it directly. After that, I could go at home and try to note some of their views. However, in the story sharing the perception of land ownership rights were not much different from what I found during the interview. In this manner, I added my knowledge on the already collected data and this gave me more confidence about what I had already collected.

4.4.2. Secondary data

Secondary data includes series of archival studies that can range from the formally recorded information such as historical inventory to the more informal like letters and photographs (Kitchin and Tate 2000). Secondary data in this study was obtained from published materials. The data which were collected from these sources were related to issues affecting women especially on the matters that affect them on land ownership rights. Some of these documents include public and private materials. The public documents which were used included Marriage act of 1971, Land Act of 1999, map of the study area and the Constitution of the United Republic of Tanzania. These documents are owned by the United Republic of Tanzania. The documents could easily be accessed online and within libraries in some of the different learning institutions within the country. The other secondary documents which were used in this study were owned privately and these were obtained from books, journals, reports from organizations and thesis materials conducted by other people.

Before going to the actual field to collect information, I decided to conduct a library search where secondary data was gathered. The library search for secondary data enabled me to be more flexible in collecting primary data. In this regard, the library search helped me to know

access which women have in land ownership. This information was gathered from the Land Act of 1999, the Marriage Act of 1971 and the Constitution of the United Republic of Tanzania. Within this context the gathered information helped me to get an insight in analyzing and interpreting the collected information from primary sources particularly the interview.

4.5. Research materials, analysis and its relationship with the theory

In the process of analyzing materials for this study, the collected information from the area of study has been analyzed in relation to the topic of study as well as the theory. While analyzing the materials, the use of analytical tools from WCD and RBAs concepts such as power relations, empowerment and participations in relation to women land ownership rights have been described. This description is based on respondent's opinions and perceptions as well as researcher's own observations. These opinions were collected through interviews and focus group discussions. In this regard, opinions about women land ownership rights which are grounded from cultural perceptions have been described. Moreover, with the use of these opinions are the documents analysis from secondary data. These documents have been used to answer the research questions based on the topic of study.

4.6. Validity, reliability, reflexivity and positioning

Validity refers "to the truth and correctness of the statement" (Kvale, 1996:236). A valid argument according to Kvale is the one which is sound, well grounded, justifiable, strong and convincing. In the case of research interview for example, validity pertains to the trustworthiness of the subject's reports and the quality of interviewing itself which include careful questioning as to the meaning of what is said (ibid). To ensure that issues of validity are observed, I interviewed people with questions related to the topic of study in respect to the customs and traditions that define land ownership rights for women in Moshi rural. Moreover, information obtained from secondary sources was compared to the primary data collected from the field to see if they correlate. In this regard, studies from secondary data about land ownership rights for women in Tanzania were investigated and compared to the primary data collected in the field. In this context at some degree, the information collected from secondary data were more or less correlates with the primary data thus based on this ground, I am convinced to argue that the information presented in this study is valid. However, the issues of validity of information can vary in terms of time because the society where the information was collected, is not static rather it is changing in terms of culture as well as social economic development.

While validity refers to the trustworthiness and correctness of the statement as described above, reliability refers to the consistency of the research findings in interviewing, transcribing and analysis (ibid). Reliability in this study is ensured in terms of information collected from the field as well as its consistency in transcribing and analysing it. Reliability in this case therefore relies on three main interviewed aspects such as government and non government officials as well as informants. Questions about land ownership rights for women were asked from government officials (both public and local). NGOs as well as informants particularly men and women in the study area were also interviewed. Opinions about the topic of study from every aspect were quoted, described and analyzed in the chapters that follow. In this regard, the most related answers from the interviews were compared and analysed. At some point where the answers given by the interviewees were not related to the topic of study, these answers were ignored and are not presented in this study.

Reflexivity as defined by England (1994) in Dowling (2000) is a process of constant, self consciousness, scrutiny of a self as a researcher and of the research process. In other words, being reflexive means analyzing your own situation as well as studying how social relation is enacted and if this relation can influence the data collection.

In research situation reflexivity is very important aspect to consider. I as a researcher I have my own personal characteristics and behavior which may either lead to good or bad results of my study. Also as a researcher I differ from the people whom I studied in terms of personal status, education and geographical location although we reside in the same country. So my position as a researcher could influence the answers from my informants. So in order to avoid my personal influence, I tried my best to be closer with my informants, by keeping away my knowledge, personal status and prejudices. Since I was not very much familiar with the area of my study, I made myself as closer to that society as much as possible and since we could speak the same language (Chagga and Swahili) and I could keep the social distance with my informants closer and closer thus my personal characteristics was minimized and this enhanced me in the collection of data. However, it was not always possible to avoid some of my natural behavior as a man/male when I was getting integrated with women especially during interview. Sometimes, it was difficult to get critical issues affecting women and their rights to own land because of my gender. Moreover, being a student and also going to the villages which I myself was a stranger created some difficulty in smooth collection of data. In the initial steps of conducting interview as noted earlier, some people were somehow scared to provide information. In this regard, I convinced my respondents to believe and trust me by

telling them about issues of confidentiality and privacy of the data. In addition, as I explained earlier I also had village leader who accompanied me during data collection and in this way he helped me to build the trust between me and my informants. Despite the company which I had from the village leader, it was possible to believe that, his presence could have affected the answers provided by the respondents to some extent.

4.7. Ethical conditions

Research ethics are concerned with the extent to which the researcher is ethically and morally responsible to her/his participants, the research sponsors, the general public and his or her own belief (Kitchin and Tate 2000). Moreover, the research ethics is concerned with using proper moral codes which will not bring negative costs in my data collection and writing (ibid). This means that issues of privacy, confidentiality and anonymity must be weighed carefully. Private information and confidential information given by the respondents during data collections has been observed. The participants who were involved in my study and the information which they provided will remain confidential and private unless decided otherwise under their permission. Also any use of secondary data such as books, journals and public materials in my thesis has been recognized. This is important because it helps me to recognize the work done by other people and reduce collision or conflicts with the owner of the materials.

4.8. Problems and Limitation

In any research problem there are various kinds of problems a researcher may face. The problems may emerge from the researcher's choice of the topic, methodology or any external problem which is not related to the researcher's point of view. In this regard, I as a researcher also encountered some difficulties during my field work which in one way or another could be regarded as problems and limitations. Within this context, I experienced three main situations which could be considered as problems. The problems and limitations are explained herein. First, I had a problem related to the choice of the study area particularly the villages to be studied. In the first instance, I aimed at conducting my study in Moshi rural at Kibosho ward which is almost 30 kilometers from Moshi town. But due to problems which I encountered during the pilot survey, I decided to change the study area and I moved to Kirua Vunjo (West) where the study was conducted. The problem which I faced in Kibosho, was related to the accommodation facilities. At my first visit to the area, I wanted to secure accommodation around the villages so that I could manage my time and I could go early to my informants to collect information. To remedy this problem, I decided to choose Kirua Vunjo West as

already mentioned, which is also a ward in Moshi rural that lies almost 30km from Moshi town. The ward is one of the 13 wards within Moshi rural District.

Second, I faced the problem of information access to my informants. At the initial stage of data collection as already explained in other sections, some informants were afraid of giving out information with the view that, the government might have sent me to investigate their affairs. However, I managed to solve this problem in the early days of my field work by doing the following. First, I tried my best to ask very general questions. Second, I also tried to tell them that, the information that they will give, will in no way be submitted to any government institutions and that it was only for the fulfillment of my study. Moreover, I had with me the village leader who introduced me to the informants and also told them about issues of privacy and confidentiality which I also tried to let them know before. The other measure which I took was to be familiar with the people by accompanying them for few hours in the villages during evening hours after afternoon work. This led me to create friendship and confidence from people in the villages.

Finally, I had the problem of time. I started the collection of data on 7th July to 30th July. I almost spent three weeks in the field. At this stage, I thought I had enough information but during sorting and arrangement of data, I found myself as if I had not collected enough information and thought of going back to the field but it was too late since the time for coming back was knocking at the door.

CHAPTER FIVE

LEGAL FRAMEWORK FOR WOMEN'S LAND RIGHTS IN TANZANIA

5.0. Introduction

To understand the relationship between the Right Based Approach (RBAs) and 'Women and land rights' in this study, it is important to get an overview of the legal framework of land rights in Tanzania. Therefore this chapter is devoted to explain the legal framework of land rights in Tanzania. It will give a short description of different land rights which existed from traditional society and the current land rights system.

5.1. Traditional society's Land rights

Traditional societies in this study are defined as societies which existed before the colonial rule (Koda, 2000). For the purpose of understanding the current land rights system in relation to 'women's land ownership rights', it is necessary to understand the nature and systems of land rights which existed under traditional society. This understanding is important because it provides the basis in which the contemporary tradition and customs evolved and the way this system shapes the current practice of land rights at the local level.

Land rights before colonial rule was governed by the chiefs and clan leaders in the traditional society. The chiefs and clan leaders had right to divide and give the land to the community members. The clan leaders also gave rights of land ownership to the heads of the family who had power to distribute the land to their male children. Male children were officially given the right of ownership when they got married and be able to depend on themselves rather than the family. The land was given as a means of sustaining the livelihood of the married couples. However the allocation of land was discriminatory because women were not allowed to be given land so as to own it. Women were discriminated because they were considered as dependants of their husbands, parents and other relatives (ibid). Farming and animal husbandry were the main economic activities practiced on the land. Land was considered as property of the clan.

In this way the society ensured that the land remains in the clan lineage and therefore land was protected against the 'foreigners'. A 'foreigner' according to Koda, is male person from other clan, ethnic group or tribe who is sought to marry a woman from the other clan. In this

system women were regarded as foreigners (because upon their marriage they will unite with their husband who is not coming from the clan lineage). Based on this reasoning, it was believed that if women were given land they could easily share the land with the foreign men they married. Therefore the land was highly protected within male members of the clan (ibid).

The situations of preventing women to own land was extended under norms and customs which were very strong during that time. When a woman lost her husband upon death she was to be inherited by one of the brother of the deceased who assumed the same power as the husband. The children who are born in the new union were treated and regarded to be the same as the children of the deceased. If the woman was older and she was no longer likely to be inherited she was to be taken care of by one of her elder sons. The elder son was responsible to provide all the necessary needs for the woman up to the time of her death (Pallangyo, 1997).

With the overview of the above discussion, I am convinced to believe that, the current practice of women's land rights which is practiced by the local people in the study area is the product of long term cultural practices which lies under political and social systems of the pre-colonial societies. The following paragraphs explain the current land rights in relation to women land rights.

5.2. Current Land rights for women

The following discussion describes the current land rights with a special focus on women's land rights. These land rights are based on the Land Acts (land laws) and Policies which are provided by the United Republic of Tanzania. In these Acts (laws), two important Acts are taken to form the basis of this discussion. These Acts are Marriage Act of 1977 and the Land Act of 1999. In this context, I will select some sections from both Acts (The land and Marriage Acts) and described them. In addition to these Acts, I will choose some others sections which are related to women's land rights from the Constitution of the United Republic of Tanzania in order to maximize the description. Therefore in this discussion I will start by presenting women's Land rights as found in the Marriage Act of 1971 and this will be followed by Women's land rights as described by the Constitution of the United Republic of Tanzania (1977) and lastly I will describe the Land rights for Women as found in the Land Act of 1999. Before moving further in discussing these land laws for women, it is important to get an overview of women status in Tanzania under the Convention of All Forms of Discrimination against Women (CEDAW).

In recognizing the need to improve women's conditions and for the purpose of alleviating poverty in the country, Tanzania decided to become the signatory of the Convention of All Forms of Discrimination against Women in August 1985 and ratified it in 1986 (CEDAW, 1996) as it has also been described in previous chapters. Based on this convention, Tanzania agreed to introduce many programmes that will enhance and develop the status of women in the country including poverty reduction in rural areas (ibid). In these programmes several areas such as legal reforms were identified to be given priority as a way of achieving the already stated objectives. One of these objectives was to empower women through legislative reforms. According to this objective, it was seen that, the majority of people especially rural women, do not have the ability to assert rights nor the capacity to mobilize for change (ibid). In this aspect, women in rural areas were facing legal problems on issues of divorce, custody, child support, and property adjustment after dissolution of marriage and after the death of the male spouse (ibid). In this aspect property adjustment could be regarded as movable as well as immovable properties. These include the matrimonial home/house, land, money and others. The adjustment includes among other things the division of such properties between the parties/coupes after separation.

Some of the outcome of these initiatives was the creation of law schemes and the establishment of NGOs in Tanzania which could speak on behalf of women (ibid). These NGOs and law schemes are now operating in within the country. Some of these include Tanzania Women Lawyers Association (TAWLA), Tanzania Media Women Association (TAMWA), The legal Education Trust (TANLET), Tanzania Gender Networking Programme (TGNP) (ibid) and many other small and big NGOs which deals with women rights.

However based on these objectives and initiatives, it is difficult to judge their achievement in helping large groups of women who are critically facing legal problems relating to land rights in many rural areas of the country.

5.2.1. Women Land rights in the Marriage Act of 1971

This Act is closely related to the Land Act of 1999 as it will be discussed later in this chapter. Within this Act (URT, 1971) property ownership especially the joint occupation is recognized as the most important one. The Marriage Act part IV section (56) hold that, 'a married woman shall have the same right as a man to acquire, hold and dispose property, whether movable or immovable, and the same right to contract, the same right to sue and the same liability to be sued in contract or in tort or otherwise'. According to this law women are allowed to own

property including land without discrimination. In the discussion about women land rights in the 1999 legislation as it will be seen later in this chapter, I have described forms of property occupation which exist in two forms which are joint occupancy and occupancy in common. The joint occupancy as described may be closely related to the Marriage Act where assets both movable and immovable assets like land and house may be occupied jointly by married couples. In addition, upon death of one couple, the property and the power over it shall be vested to the surviving occupier.

Moreover, within this Act, part VI section (114) (1) recognises division of matrimonial property in case of divorce or separation. In this respect the Act holds that, "the court shall have power, when granting or subsequent to the grant of a decree of separation or divorce to order the division between the parties of any asset acquired by them during the marriage by their own effort or to order the sale of any such asset and division between the parties..." (URT, 1971:40)

> (2) In exercising the power conferred by subsection (1) the court shall have regard:
> - To the extent of contributions made by each party in money, property, or work towards the acquisition of the assets
> - To the needs of the infant children, if any, of the marriage, and subject to those considerations.... (ibid)

In relation to the above provision, the law makes clear that during divorce or separation, both parties (man and woman) shall divide the asset into two shares if the legal system demands so. The division of the asset will put into account the contribution made by each party in form of money or work towards the acquisition or maintenance of it. It will also put into account the needs of infant children born during the marriage.

Today land as matrimonial property faces controversial challenges in its title status after a separation between couples in form of divorce or death. Women during their stay with their husbands in marriage contribute in form of work on the land and maintenance. But in some cases, if separation happens in form of divorce or death the woman might lose the property which she had jointly owned with the husband. In some other extent women also lose the rights of occupying such assets even if they might have children with the deceased as I will show also in chapter six.

5.2.2. Women's Land rights in the 1977 Constitution of the United Republic of Tanzania

The rights of women to own land is given strength by the Constitution of the United Republic of Tanzania (URT, 1977) that offers and gives a clear understanding of basic human rights including rights to own property as well as rights to enjoy equal opportunities without any discrimination by any law enacted by any authority. The Constitution provides the following rights; Act 13(5) states that "No person shall be discriminated by any person or any authority acting under any law or in the discharge of the functions or business of any state office" (URT: 20). Based on humble reasoning of this Act as provided by the constitution, the following aspect might be learned. Firstly; a protection provided against any form of discrimination. Discrimination can exist in various forms such as gender, ethnicity, class, nationality, colour and many others. In this constitution an individual is assured protection against discrimination of any form. Secondly; no any law shall be enacted by any authority or any office to perpetrate such discrimination. In this way the individual is protected by the state from any force or authority being a government or private that would act such laws of discrimination. Therefore based on this Act I assumed that everyone (both men and women) is equal and is given equal chance to enjoy the opportunities which are present in the society.

5.2.3. Women Land rights in 1999 Land Act

Another important land law that give women rights to own land is the Land Act which was enacted in 1999.Under this legislation land ownership rights for women is treated equally as that of men. This right is stated in Part II of this legislation that demonstrates the fundamental principles of 'Land Policy in Tanzania'. Within this principle, section 3(2) holds that "the right of every adult woman to acquire hold use and deal with land shall to the same extent and subject to the same restrictions be treated as the right of any man" (URT, 1999:8). According to this law it is clear that women are given rights to own land regardless of their sexual differences with men. In addition to this act, more explanation about women's land rights is held under section 20(3) which states that;

"... rule of customary law or any such decision in respect of land held under customary tenure shall be void and inoperative and shall not be given effect to by any village council or village assembly of any persons or body of persons exercising any authority over village land or in respect of any court or other body, to the extent to which it denies women, children or persons with disability to ownership, occupation or use of any such land" (URT, 1977:26)

Moreover women land ownership rights is also expressed under the Land Act part XII section (159) in the form of Co-occupancy ownership. Co-occupancy according to this act means, 'the occupation of land held for a right of occupancy or a lease by two or more undivided shares and may be either joint occupancy or occupancy in common'. Co-occupancy can exists in two forms.

a) *Joint occupancy*: In this form, land as a whole is occupied jointly under a right of occupancy or a lease, and no occupier is entitled to any separate share in the land. Moreover the dispositions may be made only by joint occupiers and upon death his/her interest shall be vested in the surviving occupiers.

b) *Occupation in Common*: In this form, each occupier is entitled to an undivided share in the whole and upon the death of an occupier his/her share shall be treated as part of the land. In addition, the Act explains that, an occupier in common must have the consent of other occupiers before he/she decides to divide the share to in favour of any person.

While women land rights ownership are clearly recognized in the statutory laws based on the above discussed provisions (Marriage Act, Constitution of the United Republic of Tanzania and Land Act of 1999), the current practice on land ownership rights for women in many rural areas is facing many challenges in realizing women's rights to control and own land simply due to inherited practices and customs within the communities where they reside. Customary laws have been discriminatory especially on the basis of gender that places women as inferior to men because of their biological differences. Customary laws could be defined as a long established, continued, peaceable, reasonable, certain and consistent practice considered as unwritten law and resting for authority on long consent (Mhkumbi, 2000).The use and application of the customary laws can be traced back to the so called Customary Declaration Order of 1963 which was enacted to regulate issues of inheritance and marriages among the patrilineal societies in Tanzania (Manji, 1996). The law exclude women from inheriting clan or family land. Manji provided two justifications for this prohibition against females inheriting clan land in the customary land tenure. First, it is considered that, women are bound to leave the area of their natal clan and settle on the land of their marital clan. In this respect it is assumed that a woman will be provided with land by the marital clan and therefore has no need to inherit land from their natal clan. Second, it is suggested that, giving women the right to hold property in their natal clan will lead to interference in such land from the 'foreigners/strangers' that is a woman's husband and his family who are non-kin. This fear

also exists on the part of woman's marital clan that she may alienate clan land on her remarriage or otherwise to an outsider, and this restricts women's ability to hold clan land after marriage in her marital clan. This observation has also been discussed in terms of traditional land rights for women in the earlier parts of this chapter.

Based on what is happening in the current practice of land ownership rights for women in the rural area it can be learned that, the current practices that discriminate against women's land ownership rights is perpetrated by the so called plural legislative regime in the country. Despite the state having well defined policies and laws on land rights for women, there are still a lot of challenges in practicing or implementing the laws. These challenges are manifested in the way the, the state remains silent about the application of customary laws that deny women to own land rights in many rural areas. Customary laws are used in primary courts and they also hold strong ties to the issues affecting land rights for women. To remedy this situation, the state should provide civic education to customary land holders regarding the changes and implementation of the statutory laws. This means the abolition of customary laws that discriminate women's land rights should be put in effect. This can be a gradual process that could take time, but within a span of months or years the situation could be changed with the series of process facilitated by the state.

5.3. Land Acquisition methods

Four main ways are dominant in acquiring the land in Tanzania. These ways are inheritance, family subdivision, clearing of virgin land (unrestricted land) and direct purchase of the land.

5.3.1. Inheritance

This is a means of acquiring land that involves a situation where after the death of the household head, his/her properties including land are given to the children, relatives and friends according to his/her will. In some parts of Tanzania such as Kilimanjaro the system is guided by customs and traditions. For example, among the Chagga societies in Kilimanjaro the line of land inheritance is related to father and son or members of the clan (Mhkumbi, 2000).

Apart from Kilimanjaro region, the system is also dominant in other societies in Tanzania which have the patriarchal social organization. About 80% of societies in Tanzania are made up of patriarchal system (ibid). Therefore, most individuals in the society give land inheritance to their male children, ignoring the female children. The reason behind this is related to the argument that, women would get married and the places where they would be

going, they would find land in the new families where they would be married. This ideology was also revealed in the study area through interviews. Despite the current land laws giving equal rights to own land both men and women, the system of land inheritance based on clan lineage (males only) is still dominant even in the area where the study was conducted. To make what the law says on land rights the following quotation is being taken from part II section 3(2) of the Land Act of 1999. This section holds that "the right of every adult woman to acquire, hold, use and deal with land shall to the same extent and subject to the same restrictions be treated as the rights of any man"

5.3.2. Family subdivision

This method of acquiring land is somehow similar to inheritance method as explained earlier. Like inheritance method the family subdivision of land is largely depending on culture where most families give land to their male children. This kind of land ownership is still dominant in many parts of the country. However it is different in the sense that, land acquisition happens when the parents or the one who is giving and dividing the land is alive. When the children grow older enough to take care of themselves they usually ask for a plot of land which is regarded as the main source of livelihood maintenance from their parents. This kind of system was also revealed from interviews as explained and discussed in chapter five.

5.3.3. Clearing of virgin land (unrestricted land)

Clearing of virgin land, is only possible when an individual clear the virgin land which is unoccupied and where that land is not part of a reserve or national park. Given the growth of population, and changes in climate, such kinds of land are difficult to get in the current system. Whenever they are found, they are actually unproductive and for this reason they do not attract many dwellers. In some cases this kind of land might also be found in the isolated areas, where social services like roads, schools, water, and health care are very limited. Moreover the areas might be characterized by presence of wild animals that could threaten human life.

5.3.4. Direct purchase

This situation happens in a very rare situation and is only possible for those with money. Those who are able to buy land through this method, they normally buy small portion and the portion is usually used for building of residence. In this method, both men and women have equal chance of getting land because; the method does not segregate but depend on the purchasing power of the individual. Despite the method to guaranteeing equal chance of land

ownership between men and women, still women are not able to acquire land through this method as men do because of high income gap between men and women in the society.

CHAPTER SIX

PRESENTATION OF RESEARCH FINDINGS AND DISCUSSION AND THE TENSION BETWEEN WOMEN LAND RIGHTS AND CULTURE

6.0. Introduction

This chapter presents the findings on how women land rights are shaped and the challenges women encounter to realize these rights. The findings are based on interviews conducted with different groups of people such as widows, married men and women, central government and local government officials (village leaders) and NGOs staff. It seeks to identify how land rights are identified and accessed at a family level as well as clan or village level. This means this chapter will explore factors and challenges which seems to be as an obstacle for women to realize their land rights. In addition the chapter will explore how NGOs, government and local stakeholders (clan and village leaders) understand and promote land rights for women. Within the context of local stakeholders, the chapter will explore how the local people particularly clan and village leaders view women land rights system and the way women land rights ownership system is shaped by culture. In this regard, broad concepts of power relations, empowerment and participation in respect to women land rights ownership within the family and the clan are discussed.

Therefore, to describe the above mentioned contexts, I will start by presenting the issue of power relations both at family and intra-family level. Empowerment, decision making and dimensions that contribute to or restrict participation will also be described and this description will be linked to land rights ownership for women. This will be followed by individual's (men and women) awareness about land rights. After this, I will present a description about women's advocacy and legal aid provision in land rights conflicts and also discuss issues of men and women perceptions in land ownership rights.

6.1. Power relations

Power relations, as it has also been described in chapter three refers to the way individuals interact in decision making and control over resources and other assets which affects their daily lives within the household or within the society in which they live. Power relations could be regarded as a central issue that influence other aspects such as awareness, perception, empowerment, decision making and participation. Power relation in this study is

influenced by cultural values in form of customs and traditions that define land rights ownership for women. The following sections describe power relations in the family (intra-household power relations) as well as in the clan level (intra-family power relations) and the way land ownership rights for women are viewed and practiced at these levels.

6.1.1. Intra-household power relations

In the intra-household power relations, patriarchal power in many cultures forms the bedrock of norms and rules which contain oppressive features particularly on gender relations (Kabeer, 1997). Within this context many aspects of power relations in terms of interaction in decision making and control over land and other assets in the family in the study area is governed by factors which are related to customs and traditions. In this regard as it was evidenced through interviews, many families were observed to be dominated by the patriarchal structures which influence control and ownership over land. Men were seen to have more voice in controlling of the assets and decision making over land while women had no say. Women had access to use a little of crop yield and not to own the land. In respect to the use of land produce, there were also some variations and levels of control. In this context women were given power over some specific land produce which had low income value compared to land produce which men controlled. The evidence about this kind of power relation that starts with control of land and land produce in the family between men and women is seen in the way customs and traditions define empowerment and decision making as presented in the following paragraphs.

6.1.1.1. Women empowerment and control of land at the family level

The context of empowerment in this section refers to the way women are enabled with land provision and control from their families. This means that, the extent in which the family recognizes and provides land to women as well as controls the land yields such as crops. The study revealed that the control of land starting from the family is based on gender discrimination under the umbrella of cultural norms that do not allow women to own and control land at the same level as men do. In this situation, it was revealed that, this kind of discrimination varies from one household to another. This variation depended on the level of education for the household heads for instance the educated household heads were in position to help their wives to acquire land because they had been equipped with knowledge about gender equality, women rights and land rights during their education process. In this variation, educated household heads were tolerant and looked forward to giving their female children plots of land. The same applies to households which are controlled by young people.

However, in many cases, men headed households were of the view that women are strictly not allowed to be empowered by being given access and control over land for the fear of creating conflicts or mixing up cultures with other people from outside their clan. Some respondents revealed that, *''in our traditions we do not give women land. It can create conflicts because people (a man who is thought to marry the daughter) will come up with their own culture different from ours''* The respondents are worried of giving women land because of the fear that the woman will get married and they view her husband as the 'new comer' (the partner or husband of the daughter) as a 'foreigner' who will share the land with the woman and so create conflicts within the clan. A 'foreigner' according to the respondents is a person (a man) from another clan or ethnic group who marries a daughter from the respondent's family or clan. This view about the foreigner as observed by the respondent has been also discussed previously. The family and the natal clan of the daughter believe that the foreigner from another clan or ethnic group owns some specific taboos which do not match with theirs as discussed in chapter five. From their view by giving their daughter a piece of land, she would then share the land with the foreigner and the foreigner will have control over of the land which would conflict with the males/brothers from the daughter's clan.

Moreover, it is believed that, the land is the property of the clan, and to make sure it remains within the clan lineage, women are not given land except under very few cases, otherwise only the sons have the right to own, inherit and control land from their fathers. This view is revealed by one respondent who had said that, *''my sons should be given and inherit the land because that is what our customs say but in case the daughter is not married she could get a small portion of land to use.''* According to this statement, the daughter will only get land from her father if she is not married, because no 'foreigner' will be able to control that land. She will only be allowed to use the land produce and not to own it, and upon her death the land will be transferred back to her father's sons, close male relatives from the father's clan. Even if the daughter has children, her children will not get land from their mother. Instead the family and men of the clan of the woman will try to find the biological male parent of the children, and he will then be responsible to provide family provisions for his children. If it is hard to find the parent, then the burden of providing family provision to the children will be left under the mercy of the uncles and aunts and other close relatives of their mother.

6.1.1.2. Decision about land allocation, division of labour and income distribution in the family

Being a patriarchal society as it has already been described above in the findings related to empowerment in control of land, the issues of decision making about land allocation and other resources in the family does not differ from the dominant cultural perception that view men as the ones who are responsible to control each and everything in the family. Giving an individual power to decide over resources could enrich that individual with ability to transform his or her life socially, politically and economically hence leading to participation and empowerment of the individual. Power with decision making on the matters affecting women especially on the issues of land allocation were not yet given priority by many families. This power to decide who deserves to get land and who does not was only given to the heads of the families who were men and clan leaders in the situation were men in such families were not present. Since the patriarchal order dominates this system, the concerns of women in land allocation remain limited because the system would like to maintain the patriarchal norms that give men more power over resources and will not allow the system to change. Decision making power about land transfer (in form of selling or inheritance) in the family is only decided by men and not women. One respondent revealed that, *"my wife has no right to transfer the land or to sell it...she does not have such freedom...I have the last word on how to use the income and produce of the land"*. Moreover, this suggests that, the intra-household power relations do not end only in the control and the allocation of land but also in form of income distribution obtained from land produce. Traditionally, some of the home activities in the study area are gendered. For example women are responsible for cooking, washing clothes for both the husband and the children, fetching water, collecting firewood, milking and cutting grasses (fodder) for cows while men are responsible for building houses and sometimes feeding cattle and goats. In addition to this, some of the home activities are carried out by the family as a whole regardless of their gender. For example as in one family the woman, husband and the children work in the garden or farm fields where crops like banana, coffee and maize are cultivated. According to interview and observation method, it was revealed that, farming in the study area had three zones (as stated in chapter 4); the high zone, the middle zone and the lower zone. The high zone and some parts of the middle zone are dominated by coffee, banana, yams, and vegetables while the lower zone is dominated by maize and beans cultivation. The farm fields in the lower zone are permanently reserved for the cultivation of main crops such as maize and beans and to some extent sunflowers. Farm preparations starts in February and March when planting of maize is dominant. Weeding takes

place 2 to 3 weeks after planting. Then second weeding may take place in the 6th and 7th week after planting. What is interesting here is the way these fields are protected from being inhabited for the reasons of planting crops to feed the population in the high and middle zone. So it was mostly revealed that most of the farm fields in the lower zone are owned by families or individuals from the high and middle zones.

However, farming activities in the both zones and farm/garden maintenance at home are done by all members of the family. In this kind of labour contribution which is almost equal to all individuals in the family, it was ultimately learned that, the father ended up with having more access and more share to the land produce than the rest of the family members. In the line with this situation, in the gardens at home where banana and coffee is dominant, some of the men in the family also control income of the most valuable crops such as coffee while women in the family controlled crops with low monetary value such as banana. This is revealed by one respondent who said that, *"I own coffee and she owns banana, she can't sell the coffee without my consent but for banana she can do anything with it because for me I can't carry banana to the market"* The ownership of coffee means the control over it. The restriction put on selling it is an indication that the crop is valuable in the market and thus the respondent wants to secure the *lion's* share (big share) from that crop. However, from the observation method it was revealed that 1kg of coffee taken directly from the field was sold at 2500 Tanzanian shillings which is equivalent to 1.5$ while one bunch of banana which is moderately 1metre long was approximately sold at 2000 Tanzanian shillings which is equivalent to 1.3$. Thus based on this relationship in income distribution, the bargaining power of women in the family was very weak in the sense that their access to income from the land produce was lower than that of men. The women have access to land use through their husbands but the ultimate control of the land remains to with husbands, or male members of the family or clan.

6.1.2. Power relation at the clan level (intra-family power relation)
Like power relations at the family level, power relations which existed at the clan level did not differ much from that which was revealed at the family level. Empowerment in this section refers the way women are incapacitated with decision making, leadership and participation in issues affecting the clan in general. In this regard, the empowerment aspects in the clan are vested in male members of the clan as evidenced through interview. This could influence other issues related to control and ownership of resources such as land. The clan could be considered as a local institution which is responsible to carry out daily functions and

implementation of rules as the way they viewed or understood them according to their local context most likely based on cultural norms. Clan in this study is defined as a local organization with combination of more than one family under the same ancestor. The clan was seen to have power and influence to the clan members especially on the matters which are related to the ancestor's resources such as land that have been distributed to the clan members. As mentioned earlier, land is considered as clan property but to most extent the freedom over it in terms of control is given to the family heads (the men). However the findings revealed that some of the decisions about land issues in some families are still controlled by the clan. The clan leaders are free in certain circumstances to issue decisions about land division and allocation in the family in case of absence of a man who is considered as the head of that family. This means that when the man (husband) as the head of family is not present or is away from the family the clan could take control over the sensitive resources such as land in that family even if the family has a woman (wife to the family head) who could be present in that particular family at that particular time. In this context, the clan leaders could also make decisions about land allocation or division for such families. One respondent who was a man revealed that, *"clan leaders can divide the land, if I am not present; my wife cannot do anything about this land unless she goes to the clan leaders if she wants to allocate the land to our children".* Going to the clan leaders means seeking advice or permission about land allocation. This suggests that, there is some kind of relationship about land allocation and division which is influenced by the clan leaders. This means clan as a local stakeholder which could provide women with decision making power on land issues, does not give women such freedom. Married women do not have strong decision making powers over sensitive resources like land before the clan of the husbands' clan members. This is what could be seen as men's power over women in terms of control of land. This power is oppressive on the part of women because women lack total freedom in excising control over land in the family.

6.1.2.1. Participation and empowerment of women at clan level

Participation and empowerment are the basis of improving democracy and allowing a voice for those who are socially disadvantaged to be heard in the society. When participation and empowerment are initiated well in the society it creates the ground for good citizenship and in this way those who are in one way or another disadvantaged or marginalized for any reason could formulate struggles and claims their rights. On the other hand, it is difficult for the marginalized and the socially disadvantaged group in society to claim their rights if the

political structures in the society do not empower and/do not allow the involvement of such groups' to participation in the daily politics of such societies. Therefore in order for a woman to gain power and control over resources she will depend on the nature and structure of the society. The structure is considered as a determinant factor for her to either own power or not.

The study which was conducted examined the role and participation of women at the clan level in different ways such as leadership and decision making to see whether these women who are believed to be the most socially disadvantage in the society are given any means through which they could raise their grievances. The study revealed this under the following categories as explained in the following paragraphs.

6.1.2.2. Leadership

Clan leadership in the communities of Moshi rural is considered as sacred and the one to become a clan leader must originate in the clan lineage of males. The clan leader is appointed by the male clan members. This process happens if a clan leader dies or become unable to perform clan activities due to age or sickness. In the process of appointing the clan leader, clan members call for a meeting and gather in a sacred place commonly known as *mengeni* which is believed to have been used by their ancestors as a meeting ground long ago for centuries. In this gathering, some sacrifices like cow and goat slaughtering accompanied by a drink such as '*mbege'* are offered. According to the customs and tradition of the Chagga, women are strictly forbidden to appear in the slaughtering place but they could be allowed in the meeting because the slaughtering ground is a few metres away from the meeting place. While some men could undertake the slaughtering activities other men could be in the discussion for the matters related to appointment of the clan leader and other matters related to the clan. The leader to be appointed must be old and experienced enough to know the customs and traditions of the clan. His functions are to settle clan disputes, participate in clan activities such as funerals, marriage, land division and matrimonial division of properties after a death of a man within the clan. Women participate in the meeting but they are not allowed to influence any decision or become elected as one of the clan leaders either as a deputy chair or secretary. Their role is serving food or drinks to the people in the meeting. This situation is revealed by one respondent a clan leader who said that, *''women cannot become clan leaders because they don't have any blood relation with our clan. They came from other clans and found us here moreover the election of clan leaders is not done by women''*. Following this answer from the clan leader it's clearly shown that, women are not empowered because they are considered as foreigners and for this reason they are not part of the clan members. The

customs and traditions do not allow democracy at this level. Women could have social, economic and political grievances which might need solution but they fail to present such grievances because they are not given voice to present such problems at the clan level. In this situation women end up being discriminated, oppressed and exploited by the customs and traditions within the clan.

6.1.2.3. Matrimonial division of land and divorce issues in the clan

In case of matrimonial sharing of property such as land upon the death of the husband or marital breakdown, women are evicted from the land or given a dairy cow, and the land is given to the brothers of the woman's husband within the clan. If such a woman had male child with the husband, the land is most likely to be given to that child but not the woman. But if the woman has only female children with the deceased husband, then the land would be taken away from her and given to the males' relatives within the clan who have close blood relations with the woman's husband. One respondent who lost her husband revealed that, *"the land was taken by my husband's relatives because they told me that the land did not belong to me and because I have a female child who can't inherit the land. This land on which we are living now belongs to my uncle, he allowed me to use banana and not something else"* In case of marital breakdown or separation with the husband which is not related with death, the woman would be given a dairy cow as compensation. Cow giving was observed to be the long term practice and this giving is regarded as a fine to the husband for the separation. Because it was believed that, the one who caused separation is the husband and for that reason he has to compensate the woman by giving her a dairy cow. This situation was revealed by one respondent in the interview and he said *"If I divorce my wife, I shall give her a cow as our customs and tradition says and she shall leave my 'shamba' (a farm or land) and go to her brothers"*. A cow cannot actually provide much life provisions as like land does. Moreover, the state laws that govern division and sharing of property due to marital breakdown do not seem effective either. The ineffectiveness of the state laws could be the main reasons perpetuating the operations of such customs which oppress and discriminate women. This situation has affected much of the livelihood of many widows especially when the widow has a family to take care of. It was observed that, land provides most of the social needs of livelihood in Moshi rural. It is the main source of family food, as well as income. Land produces bananas, coffee, maize, potatoes and to some extent sugar cane. It also provides pasture for the cattle. Those women who are evicted from the land, upon the death of their husbands or marital breakdown, experience a lot of difficulties in maintaining their families.

This is due to the fact that, land as an asset in Moshi rural provides most of the rural living and deprivation of this asset, means that the individual will find it harder and harder in running her daily living. One respondent who faced this difficulty revealed this by saying that, *"I had four children with my husband, but when my husband died, his relatives took the land because they said, I don't have a church recognized marriage with him. The land which I owned with my husband before eviction helped me to get food for my children and send them to school. But now I have to do some small works such as* selling a local brew known as *'mbege' to help my children to get food and go to school".* This revealed that women who happen to lose their land or those with no land at all, lack most of family provisions such as food and for this reason they had to adopt some several strategies that would help them to survive. Therefore there is a need for the duty bearers to be accountable to rights holders (women) in relation to land rights. This will lead to empowerment of women if the duty bearers are accountable to them.

From these findings as described above in terms of intra-household and the intra-family power relations what is learned is that, the interaction of men and women in terms of decision making, empowerment, leadership and control over resources is different. As it has been observed above, men are seen to have power over resources and decision making, which ultimately suppresses the rights of women in ownership and control of land. This suppression is seen to be embedded in cultural norms that defines the way power and control over land should look like. However, despite the state instruments, (such as land laws, marriage act and constitution) to guarantee women land rights, the ultimate objectives of these laws seems to prove failure or unimplemented at the local level. In addition issues of citizenship and participation, could be brought in for more clarification on how power relations works. These issues of citizenship are related to participatory governance and democratic decentralization. The research findings revealed that, participatory governance on control over resources at the local level was lacking on the side of women. This means that the duty bearers had failed to fulfil their obligations to right holders (women).

In addition, the aspect of democracy at this level was lacking. In this regard, it could be hardly possible to transform the society through using the notion of citizenship in the situations found in the study area. Citizenship as already defined previously is a set of practices (judicial, political, economic and cultural) which define a person as a competent member of society, of which as a consequence shapes the flow of resources to persons and social groups (Turner 1993). From the findings above it suggests that, in the local context women are not

recognized as citizens because they lack most of citizenship qualities such as cultural, economical and political freedom. In addition, it must be noted that, the United Republic of Tanzania under its constitution regard all people as equal citizens before the law, any form of discrimination which is enacted or practised by any authority in the country is strictly denied by the Constitution. It is therefore not well understood as to why these forms of discrimination exist on the part of women. Since everyone (men and women) is a citizen of United Republic of Tanzania, he or she therefore deserves these rights offered by the constitution. Land rights which are among the aspects that the Constitution provides equally without any discrimination, this rights are lacking on the part of women among the Chagga in Moshi rural. Chagga people in the study area view women as 'foreigners' in their society. From this point of view, it can be suggested that, women as individuals among the Chagga lack some elements of citizenship and for this reason they are not regarded as citizens in that society, although nationally they can be seen as citizens. In short it can be suggested that, the application of Laws and Acts regarding land rights issues for women, seem to be irrelevant or inapplicable within the customs and traditions of the Chagga.

6.2. Women's and men's awareness about land rights

There is need for the duty bearers to be accountable to marginalized groups in order to come out of oppression from dominant structures. There is need to provide a way of equal sharing of the existing resources and assisting the marginalized groups to assert their rights to those resources (Tsikata, 2007). This suggests that, one of the main challenges about inaccessibility of women land rights is access to information and awareness about land rights Laws and Acts as provided by the instruments. To be aware about land rights one needs an understanding of state policies and instruments about land rights. These policies and instruments are made up of different laws that allow women to own property including land as already been discussed in chapter five. In these policies and instruments, the Marriage Act for example, which grants the right of co-ownership of property is one of the most important aspects that gives women land rights together with other properties in the family. Moreover, registration of property in the married couple's names adds some more strength to the claim for this right if any discrimination arises upon death of one of the spouses (husband) or marital breakdown. However, the understanding about such policies and instruments by the locals seems to be very limited and it varies according to age, level of education and gender.

6.2.1. Awareness according to age

With regards to age, the understanding of land rights varies between the old and the young generation. The old generation seem to accept the discrimination of women over land ownership due to cultural conservatism or continuation of discriminative norms against women while the young groups seem to be more aware about land rights and to some extent reject women's discrimination in owning land. One respondent, a man aged 70 years revealed that, *"women do not own land because they will find land in the families where they will marry, and when our sons marry other women, those women will find land with our sons as well. To give a woman land is like giving her a double share"* The respondent wants to maintain equal sharing of resources between males and females in avoiding double share of land which the children might get. According to him, it is logic that women who get married will find land in the new families where they join with their husbands. In addition, the women who are married to their sons will find land with their sons as well. However, this access for some of the married women is very limited and restricted as well as different from the men's access and ownership as has been described earlier in other sections.

On the flip side, the young generation's understanding on land rights seems to be more flexible than that of the old generation. For them they accept more flexible ways of sharing resources and granting more freedom to their wives in using land. Moreover, some admit that it is good to give land to all their children regardless of their gender. This is revealed by one respondent (48 years) who said that, *"my wife and I decide on how to use the produce of the land such as coffee and banana"*. The respondent also added that he would like all his children (both male and female) to inherit land at least everyone to get a small portion.

6.2.2. Awareness according to the levels of education

Within the context of education, the understanding of rights was also different. Individuals with at least college or secondary education have a bit more understanding of gender rights than those with primary education or below. For those with a bit high level of education (at least secondary and above), granting women rights on land was not a problem for them. This is revealed by one primary school teacher who said that "*I think all children both daughters and sons are mine, and if I am to give them a piece of land all will deserve to have equal share regardless of their gender differences, both daughters and sons will get equal share of the piece of land that I own with my wife"*. The respondent believes that he owns the land with his wife. This could imply that he has given his wife some levels of control and ownership. It means that the land as property for him is owned in common. He also added that he would

give land to all his children, both males and the females. Among all respondents who were interviewed, those who hold this view were not exceeding five individuals. Some respondents who have also been to school still hold the view that to the practices that discriminate women in land ownership rights should continue. Thus being to school could be considered as an option to create awareness but does not give assurance for the changes. More practical skills and knowledge about gender rights could be needed to change the system than only being to the school.

With respect to those with low education (at least primary education and below or none) their view about granting land rights for women seems to be somehow rigid. They were not flexible in believing that women should get and own land as men do. This is revealed by one respondent who said that *"my children will be provided with land but only the males, females will not get land"*. This respondent is trying to predict the future and status of his children based on gender in terms of land ownership. His answer indicates that the future of female children is in danger because they will not get land which is the main source of livelihood in the rural areas. He has already made up his mind that, only males are the one who deserves the right to get land. This understanding could also affect the perception of children who might do the same to the grand children of the respondent.

6.2.3. Awareness according to gender

In relation to gender, almost all men with the few exceptions of those with high level of education denied the idea of giving daughters or sharing the land with their wives. This could be seen as a continuation of patriarchal order (men's dominant cultural practices) that perpetuate this situation. One legal official from Tanzania Women Lawyers Association (TAWLA) revealed that, *''women are normally losers in the claims of matrimonial rights including land ownership and other properties due to lack of awareness about their rights because customs and traditions discriminate them''* Moreover, the respondent revealed that, the problem of lack of awareness is caused by limited information about the legal system especially advocacy. He maintains that, advocacy is a problem because many communities especially in the rural areas do not have money to engage a lawyer. The organization where the respondent works provides advocacy services for free to the marginalize groups such as women and children. It is a non-profitable NGO that runs its activities through fundraising from charitable organizations and individual people. The money raised is used to help women who are facing matrimonial problems to engage a lawyer and arrange for court representation under their leadership. This situation was observed at the main building of the TAWLA's

office where there were many people gathering outside during the morning waiting to get help from the lawyers who attended them one after another for help.

From the findings above it suggest that, cultural regime is one of the major reasons which are seen as an obstacle to creating awareness and encouraging women to claim their rights. One of the major ways that would enable women (especially those who are couples or married) to easily make claims about land rights is to have a registered document of the properties as specified in the Marriage Act of 1971. This would help them not to lose the land upon death or marital breakdown. But contrary to this, some women do not see any reason for producing such documents. One respondent was asked if there is a need to register the land under her name, and she had the following to say ''*no need to register the land under my name only that of my husband is enough''*. She believed that, the land belongs to her husband and not to her. This situation of believing that men are the only true owners of land is wide spread over many areas where the study was conducted because it has been a belief that women do not own land, only men deserve this right. One respondent (woman) revealed that, *''the system of women not to inherit or be given land by their parents or husbands is not wrong. This system is good because we were born and found it and so we have to accept it.''* This respondent is very comfortable with the ongoing practices that discriminate women to own land. This perception is given strength by one of the clan leaders who had the following to say ''*women do not have right to own or inherit land. It is not allowed under the rules and customs of Chagga. If the woman has lost her husband through death and if the husband had a land that land should be given to the sons of the man who must make sure they provide life maintenance to their mother and if he had no sons the land will then be given to the relatives of the man ''* For this reason there is a great conflict between land rights and culture which is grounded in customs and traditions. However, changing the customs and practices that discriminate women to own land might take time, and it needs careful intervention with the local culture. Changing these practices cannot only work with the implementation of the law but also creating awareness about the benefits of having land to the locals especially women. One legal officer who works with the commissioner for Lands North Zone in Moshi town, had this to say *''previously, culture discriminated women to own land but now our law gives women right to own land, but the problem is the implementation of the law because there is a conflict between culture and the law. It is not easy to change it abruptly. Currently in many areas there is a use of customary law which is the major problem for violation of women's rights through discrimination.''* In this respect, it could be seen that, legal institutions government

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and NGOs could actually work more in rural areas to empower people with information, knowledge and skills about land rights. Along with people's empowerment, there should be immediate policy reforms on customary laws which are non-discriminative in order to remove contradictions on the knowledge and skills about land ownership rights that could be imparted to the people in form of empowerment. This is because customary laws which have been used for a long time are acknowledged and accepted by the primary courts in Tanzania. In Kilimanjaro region particularly Moshi rural these laws are used despite having contradiction with women land rights and policies in Tanzania. These laws are not written anywhere but they are norms and practices of culture. As these laws which are grounded from culture operate like way, the statutory law remains silent or contradict itself by having plural legislative regime. The question of implementing land rights for women faces a series of challenges due to plural legislative regime under statutory and customary laws in the country. For this reason, it is seen that, there is a conflict or a tension between customary law governing land issues and women land rights. This is also evidenced by Tsikata (2007) in the context of universality in the application of RBAs that, social power and domination in the society which is seen under the context of culture and in terms of gender, class and kinship and other social relations challenge the application of RBAs and its accountability in a particular social context.

6.3. Women's Advocacy and legal aid provision in land conflicts

Lack of advocacy is also the major problem that exacerbates segregation for women's rights to inherit and own land (TAHEA, 2010) in matters related to matrimonial properties after the death of the husband or marital breakdown. This problem as described above is worsened by lack of awareness about land laws and money to engage lawyers. Although there are various NGOs that provide legal aid for free but these NGOs are located far away from the rural communities where the problems of discrimination are serious. For these women to reach these NGOs they need money for transport to travel from where they reside in rural areas to towns where the process of legal aid is arranged.

Moreover, in some ways, some of the women who happen to face the problem of eviction from their land upon the death of their husbands or marital breakdown do not know the existence of such NGOs. For example, in Moshi town which is the main capital of Kilimanjaro region which is also close (about 20km away) to Moshi rural where the study was conducted, there is one NGO called Kilimanjaro Women Information Exchange and Consultancy Organization (KWIECO) that offers free legal aid and court representation for

issues that affect and discriminate women. Despite being close to the area of study still some women are not able to find where it is located and get help from this NGO. One respondent a widow aged 43 years, upon the death of her husband, she had her land transferred to the brother of the deceased, revealed this by saying the following ''*I don't have money to engage a lawyer and I think the side of my husband will win in the court if I decide to open up matrimonial case because they have money..... I don't have any idea about any organization that could help me*''

From this explanation as already described above, it suggests that, some problems related to women land ownership rights are increasingly affecting women due to lack of money for transport to the court and to engage a lawyer to represent them in the court. Moreover, the distance between legal aid NGOs and the communities affected by land rights problems is too long. Legal aid provision through NGOs could to some extent make the local people to be familiar with such NGOs to make them aware of what it could do to help them. Despite some NGOs saying they provide seminars to let people know about their responsibilities (as it was learned from TAWLA and KWIECO), especially on the side of legal aid provision, this information seems to be very limited to many respondents who were asked if they know anything about such NGOs. Since many problems related to land rights are rife in rural areas it would have been good as proposed earlier for these NGOs to provide outreach activities to these areas rather than being township oriented. Capacity building in terms of knowledge and information to rural women is what is missing here. Knowledge lacking is the same as lacking social capabilities. According to the respondent, there are a number of obstacles that limit her from realizing her land rights. First, is money and second, is information. Money as a resource could help her to engage a lawyer for court representation and transport fair to travel from her home in the rural area to town where the court process is arranged. Information as already said could also be considered as a main factor which is related to knowledge and skills on where to get help or agency that could help her to realize her land rights.

6.4. Perception about land ownership rights

In this section the perception about land ownership rights will be looked at in two ways. This will be on the view of women as well as men. Perception is viewed in order to understand how culture influences views on issues of land ownership rights for women. While issues of awareness could be related to the individual's understanding of land laws and institutional provision that deals with land rights for women and which vary according to age, education and gender as described previously, issues of perception has a slight different. Issues of

perception could be related to the concept of consciousness or unconsciousness about women land rights systems. Perception as revealed in the following section is described in way women and men view the issues of women land rights system in general regardless of their status that could be on the ground of age, gender and education.

6.4.1. Perception of Women in Land ownership rights

According to the individual women who were interviewed, it was revealed that culture has already dominated their perception about land rights system in their lives. In this situation some women demonstrate that they are not ready to ask for land rights because it has been a tradition that only men are allowed to own land. This understanding could affect the issues of awareness, consciousness and understanding of land rights for women. This is revealed by one respondent who said that. *"I will not ask for the right to own land from my father because I will not get it. It is a tradition that only boys are the one who are allowed to get land"*. The respondent has already made it clear in her mind that she is not ready to ask for land rights because she knows she will not get them. This view is actually shaped by traditions and customs that govern the daily lives of people in the society. In this view it could be difficult for the respondent to change her perception in order to fight for her land rights because she is not conscious to demand for such rights. With this understanding it could be learned that, imparting knowledge about women land rights would prove difficult because it would face indirect resistance from some respondents with this view.

However, at some other situations it was revealed that, some women had already developed some consciousness in demand for land rights but their efforts are facing direst resistances from their parents particularly in the families where they belong. The parents especially men from these families are in front line to suppress the rise of consciousness from those women who happen to reason with the situation of land rights system and even to ask for their land rights. The parents are therefore preventing such women by warning them about the possible danger they would face if they insist to be given or get land from their families. This is revealed by one respondent who said *''I asked my father to give me a plot of land but he told me, if he give me my brothers will kill me... my father had plenty of rich agricultural land which my brothers and I could each get enough but due to this system the land was only given to them''*. From this explanation, it can be seen that, the parents (fathers) hold ultimate decision to give land rights for the children in whom both females and males would get a piece each. However, due to the cultural perception, the land was only given to the male children. From this understanding, the parents are seen to perpetuate the discriminatory

system of land rights for women grounded on traditions and customs. The resistance in realizing women's land rights which the parent is trying to exercise to his own female child discourages and undermines the rise of consciousness among women who could fight for their land rights.

In addition, some women believed that, land ownership rights for women is poor because it segregated them and they demanded the change of these practices that discriminate against them. Women feel that not being given total access and control over land violates their rights and discriminate them. Most of those with this view are those who stay with their husbands at home and in these circumstances know the difficulties which they are facing in raising up the families and the extent of freedom that they have to access land. One respondent who was currently staying in her matrimonial home revealed that, *"I think if I had access to land our lives would improve a bit because I know how to handle the family and I know what to eat, I think there is a problem with the current land ownership because it violates women's rights, It would be good if woman also to owned something instead of just the husband to owning everything in the family"*. This respondent revealed what has been described earlier about income distribution in the family. The respondent revealed the relationship which is seen in the household bargaining power about income distribution, that is, income in the hands of mothers is most likely to be used for family provisions than that income in the hands of fathers. Moreover, the respondent has been conscious about land rights because of the difficulties she has been facing in rising up her children. She is concerned with equal distribution of assets especially land within the household but due to the cultural systems which gives men rights in land ownership and control, she could not do anything in order to change her situation. She moreover revealed that, she would like to demand for equal land rights but she lacks agency to speak for her. This could be true due to the following reasons. First, as it was discussed previously, it has been observed that, there is a contradiction between women land rights and the current land rights laws. This has been so due to multiple legislative regimes that regulates land rights systems. For example, while the statutory law under the Land Acts of 1999, Marriage Act of 1977, and the Constitution of the United Republic of Tanzania of 1977 offers land ownership rights for women as explained in chapter five, the Customary Declaration Order of 1963 denies these rights for women. Second, it must be noted that customary laws which are mostly embedded in local customs and traditions on land issues are still used in primary courts in rural areas. Third, the agencies such as NGOs which deal with women's rights are scattered and many of them as observed earlier do not

reach the rural areas. Thus the task for capacity building, information and knowledge on how women could struggle for their rights is lacking. Therefore transformative participation, which could build political capabilities, critical consciousness and confidence in demanding land rights, was absent.

6.4.2. Perception of men in land ownership rights against women

Majority of men who were interviewed see nothing wrong with the current land system. This situation could be attributed to the cultural system which denies women from owning land as has been practiced for centuries as already described earlier in different sections in this study. Moreover, some of these men know that the culture in the current land rights discriminate against women to own land but they are not ready to give women their support to initiate changes that could allow both men and women to access and own land in the society. This situation is revealed by one respondent who said *"there is no problem at all with the current land ownership system and many women are used to it"*. According to this statement, the respondent to some extent knows that the system discriminates against women, but he insisted that there is no problem with it because many women were now used to that system. Majority of men would like the system to continue and are ready to make sure it continues even to the next generation. Those who would like to perpetuate the system are to some extent prepared not to give their female children land something that could endanger the future of a female child in terms of livelihood sustainability. One respondent revealed that, *"I would like to give a plot of land to my sons and not my female children because that is what our customs and traditions say"*. The respondent would like to maintain the customs and traditions that discriminate against women in land rights ownership. If the respondent is willing to continue with the customs and traditions, this suggests that, local and international agencies and institutions such as NGOs that support women's land ownership rights have a long way to go in order to win support from the local population particularly men who maintains patriarchal system in order to hinder women from achieving their intended goals in terms of land ownership rights. Thus it is important to note that any policy, program or law which is aimed at boosting women's lives must put into account the issues of culture in order to initiate a smooth implementation of such intended objectives. This is because; the culture is regarded as everyday experience in practice and ideology of many men and women in the Third World countries.

However, under very few occasions, this study revealed some views from very few men who see the current land ownership systems for women as discriminatory. Some of these men are

said to have background in working with NGOs that deals with women's rights in Tanzania. Their perception of the current land rights system is that it is embedded with oppressive customs and traditions which oppress women. One respondent revealed that *""I think she has such rights from her father but the custom here is very oppressing...and the government should abandon this system to ensure equal rights to both men and women in land ownership rights"*. The respondent might have learned and experienced such perception from the NGO where he is working. Moreover, given his background as NGO staff he is also having high educational background. The answer which the respondent has given suggest that, he has shown the sense of support against the discrimination aspects on the part of women in land ownership in rural areas, but he feels that, it's the governments' responsibility to abandon such discriminative practices. In this regard, it can be learned that, the respondent is concerned with the discrimination aspects against women in land ownership rights but he is not conscious to take action. There was no local initiative or movement which stands with one voice to fight such discrimination going on. It would be difficult to come up with local initiatives because of the situation and conditions of power relations as described earlier that do not allow women to stand for leadership in order to represent fellow oppressed women. This situation could be regarded as the reasons for the absence of initiatives or underground movements or groups that would influence changes.

Therefore given the situations as observed in different sections in this chapter, it is now possible to link the issues of power relations, participations, awareness, perception and culture in relation to land ownership rights for women. Power relations which is driven by culture, customs and traditions as it has been observed at various levels (intra-household and intra-family) act as a 'focal point' (centre) that shape other aspects such as participation, awareness and perceptions. Due to power relations, participation at various levels, in terms of leadership, decision making and control over resources is shaped by patriarchal structure (male dominance) where women are less involved. Thus women's involvement in issues which might affect their general well being and the society in general at the family and clan level was lacking. This is to say that, participation and citizenship in terms of political, economic and cultural freedom for women is not put in effect among the Chaggas in Moshi rural. With this trend, awareness as observed earlier could be difficult to emerge and if at all it is to emerge most likely would be dependent on such factors like education to a large extent and to a less extent on age and gender. In terms of gender it was shown that, a good number of men, influenced by power relations aspects which are grounded on culture would like to maintain

their statuesque by perpetrating the already existed customs that give them power of dominance over resources such as land. Some women also would prefer the system to continue because that is what the customs and traditions say. Education can also influence awareness but the good numbers of people are lacking this opportunity. The young generation would like the customs that discriminate women to end because they are not conservatives of old culture but they are very few who could own land because some still depend on the good will of their father to get land. In all these circumstances it could also be suggested that, the question of perception could be influenced by the already existed customs and traditions that shape practices on land ownership rights for women which are also manifested in terms of power relations. Perception is different from awareness because people could be aware about land rights systems that discriminate women but they are not willing to change the practices.

CHAPTER SEVEN

IMPACTS OF ACCESS TO LAND ON WOMEN'S LIVES

7.0. Introduction

Land can provide both direct (crops, trees, fodder and settlement) and indirect (credit or saleable asset during the crisis) benefits (Agarwal, 2003). Therefore relationship between land rights and livelihood maintenance is very crucial. As it was shown in the first chapter, land as a major form of assets provides most of the rural livelihood necessities to the people, such as food, income, and settlement sites; in addition land provides pasture/fodder to animals which are domesticated by people. In turn these animals are used as a source of food and income in which meat and milk is obtained. However, by considering the role of women as described earlier in the previous chapters that women do most of family responsibilities such as food provision and family maintenance their task could be difficult given the nature of land rights and ownership in the study area.

This chapter aims at analyzing the crucial benefits accrued from land. In addition to this, it will describe the livelihood strategies for women who in one way or another do not own land either upon eviction, death of the husband or other reasons. At the end of this chapter, the aftermath of women's land rights will also be described.

7.1.1. Crop production and livestock keeping

The growing of crops such as bananas, maize, yams potatoes, coffee, sugar cane and some vegetables was found to be the main economic activities of people in the study area. Farms are based on small scale production and with the use of human labour and traditional tools such as hoes and bush knives. Animal husbandry was also the main economic activity but under a small scale. The research which was conducted through the interviews and the researcher's own observation revealed that, animal husbandry is done under zero grazing and based on dairy cattle for milk. At least every household in the visited areas had one dairy cow. Those who had more than one cow lend those who did not have in return for cow offspring. When the household get many cows, they normally sell them to their neighbours. A cow was also found to be a very important animal because it is said to be used as bride price during marriage. This cow must be a dairy cow which is given to the family of the woman. At some point, it was revealed that goats and sheep were also kept. These ones were mainly kept for meat. These were seen more in the middle and lower zones and to some extent in the upper zones. Goats are very important animals because they are used as fines for someone who is

found guilty after committing a crime to society. In addition goats and sheep are used as sacrificial animals to the ancestors of the family or clan asking for blessings or relief from the problems which the family or the clan is facing.

Respondents who were interviewed revealed that, almost all the family needs are derived from land which is the main source of food and cash crop production. One respondent revealed that, *"there is a happiness when you own land because you get everything such as food from it, when you don't have land it is challenging because you have to work for someone and get paid to sustain your life so it's a bit problematic"*

Land in the study area is a powerful means of sustaining livelihoods hence denial of its access disrupt life of an individual and livelihood in general. Women in the study area can only have access to land through their husband and they are only allowed to use the produce of the land but not everything.

Since women have only access to land produce through their husband, in case of death of the husband or divorce, the right to enjoy the land produce is removed from the woman. This situation has deteriorated the lives of many women who happen to be evicted from the land upon death of the husband or marital breakdown.

Figure 2: Photo of Maize Field in Lower Zone

Figure 3: Photo of Banana Plantation in the Middle Zone

7.1.2. Land as a source of income earning

As noted in earlier, Moshi rural has fertile land. Valuable crops like coffee, bananas, maize and grains thrive. Although coffee seemed to decline in production recently as compared to previous years, still the crop holds important position as a main cash crop that generates income to the people in Moshi rural. Coffee was seen to be more dominant in the highland (high zones) than the middle and the lower zones since the area is rich in volcanic soil which is good for coffee production. The evidence from the interview showed that, coffee is used to generate income which is used to support other needs for the family such as paying school fees for the children and buying clothes for them. Apart from coffee as a main cash crop, bananas were also found to be important in terms of income generation next to coffee.

Bananas produced they are sold both locally and to other communities in other cities such as Dar es Salaam which is the main commercial city in Tanzania. Banana which are sold outside the district are mainly used for food while the ones which are locally sold are both used for food and for production of local brew called 'Mbege'. The ones sold for this purpose (production of local brew) are species of *mrarao* and *kitarasa* by the local vernacular. While those which are sold for the purposes of food/consumption are known as *mshare* and *malindi* by the local vernacular. The only difference behind those used for food and those used for the production of local brew lies on the tastes. However there are also other banana species called by the local vernacular *kisukari*. These are used as fruit and they are small in shape (mini banana) and are very sweet. These are somewhat expensive and they are eaten when they ripe. By selling all these and others which are not mentioned here, the people in Moshi rural secure income which helps them to purchase other life necessities.

7.1.3. Land as source of money borrowing

Land is the main source of additional earning of income apart from income derived from selling of land produce such as food and cash crops. Evidence from the interview revealed that, land can be used as a social security for borrowing money. If a person borrowed money and failed to pay back his land could sometimes be taken as compensation for the money he borrowed in case during borrowing the land was presented as a bond.

In other circumstance those with land, especially in the middle and the lower zone, can rent to other people for production of different crops during the growing season. Those who rent the land normally pay money to the land owner as a price for renting.

7.1.4. Land as a means of security against gender violence

In reference to the interview evidence, it was revealed that land can be used to reduce the vulnerability of women in gender violence. In this way respondents revealed that, having land can reduce fear of violence from the husband. Some women revealed that, sometimes they are encouraged to get married in order to have access to land produce through their husband. *"If I were to be given land by my father I would not get married because I know I can get something to sustain my life rather than being violated with my husband. When you don't have land you become humble to your husband because you own nothing."* One respondent revealed. Women are seen to be forced to get married in order to get means of sustaining their lives. In this situation, women fear to engage in conflict with their husband for the fear of marital breakdown because the marital breakdown incidence could make them to face

eviction from their land. In facing such eviction, the woman would end up looking for other means apart from land for livelihood strategies to sustain her life.

From the above evidence in the interview, it could be learned that land could give women psychological power and freedom from men who are violent or aggressive to their wives. However, if women were to be provided with land, they also could avoid getting married and live a free and independent life. Therefore with this regard it is seen that, some women are engaging in married because of poverty and lack of a means to sustain their lives.

7.1.5. Settlement

Land provides a physical ground where human dwellings are constructed. The evidence from observation showed that, many people have constructed homes close to their gardens/farms. Homes were constructed close to the gardens in order to enable the household to have a close look at the gardens. The gardens need to be maintained in terms of adding manure to the tree crops such as bananas and coffee pruning. Since the garden needs all these labour force from the household close to the garden is needed.

Figure 4: Photo showing a couple in front of their home

7.1.6. Land provides building materials

Apart from providing sites to build residential homes, the land also provides building materials for houses. The evidence from observation methods revealed different homes built from tree poles which are obtained in the area of study. Some of these trees could also be used

for timber. The area is close to Kilimanjaro forest reserve (see chapter two) where different species of tree good for timber could be found. Apart from building purpose, timber is used for furniture making such as tables, chairs and many others. By using the materials obtained from the trees in their own villages, people in Moshi rural could reduce the cost of buying these materials from other areas. Thus the money which could be used to buy such materials could be used to cover other costs/necessities needed by household.

Figure 5: Photo showing timber as building material

7.2. Livelihood/survival strategies for women and widows with no land

Women with no land included those who had marital breakdown as well as those who lost control of land upon death of their husbands (widows). However it was not every widow who experienced eviction after the death of the husband. Some widows who experienced eviction are those with no recognized church marriages but this does not mean that if a widow has a recognized church marriage she does not face eviction. Some still could face eviction despite having a marriage recognized by the church. Widows who are facing this situation have adapted themselves to different techniques to run their daily life in order to get their ends. Some of these techniques include business activities, manual labour for pay and purchasing of land. The freedom of operating these activities can be considered as what Allen (1997), called power *within* as also seen in chapter three. This is the power that individual holds which enable him/her to practice other activities independently. The following sections discuss these livelihood strategies.

7.2.1. Small business activities

Three out of seven interviewed women with no land were doing small business activities as a way of sustaining their livelihood and the family. The very little money which they make from this small business could help them in buying daily food and clothes for the children as well as paying fees for the children. One respondent revealed that *"I buy paraffin from Kawawa petrol station and I resell it to small consumers in the local market which operates here on Wednesday and Saturday"*. Through the interview with the respondent, it was revealed that, the respondent gets little profit which she uses to buy only family needs such as food, clothes and paying fees for the children. She revealed that she can only earn normal profit which sustains her business.

The other business activities revealed by one respondent who was buying and reselling onions from small town called Himo within Moshi rural district. This respondent said that *"I buy onions from Himo and resell them to all local markets around us such as Rindima, Taifa and Lyamombi; I think I make some little money"*. As she buys the onions she re-sells to the local consumers in the three local markets around the studied areas. These markets are Rindima/Kongo, Taifa and Lyamombi. Each market has two days in a week for operation. Rindima/Kongo operates on Wednesday and Saturdays, Taifa operates on Tuesday and Friday and Lyamombi operates on Monday and Thursday. Like the first respondents, this respondent said that she could only make some little profit to run the daily needs of her family such as buying food, clothes and paying for children's school fees and to keep the business going.

Another business activity as it was revealed through observation and interview was selling of local beer known as *'mbege'* by local vernacular. Mbege is a local brew which is made out of banana juice. The ripe banana is boiled at 100 degrees Celsius and cooled for 3 to 5 days. After the cooling, it is careful mixed with water then the water filtered out. The filtered water is mixed with sorghum boiled porridge and be cooled for six to ten hours of which the complete mbege beer is ready for drinking. Like the other respondents the respondent who was selling this local beer said that, she does the business in order to get some money for livelihood maintenances for the family such as food, clothes and fees for the children.

7.2.2. Manual labour for pay

Non business activities based on manual labour were found to be one of the livelihood strategies which were conducted by women who did not have access to land. These women were found to have been doing these activities to other well off families where they received some money. These activities had very little pay compared to business activities conducted by

other women. Some of these activities included, garden preparation such as tilling and weeding. Other works include collecting or cutting cattle pastures such as grass for the cattle in the well off families. This work is sometimes difficult because it consumes a lot of time and energy and at the same time has very low payment which cannot properly maintain family livelihood such as food, clothes and school fees. This was revealed by one respondent who said that *"I normally cut grass/pasture for cows and take it to my neighbour who gives me 4500 Tanzanian shillings per a week. The money I receive is not enough but I better work than to stay idle"*. The 4500 Tanzanian shillings which respondent receives per week is equivalent to 3.2$ dollar. Based on this amount of money which respondent receives per week, it could be learned that her income per day is less than 1$ dollar and this could be concluded that the respondent is living below poverty line.

7.2.3. Direct land purchase

Of all respondents who were not controlling land, there was only one who had managed to buy land which she controlled. This respondent had lost her husband upon death but the husband did not own land in his family. This respondent revealed that, *"when my husband was still alive, we had no land, the current land where I live now I bought it myself and it is registered under my names"*. It was not revealed clearly why he was not given land but according to cultural beliefs, a person is either not given land if he is born outside of the clan lineage or the parents may decide not to give him land according to their will. This situation rarely happens but it may be influenced by misconduct towards the father and in this way the parent may decide to punish him by not giving him land.

7.3. The aftermath of land rights titles and its dilemmas

By considering what has been happening the overall system of land rights for women as described previously, the research findings revealed the dilemmas which women are likely to face in the future in terms of land rights violations. One of these challenges is based on land titles. The interview which was conducted with the commissioner for lands (North Zone) in Moshi revealed that the commission is looking forward to process the registration of land tittles for the village lands governed by customary laws in rural areas particularly the Moshi rural. It should be noted that the field study revealed that most of people who own land in Moshi rural have no formal titles but rather they own customary titles which are not documented. In this regard, if the formal titles of owning land will be put in place as said by the commissioner, there is likelihood for land in Moshi rural to own titles but in the names of the local males as it has been the case with other parts of the country. For example, Yngstrom

(2002), who conducted a study about land rights among the Gogo people in Dodoma district in Tanzania revealed that land reforms in terms of tittles registration in Dodoma district maintained kinship relations as it was in the customary law of the Gogo tribe who inhabited the area. With this trend, majority of women in Dodoma district ended up with no land except for few who owned unoccupied land.

Based on this experience from Dodoma district, the women in Moshi rural might end up in the same situations as faced by women in Dodoma district. As noted earlier in chapter six, with respect to widows who faced eviction, due to one reason or another and the way the culture shapes land rights for women in terms of ownership and accessibility one would believe that what happened in Dodoma could also happen in Moshi Rural. Moreover, there is a danger of giving land tittles in men's names while ignoring women. This could be evidenced from the historical point of view about the declaration of Customary Law Order of 1963. As described previously, this law was enacted to operate among the patrilineal societies to regulate issues of marriage, inheritance and property ownership in these societies and the law had to operate in primary courts (Manji, 1996). With respect to land ownership and inheritance, the law excluded women from inheriting clan or family land (ibid). This means women had access to land in the name of their husbands.

7.3.1. Land registration and gender credit benefits
The United Republic of Tanzania is among many developing countries which have launched several measures to combat poverty. Some of these measures are stated in its Millennium Development Goals report of 2009. In this report the country had targeted to reduce proportion of people whose income is less than one dollar by half in 2015. Along with this line, the country is also a signatory of Convention of Elimination of All forms of Discrimination against Women (CEDAW). As described previously, the country has many programs within CEDAW that aim at promoting gender equality and empowerment of women for example giving women access to credit. Several ways could be used to promote access to credit one of them being land registration. Land registration therefore enhances tenure security, increases access to credit and finally stimulates agricultural development (Yngstrom, 2002, Sanga, 2009). The access to credit has several challenges such as low land value, high transaction costs compared to credit worthy and high competition in the banking system (Sanga, 2009).

However, the most crucial challenge is the gender equality of the credit flow and distribution. There could be some signs that, those who will hold land tittles are likely to access and manage the credit flow. In this situation men could be the ones who would have more chances to access credit than women. This could be reflected back to the earlier descriptions about the nature of land ownership between men and women in the study areas that women are discriminated against in land ownership. Moreover, some more findings from earlier described sections, which are similar to this section revealed that men still have strong beliefs that women could only have access to land but they do not have right to sell or transfer it. This is revealed by one respondent who said that her wife owned the land just as he does but she does not have power to transfer or sell it. *"She owns it just as I do but she cannot sell or transfer it because this farm is mine and it was given to me by my father. She did not come here with land"*. The wife as revealed by the respondent is actually having some limited rights in accessing the land produce but not the ownership rights as the husband does. In seeking credit one could use the land to secure it but if this situation would happen there is a likelihood of women left behind because they do not have so much freedom to use the land as a means of getting loans/credit. If this situation would happen it will increase the chance of inequalities between men and women than reducing it.

7.3.2. Women's welfare and independent land ownership rights in future

There is a great concern for women's welfare and independent land ownership rights for the betterment of their future. This means issue of women's land rights is not only important today, it is likely to become increasingly over time (Agarwal, 2003). This kind of relationship between women's welfare and land ownership rights have been studied by Agarwal (2003) in India and it is likely to face other nations especially the developing countries which are undergoing agrarian revolution and industrial development. In India for example as argued by Agarwal, there are agrarian transitions which involve a shift from labour to non agriculture but there is no uniformity by gender in this shift. She insisted that while rural workers in agriculture declined in India from 84 in 1972-3 to 76 in 1999-2000 due to largely male workers moving to non-agriculture women remained substantially in agriculture and their dependence has increased in recent years. Moreover women are worried about access to land because of decline in marriages (Agarwal, 2003). This means that marriage is less stable today; kinship support systems less reliable and rural to urban migrants are still largely occupied by men (ibid).

With this view from Agarwal (2003) and her study in India, I would like to link this situation from the area of study and the welfare of women land rights. Given the nature of land titles under customary law as described earlier that men are considered to be the true owners of land, the issue might result in serious livelihood problems for women in the future who depend on land. This could be reflected in the question of stagnant marriages and rural to urban migration by men. Within this context, the rural to urban migration mostly by men in the study area as revealed through observation, could result in fewer and fewer men in the rural areas and in this way marriage could be stable or stagnant. Based on this logic it could now be predicted that apart from women losing their land ownership rights, they will also lose land accessibility especially in terms of land produce through their husband. This could be true because as it was observed in the previous sections, it is revealed that women have only access to use land produce through their husbands and not the ownership rights.

7.3.3. Efficiency

Production inefficiency associate with tenure insecurity continue to be one of the important rationales for land reform (Agarwal, 2003). But the rationale has not been extended to cover family members. In fact in many contexts, enhancing women's land rights could increase overall production (ibid). This view is observed by Agarwal but does not have systematic evidence from many studies (ibid). However despite lacking evidence from other areas the Agarwal has provided several evidences from different areas such as Africa to support the argument. By using these evidences, I am convinced to argue that, the efficiency in land production in the study area could also be reached or increase the output and livelihood development if women were granted full land rights. The following are the evidences as given by Agarwal to support the argument;

First, there is an incentive effect in the sense that, land rights security and control over its produce increases farmer's motivation to put in greater effort and investment in land. This fact is given evidence by the studies conducted in Kenya. The study was conducted in the context where men and women cultivated both separate and joint plots. Within this context, the introduction of weeding technology in maize production raised yields on women's plots by 56 percent where women controlled the output and only by 15 on men's plots where women also weeded but men got the produce.

Second, if land access is through titles, it would enhance women's ability to raise productivity by improving their access to credit, as well as their independent access to cash flows for re-investment.

Third, including women as farm managers would make for a more talented and better informed pool than one consisting solely of men. In many South Asian Communities for example women are often better informed than men are about traditional crop varieties.

Fourth, possessing land (especially land titles) empowers women and places them in a stronger position to demand their due in government schemes, and in infrastructure and services. It also helps them be more assertive with agencies that provide inputs and extension information.

CHAPTER EIGHT

CONCLUSIONS, RECOMMENDATIONS AND SUGGESTIONS FOR FURTHER STUDIES

8.0. Introduction

Eight chapters have made up this study. This chapter intends to present conclusions, recommendations, and suggestions for further studies. The conclusions present the basic points of the research findings, particularly in the way the research findings try to answer the research questions raised in the beginning of this study. Suggestions for further studies include suggestions of the potential areas for research that have been considered important, but could not be covered within the scope of this study.

8.1. Conclusions

Reflecting on issues affecting women in land ownership rights in rural Tanzania has been the focus of this study. Application of RBAs supported by the feminist perspectives particularly the Women Culture and Development has been the main tool to guide the findings. The most part of analysis in this study has been borrowed from RBAs and concepts like power relations, empowerment and participation have been used in many areas of this study. In the context of finding the way in which land rights are offered and practiced, the following observation can be made. First, land rights ownership for women are widely and clearly defined by the different instruments in the country as discussed in chapter five. Second, there are many challenges in the way these land rights are practiced and offered at the local level. These challenges are embedded in culture in respect to traditions and customs. Moreover, other challenges are embedded in a plural legislative regime that defines land rights for women. In this context, both statutory and customary laws are put in effect and they operate in the court systems in the country. With this situation, it has been learned that, there is a contradiction between customary laws and statutory laws that define land rights ownership for women. In this regard, customary laws discriminate women in owning and controlling land. Women's role in participation, empowerment in the matters of resource control like land is not given meaning. Based on this fact, some women have experienced discrimination that led to evictions from controlling land, especially after the death of their husbands or marital breakdown.

The role of stakeholders in promoting land ownership rights has also been examined. It has been found that, four types of stakeholders could be identified. These are local (head of the households, clan leaders), NGOs and Government instruments. The local stakeholders who are made up of men headed households and clan leaders seems to perpetrate discrimination against women in land ownership rights under the umbrella of customs and traditions as described previously in terms power relations. The NGOs which could be the second stakeholders have the role to influence. The NGOs which have been examined in this study are concerned with free legal aid provision for women who happen to face different problems particularly those which are related to matrimonial assets including land. However, some of these NGOs which were examined are not doing enough to reach the affected people in the rural areas. The two NGO studied here were located in town while many people in rural areas were less informed about the existence of such NGOs. Since many problems rife in rural areas it could have been good for these NGOs to be located in those areas. The government which could be regarded as other aspect of stakeholder also has a role to play. The government has provided legal instruments (legal framework for women's land rights) in which could be used as tool for initiating women's land rights. While the legal instruments which are formed under formal laws, the government contradicts itself by having plural legislative regime which are formed both by statutory laws and customary laws. Moreover, the same government is silent about oppressive practices in land rights for women. The last group of stakeholders are women. These are the most vulnerable group in the system of land ownership rights. The evidence from the findings suggests that, patriarchal structure is dominance over women and it is this structure that defines empowerment, participation and decision making in the society. The structure has also influenced issues of perception in land ownership rights. Although some group of women would like this system to end, but some also would also like the system to continue something that can increase the difficulties in remedy the situation.

In respect to the impacts of access to land on women's lives, the study revealed that land forms the basis of livelihoods provisions in the rural areas. In this situation it is observed that land could provide food, physical areas for settlement, building materials and pasture. Land is also used as a means of reducing gender violence as well as money borrowing. In this respect, women's lives could be improved by such provisions if they are given chance to control and own such resources. Land can also improve well being of widows and their children as it provides school fees, food and so on.

Therefore based on these findings, it is possible to argue that, transformative participation that leads to citizenship participation is lacking on the part of women. This has been seen in the way the land ownership rights system is practiced in the study area.

8.2. Recommendations

Therefore, in order to ensure proper land ownership rights for women, the following issues could be useful if put in place. First, in the system of land ownership rights in Tanzania as it has been observed, have multiple legal legislative regimes. Land laws for women as found in the Land Acts this study has conflicts with customary land laws that denies women land ownership rights in which the state recognize to be useful. Based on this conflict there is a need to revise the land laws and if possible to remove the customary land laws which have been discriminative to women. Thus serious policy reforms and implementations could be useful. In the line with this, there is a need for duty holders to be accountable to right holders (women) in order to reduce vulnerability that results from land evictions. With these reforms and revision of land laws, women can be involved to participate in resource ownership as men's do. In this way empowerment for women to control land can be seen.

Second, NGOs activities which provide free legal assistance for women who happen to face matrimonial property problems in relation to land ownership should be extended their activities to rural areas rather than concentrating their work in towns. Outreach activities in form of seminars or representative offices could be useful to tackle this problem. The seminars could be accompanied with education that sensitizes women about land rights. Moreover, cultural practices that discriminate women to own land should be discouraged by letting people (both men and women) know the benefits of abolishing such practices. The discouraging of norms and traditions which discriminate women will reduce the elements of power relations embedded in patriarchal structure. If these norms will be discouraged, women will get more chances in participating in the matters that affect the society such as land control, decision making and leadership. Moreover, the discourage of norms and traditions which discriminate women, will increase right holders (women) participation in land related issues that will lead to empowerment in terms of livelihood hence enhance citizenship participation for both men and women.

Lastly, efforts should be made by duty holders to fasten the process of registering land titles in order to make it easy to implement the suggested legal reforms as already explained above. Registration of land could allow and recognize public ownership of the property and this

could help other laws like Marriage Act of 1971 to be put into action effectively. This will support right holders to demand their right to land ownership from duty bearers. In this way, access to citizenship rights and transformative participation can be reached.

8.3 suggestion for further studies

Many challenges regarding to women's land rights are embedded on cultural norms that are based on patriarchal structure and which discriminate women. However, if the government is in process of issuing land titles for people in Moshi rural as observed from one of the government officials in the findings, I then, would like to suggest further studies into how this process will have impacts on women current land rights system in the region.

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APPENDIX

Interview guide

1. **Man/husband**
   a) Name
   b) Age
   c) Occupation
   d) Level of education
   e) How did you come to this land?
   f) Is the land owned both with you and your wife? If yes, in what ways? If no, who owns and why?
   g) Is the land that you own registered under your name only or both you and your wife? If registered only under your name, why?
   h) Do you think that your wife has the right to own, sell, or transfer land to whom she likes? If no, why?
   i) How do you decide to use the land, who has the last word?
   j) Does your wife have a right to own and use the income (produce) that you get from this land? If not, why? And if yes, how?
   k) Who works on the land and who has the right to sell the land produce and how is the money you get from the land be used?
   l) How does the income (produce) which you get from this land improve your life as a family? And who has the last word between you and your wife about the income?
   m) To who would like to inherit the land if you are not present and why?
   n) Do you see any problem with the current land ownership systems? Can you tell me how you feel when you see woman owning land?
   o) How would the ownership of land between you and your wife looks like, If in case divorce would happen?

2. **Woman/wife**
   a) Name
   b) Age

c) Occupation

d) Level of education

e) When did you get married here?

f) Did you have any property like land from your father's home? If yes, how did you get it?

g) Is this land registered under the title of both you and your husband? If it is only your husband why?

h) Do you think it is important for you to register the land under your title as your husband does? If no or yes why?

i) How do you decide about the use of the land who has the last word?

j) Do you believe that you have the right to own, sell, or transfer land to whom you like?

k) If no, who has the right to do so and why?

l) Who works on the land and who has the right to sell the land produce

m) How do you benefit from this land in living your daily life?

n) Do you think by having total access to this land you can improve your livelihood and your living standard than when you have a partial access? If yes, how?

o) Do you see any problem in the current land ownership rights? How do you feel when you see your husband control the land? are you happy with the system?

3. **Widows:**

a) Name

b) Age

c) Occupation

d) How did you come to this village?

e) Did you and your husband owned land when you were still living together? How was the ownership of the land looked like?

f) How was the ownership looked like?

g) If you owned land with your husband was it registered under the names of both you and your husband?

h) If the land was only registered under the name of your husband, do you think there was any need for your name to be included in the registration document?

i) How did you benefit from the land in carrying your daily living?

j) Do you still own the land that you had before the death of your husband? If no, who took the land, and why?

k) If you do not own land currently what means do you use to sustain your life?

l) Do you own land currently after you lost the land you owned with your husband? If yes, how did you get it?

m) Is there any problem in the current land ownership systems?

4. **Clan leaders/village leaders**

a) Name

b) Age

c) gender

d) Level of education

e) Name of the village/clan

f) What is your role as a leader?

g) Do you have any experience in land division for your clan mates? If yes, how the divisions look like?

h) What would happen if a woman lose her husband upon death, will that woman still own the land of her late husband or the land will be given to someone else and why?

i) Which group between men and women are in great chance of getting land and why?

j) Do you see any problem in the current land rights system? If yes what changes would you like to be put in place in order to remedy the problem?

k) Have you ever experienced land conflicts in any family upon the issues of inheritance, divorce, selling and using? If yes, would you please explain situation and the outcomes?

l) Could you explain how land act as important driving force for improvement of livelihood in your village?

m) Is there any difference in living standard between those who own land and those who don't? If yes how does it look like?

5. **Commissioner for Lands, North Zone Moshi.**

a) Name

b) Age

c) Gender

d) How long have you been working here?

e) Have you ever come across such claims over land ownership rights?

f) Can you tell me some of those claims which relates to women and how they affect their lives?

g) Do women have right of co-occupancy with their spouses on issues of land?

h) If they deserve to have co-occupancy why do they face problems on ownership rights?

i) Do the ordinary people have enough knowledge about their rights especially land rights? If no, what do you think is the obstacle?

j) Does accessibility to credit and financial loans depend on land ownership? If yes, how?

k) Which aspect of the customary law do you think   need to be reformed to ensure equal rights in land ownership between men and women? Why?

6. **Non-governmental organizations (NGOs)**

a) Name

b) Gender

c) Age

d) Profession

e) Responsibility

f) What are the objectives of the organization?

g) How does it function over issues affecting women?

h) To what extent is the organization works to promote women's rights over land issues?

i) Do women need more knowledge about their rights? If yes, why?

j) What are the main obstacles that hinder women to achieve land ownership and inheritance rights?

k) How do you work to achieve equal rights for women and men

l) What do you see as challenges that hinder you to realize your objectives?