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EASTERN AFRICAN SUB-REGIONAL SUPPORT INITIATIVE FOR THE ADVANCEMENT OF WOMEN (EASSI)

A STUDY OF WOMEN'S ACCESS TO, OWNERSHIP AND CONTROL OF LAND IN TANZANIA

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BY: MS. TUMAINI ELISAMIA SILAA (PRINCIPLE RESEARCHER)
MS. REHEMA K. SAMEJI
MS. LUCY T.MERERE

Edited by: Elizabeth A. Eilor
Plot 100 Old Kiira Road, Bukoto P.O. Box 24965, Kampala, Uganda
Tel: 256-41-543995; Fax: 256-41-540256; E-mail: eassi@eassi.org

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CHAPTER ONE

1.0 Introduction

Land remains a central and major resource in developing security and poverty eradication in most of the developing countries. Even in developed countries land is still an essential basis for advancing other resources such as trade, industry, human settlement, infrastructure and natural resources. In other words it can be said that land is a basic resource that is available to humanity, and denying a human being the right to access to it, amounts to serious infringement of right.

Various international forums such as the Copenhagen Declaration 1999, CEDAW, as have identified women to be the gender that is being discriminated against access, ownership and control of land and other productive resources. In that respect the Beijing Platform for Action, Copenhagen Declaration and Convention on Elimination of all forms of Discrimination Against Women, (CEDAW) called upon Governments to undertake legislative and administrative reforms to grant women full and equal access to economic resources including the right to inherit and own land and other properties. The spirit behind that move is to promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women.

In Africa Land tenure has become a critical issue partly as a result of increasing population pressure, land degradation, stagnation of agriculture and decline of economy. Consequently majority of Africans in general and women in particular have been subjected to poverty. In that situation women have the least access to food, health, education, training and opportunity for employment and other needs. Whose words various interventions aimed at reforming land in the region and responding to the above-mentioned land problems have been carried out. In spite of all those interventions, minimum benefits have been accrued by female gender, though facts show that they are the key participants in the economy, and specifically they are producers and laborers on land.

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In Tanzania 85% of population live in rural areas, and depend on land for their livelihood. Agriculture is the backbone of the country's economy and production relies on farmers and pastoralists. Within this framework women feature as the real producers/laborers on land who play a crucial role in.

Problem Statement

Statutory law on land matters evidences no discrimination, however very few women have land titles in their names. Possibilities of women acquiring land other than through inheritance are usually small. Under Customary laws, relative to men, women have inferior rights over land ownership and their access to land is indirect and insecure.

The population of rural Tanzania is divided into patrilineal ad matrilineal societies. The patriarchy society covers 80% of the rural population. In this society, succession is reckoned on male line, and generally women's status is lower than that of men. The remaining 20% constitute matriarchy society, which practices inheritance system that benefits the man's uterine brothers and his sister's sons. Both in patrilineal and matrilineal societies, women play a great role in agricultural production. They are the tillers of land. Despite their importance, women are disadvantaged in owning and controlling land and other productive resources.

Women have not been able to exert all their potentials in agricultural production under the customary or statutory land tenure systems. As a result of various forms of gender inequality and land-oriented problems, majorities of women living in rural areas are vulnerable to diseases, subjected to abject poverty and largely threatened by food insecurity.

Justification

The Tanzanian economy will continue to depend on agriculture many years to come. In this bearing, the country must sustain itself with food and if possible produce surplus for export earns. The eradication of poverty cannot be accomplished through anti-poverty programs alone but will require democratic participation and changes in economic structures in order to ensure access for all women to resources, opportunities and public service. Studies indicate that by year 2015, poverty rate can be reduced to half if countries follow policies that reduce gender inequalities and create income-earning

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opportunities for poor people. (World Bank Report 2000). Since women are the key players in agricultural production, there must be an established land tenure system to ensure their land rights are secured.

The African Charter, Global Platforms for Action and the International Conventions, most of which Tanzania is a party to, presents the advancement of women and the achievement of equality between women and men as a matter of human rights and a condition for social justice and should not be seen in isolation as a woman's issue. Hence governments are called upon to undertake legislative and administrative reforms to give women full and equal access to economic resources, including the right to inherit and ownership of land and other property. On other hand the Non Governmental Organizations are called upon to mobilize and to protect women's rights to full and equal access to economic resources, including the right to inherit and own land and other property, credit, natural resources and appropriate technology. Gender equality is a measure of a just society, in which equality of rights over productive resources would be an important part. If women are to enjoy equity with men in life long, access to and ownership of land regardless of their marital status must be secured. It is within this framework that women would like to see themselves as equal partners in the management of both households and national affairs.

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Purpose

This study focuses on women's independent rights over land with the aim of finding ways of enhancing them.

This entails:-

- Reviewing of existing literature and identification of gaps
- Undertaking comprehensive assessment of existing land policies and other legal frameworks
- Undertaking field study using participatory methodologies (African Feminist Methodologies and Analytical Tools).
- Identification of actors and actions at the community and National levels. Striking cases of women's experiences.
- Making concrete recommendations for change.

Research Topics

The main questions that this research has to find answers are: -

- Whether there are any implications of land laws/ policies reform on women land rights and to what extent.
- What are the factors affecting access to and ownership and control of land by women?
- Factors affecting food security at household level.
- Whether customary and traditional land tenure have impact on women's land rights.
- Is the society at large and women in particular aware of the Land Laws and other laws pertaining to property ownership rights.
- Whether women participate in matters related to land issues and to what extent.

Suppositions

1. Women have access to land but lack ownership, its control and produce and this to a large extent results in women being poorer than men. Lack of ownership and control may also lead to food insecurity at household level.
2. Customs and traditions contribute to a large extent in denying women land rights.
3. Ignorance of legal land rights contributes in denying women their rights on land.
4. Bureaucracy and unknown procedures discourage women from acquiring land in their own name

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CHAPTER TWO

LITERATURE REVIEW

WOMENS' LAND RIGHTS-HISTORICAL PERSPECTIVE.

Pre- colonial and colonial era:

Historically in Tanzania land, was held under traditions and customs of the various ethnic communities. It was communally owned and used by family for subsistence farming only. By virtue of being a member of a family or community, every African was assured of sufficient land to meet his own needs. (Rodney 1972: 49.) The status of men in the community was higher than that of women. This was due to the fact that men were the heads of households and controllers of land. Despite this, the position of women could not have been described as desperate. (Rwebangira 1995:50). The fact that land had not yet become a commodity, and the production and reproduction role-played by women ensured women's security in land. (WLEA: 1995).

The introduction of Islamic religion and Christianity, which was foreign, not only began to erode the traditional land tenure system, but also strengthened the role of a man as head of a household. Colonization finally caused great changes in the traditional production system.

The interest of European power in conquering Africa was primarily the exploitation of African natural resources, chief among them being land and minerals. To achieve this, large tracks of land were alienated and allocated to European settlers for plantation agriculture. This alienation brought about two things. They satisfied their citizens who wanted farming land and they created a situation where landless Africans had to work not just to pay taxes but also to survive (Rodney 1972) In on other areas where land was still in African hands, the colonial governments forced Africans to produce cash crops. Money to pay taxes came from cash crops or working on European plantations.

The introduction of cash crop economy by the colonialists changed the communal ownership of land. To be able to alienate land for plantation agriculture, the colonialists

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passed laws to declare all land in Tanganyika (Tanzania) to be Public land. The Germans passed the Imperial Decree regarding creation, acquisition and Conveyance of Crown Land, and the British in 1923 passed the Land Ordinance, Cap113. Transfer of Crown land or public land could only be effected by the Governor, through "Right of Occupancy system. Right of Occupancy was defined under section two of the Land Ordinance, 1923 to mean a title to the use and occupation of land. In 1928 the definition was extended to include the title of a Native community lawfully using or occupying land in accordance with native law and custom. (Rwebangira: 1999). In this way the Europeans were able to control production and encourage individual ownership of land. (Rwebangira, 1995).

This system favoured men more than women. While women continued with production of food crops and taking care of the family, men were able to participate in cash crop production and hence earned some money. Apart from all these, men unlike women were taught modern agricultural techniques. According to Rwebangira, (1995) the introduction of private ownership of land, money economy based on agriculture and education system encouraged participation of men in the economy, thus giving men more power in the economy. These led to further deterioration in the women's land rights.

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After independence:

The situation of women did not change much during and after independence. The Government adopted most of the colonial policies, such as the Land Ordinance of 1963. Customary land tenure system also continued to be applied. During this period, several agricultural reforms were made in attempt to address abject poverty facing rural Tanzania.(Juma ,1997).The Villagisation of 1970s is a typical example of this attempt. The doctrine of Ujamaa and Self reliance whose champion was Mwl J.K. Nyerere was the principle underlying the villagisation exercise and was based on equality of all human beings.(Peter, 1997). The villagisation emphasized on clustered living, accessibility to social services, infrastructure and enhanced production. (Report of Presidential Commission of Inquiry into Land Matters, 1992). However the doctrine was not taken on board in formulation of land laws and policies, which could be gender, sensitive. This is evidenced in the Village and Ujamaa Villages (Registration, Designation and Administration) Act, of 1975, which provided for allocation of land to a head of "Kaya"

(a household or family unit) who were mainly men, and thus denying women ownership of land. Despite the villagisation and other effort of alleviating poverty, studies indicate that problem of rural poverty is still in existence and the rural Tanzania gets poorer as the days pass by. (Juma, 1997:25). Majority of women are engaged in agricultural production in rural areas. (Rwebangira et al, 1995:52)

The current land reforms and status of property law.

In Tanzania, before the enactment of the Land Act, 1999 and the Village Land Act, 1999, women's access to property was only been addressed in the Customary Law Declaration Order, 1963 and the Law of Marriage Act, 1971. (Rwebangira, 2001:2). The Indian Succession Act of 1865 is applicable to Christians, and it tends to be egalitarian in terms of distribution of property among the survivors. This Law is unknown to most people, and African Christians continue to be governed by customary law in matters of inheritance. (Report of presidential Commission of Inquiry into Land Matters, 1992:250)

The Local Customary Law (Declaration) Order, No. 4 of 1963.

This order contains rules regulating matters of inheritance on Intestate succession amongst the patrilineal communities.

Under this law daughters can inherit self-acquired land. However their right to inherit is not on equal basis to that of sons. Daughters are placed in a 3rd and last position in the hierarchy of inheritance and each is entitled to between one-twentieth and on tenth of the property. (Report of the Presidential Commission of Inquiry into Land Matters, 1992) Under rule 27 women as widows are not allowed to inherit, land and other valued properties, they are entitled only to be taken care of by their children.

A childless widow is entitled to use part of the land that her deceased husband formerly owned or was acquired by joint efforts as long as she remains unmarried. She has usufructory right, and upon remarriage or death the land reverts back to the deceased's relatives. Despite the existence of these provisions that gives security as far as shelter is concerned! Practice has shown that women are not protected by it. In Kagera the tendency has been to disposes widows unless they agree to be inherited along with other properties of their late husbands. (The Presidential Commission of Inquiry into Land matters, 1992:250). In mixed marriages, away from centers of customary law practice;

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widows of propertied husbands have been liable to exploitation on the pretext that they have no rights to the property of their late husbands. The Law is discriminatory against women, despite the International Convention signed or ratified by the country. Human rights activists in the Judiciary have marked some of these customs as unconstitutional. The case of **Ndewawiosia Ndeamtzo Vs Emanuel Malasi, (1968), H.C.D No. 459** and a recent case of **Bernado Ephrahim v Holaria Pastory and Gervasi Kaizilege (Civil Appeal No. 70; 1989)** are a good example of such cases. In the latter case of Holaria Pastory Justice Mwalusanya stated in his judgment that;

> *" I have found as a fact that S. 20 of the rules of Inheritance G.N. No. 436/1963 of the Declaration of Customary Law, is discriminatory of females in that unlike their male counterparts, they are barred from selling clan land. That is inconsistent with Art. 13(4) of the Bill of Rights of our Constitution on account of sex".*

This is a juridical landmark case as it has created a legal framework in which females just like males can rightfully inherit clan land or self-acquired land of their fathers and dispose of the same in any manner. Discriminatory customary law however remains law of the land until challenged in courts. The remedy offered by the court is only limited to the particular cases. Those who do not go to court to challenge I oppressive law will still suffer under it until such a time when it is repealed by Parliament. (Report of The Presidential Commission of Inquiry into Land Matters,1992)

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Rules of Islamic law.

Islamic law is applicable in Tanzania Mainland through the Judicature and Application of Laws Ordinance, 1961.cap 453. It is applied in matters of marriage, divorce, guardianship, inheritance and succession. Islamic law is found in Quran, and the general rule is that by a way of will, a Moslem cannot dispose off more than one third of his estate after payment of funeral expenses and debts. Two thirds of the deceased's property must follow principles of intestate succession as provided by Quran where by heirs are grouped in four categories and make a total of 12 sharers. Widows are among the sharers whose shares are $1/8^{th}$ of the deceased's property. Although there are other benefits, which go with the $1/8^{th}$, normally these are disregarded due to influence of patriarchal norms. Islamic law and customary laws when applied together, women's rights in

property specifically land are diminished. (Report of The Presidential Commission of Inquiry into Land Matters,1992).

The law of Marriage Act, 1971.

Part IV provides the right of married women to acquire, hold and dispose of property. Further more it provides for distribution of property upon divorce, and it is silent on distribution of property upon death. Married women can enter into contracts, be sued and sue in their own name. (Law of Marriage Act, sections 56-114). During subsistence of marriage, the spouse who owns the home is stopped from alienating the same without the consent of other spouse. Under section 59 the other spouse is said to have interest in land and she /he is capable of protecting it by a caveat.

This law has affected a considerable amount of reform in respect of the rights of married persons to matrimonial property, which before used to be governed by customary law. Married women under the law have the same right as a men to acquire, hold and dispose of property whether movable or immovable. (Rwebangira et al,1995). Upon divorce Courts are given powers to order division of matrimonial assets acquired jointly by spouse during the existence of marriage. However embracing customs in their application waters down these provisions. (Rwebangira et al, 1995 : 53).

The Presidential Commission of Inquiry into Land Matters,(1992: 2-3). This Commission was mandated to listen to complaints from the general public concerning land and plot allocation in rural and urban areas. Specifically the following tasks were assigned to the Commission: -

- Identify the basic causes of land disputes review matters of Policy/land laws currently in force concerning allocations of land.
- Review land tenure, land use and land development, analyze the functions, jurisdictions and organizational structures of institutions involved in land matters, its allocation and development, and in the settlement of land disputes.
- To look into any other matter and issue connected with land that the commission deemed fit to investigate, and in all these identify problem and recommend for appropriate measures.

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The above terms of reference did not direct the land Commission to examine gender issues. The issue of gender as related to land came as an after thought whereby the Land Commission was directed to look into them by the President. Since the Land Commission had little time left before completion of its report, this matter was not dealt with exhaustively. (Report of The Presidential Commission of Inquiry into Land Matters, Vol, 1.1992: 4).

The National Land Policy, of 1995 was formulated as a result of the report of the Presidential Commission of Inquiry, 1992. The Policy also takes note of the inequality that exists in customary land ownership. That female gender is disadvantaged when compared with male gender. That the customs, which protected women, have been eroded and are no longer in effective. Further more the village governments in allocating land have discriminated women by allocating land to heads of households who are in most cases men. The policy, under paragraph 4.2.6 suggests ways of dealing with gender inequality in land matters as follows: -

(a) That women shall have legal rights to own land but inheritance of clan land shall continue to be governed by customs and tradition provided those customs and traditions are not in conflict with the constitution of the United Republic of Tanzania and basic Human Rights.

(b) Ownership of land between husband and wife shall not be subject to legislation

c) Family land owned customarily shall not be disposed without the consent of both husband and wife.

In relation to the above provisions, the policy does not define family. Customs and traditions are decisive in dealing with inheritance issues especially land. Gender Land Task Force,(1999) argued that challenging custom and tradition on the basis of unconstitutionality is a long and expensive Court process which few people can attempt, let alone poor rural women.

The Land Act of 1999

This Act provides the basic law in relation to land other than the village land, the management of land and settlement of land disputes

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From the wording of the title, all land matters except for village lands are to be dealt with in accordance with the provisions of this Act.

Women access to land:

Section 3 (2) provides: *"The right of every woman to acquire, hold, use and deal with land shall to the same extent and subject to the same restriction be treated as a right of any man."*

There has been argument from those who are advocating for rights of land for peasants and pastoralists and from the gender activists on the above section. The former group argues that this section is a mere restatement of the law as it already exists, and it adds little to the existing legal situation. (Shivji 1997:60) The latter group sees this section as the beginning of manifestation of women's rights, which were taken for granted to be there. Also it is seen as setting a precedent for future legislation to consider gender issues in formulating policies and laws.(Gender Land Task Force, 1999).

Protection of spouses' interest as related to land.

Section 161 creates a presumption of a right in nature of occupancy in common on a family land. It also provides for a right in land in the nature of occupancy in common on land held in the name of one spouse and the other spouse or spouses who contribute their labor to the productivity, upkeep and improvement of that land. These provisions calls for proof of ownership or contribution by the spouses as the right provided by the provisions is not absolute but rather deemed. The shares of occupiers in common are transferable upon death. This gives women the possibility of bequeathing landed property, which is acquired in marriage. (Rwebangira, 2001:6)

In subsection 3 of section 161 the Act makes a disposition which has not been consented to by the other spouse or spouses void.

The Village Land Act, 1999.

Women's Access to Land

This Law regulates Village Land. the Village Land Act in section 3(2) legislates that woman's and men's right to acquire land shall be on the same standing. A woman can be allocated land through application to the Village Council. The Village Council is bound by provisions of this law to give equal treatment to applications made by a woman or a group of women in the like manner as those applications from a man or a group of men

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without discrimination. (Section, 23(2)). The Village Council consists of twenty-five members of whom one third must be women and is constituted under the Local Government (District Authorities) Act, 1982. This body differs with other bodies stipulated in the Act in that representation of women in the dispute settlement machinery is on equal basis. (Sections; 60(2), 53(2), 17.). The Village Council allocates land after approval of the village Assembly. The Assembly is comprised of adult members of the village i.e. Men and women. The provision does not provide for a mechanism to ensure equal participation of both men and women, in this important organ of allocating land. It has being argued that participation of women in these institutions is crucial as they are the principal users of land. Also their participation improves performance and enhances women's dignity.

The village land Act, 1999 also is silent on the availability of land for allocation and way of ensuring land for women where land is unavailable (TAWLA workshop Moshi 2000.)

Section 20(1) of the Act legalizes application of customary law in dispute settlement, succession or inheritance and any other matter affecting land held under customary law. Where the matter is not provided for under the Act or any other enactment. Subsection 2 restricts application of the said customary law, by making it inoperative, if it denies women, children and persons with disability lawful access to ownership, occupation or use of land. The section provides for a legal right of ownership of land only. This provision is different from what was provided for in the Bill Supplement of Village Land Act, 1998. Section 20(2) stated that:" *any rule of customary law which denies a woman the right to acquire, hold, deal, transmit or receive by will or by gift or by any other means any interest in land for the reason only that she is a woman, shall be void and inoperative...* " This provision clearly provided for a right to own land and deal with land in any manner by a woman, and making it inoperative any rule of customary law, which is discriminative. Customary law is applicable, and customary law is part of the Laws in Tanzania. Customary law is discriminative as already stated. Customary law is what lawfully limits women's rights in land.(Silaa: 2000). The provision that existed in the Bill was wide embracing the inborn right_of a woman in land. Right of a person is inborn, but a law provides legal right. Laws may be unjust. It is not enough to simply have laws; laws must be just.(Samatta, 2000:3)

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The Constitution of the United Republic of Tanzania-2000.

Article 13 The Constitution of the United Republic of Tanzania as amended in the year 2000 prohibits discrimination on the basis of gender. Under Article 24 Individuals have the right to possess property and get protection for the legally acquired property. However it has been argued that the Bill of Rights enshrined in the Constitution are not absolute, as they are subject to the laws of the country.(Peter, 1997:253).

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CHAPTER THREE.

RESEARCH METHODOLOGY

Introduction.

This chapter presents methodological and theoretical perspective used in the field when researching. Mbilinyi (1992:32) views research methodology as a theory and analysis of methods and general research approach most appropriate for a given body of theory or data. The method is used to get data to satisfy the research questions and assumptions together with the hypothesis. In this particular study, the method to be used focuses on the process of conducting critical assessment of existing land policies and laws, how they are related to realities, grievances, complaints and women's expectations in land rights. To achieve this, theoretical framework intended to bring a better understanding of the issue being studied guides the study. These are the grounded theory and the African feminist approach.

The Grounded Theory. This approach takes women as a starting point in order to provide sufficient information to understand the complexities surrounding the issue being researched. Through this approach a researcher can engage on empirical knowledge and data collection on women's lived realities in law, local customs, practices, and procedures in dialogue, with theoretical generalization about the position of women. The approach employs and follows the principles, which allows the researcher to embark on a research field with open mind as much as possible. As a result one gets a holistic understanding of women status and positions in society researched on as far as land issue is concerned (Berton, et.al (1998:25).

The African feminist approach as described by Nzioki, (2000) takes further the grounded theory by emphasizing on qualitative method where detailed research method should use traditional devises such as questionnaire, and interviews, and handle them in a manner that is sensitive to the needs and aspirations of the people. The research method should be introspective bringing out women feelings, including anger and frustrations and hence comprehend women realities on land issues. Nzioki therefore advocates for action research and discourages research as a mere academic exercise. She argues that research on women land rights should lead to concretization and profound change on the lives of

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women. The dominant function of research should therefore be its use value to the people and community studied.

Methods used:

This particular study used a multi method approach as enumerated above to reveal the best result. The researchers had all the time ensured participation of of people at various levels. Structured, group discussion where by groups were formed according to their sexes e.g women only, or specialty like the Village Council. For in-depth discussions and sometimes the case studies individual people were used. Focus groups were also used in cases of particular information being sought. Women groups in these villages were particularly involved in this. Workshops were another method used. Having got some information and data, the researchers used them as a way of testing the correctness of the information, as well as a forum for sensitizing the villagers on the issue of women's rights in land and how the denial of the same affected households. The researchers developed closer relationship with people behind the study, so as to understand their structure, functions, and decisions and attitudes. Moreover men and women were allowed to speak for themselves. Since this, was an interactive process in which data and theory revealed reality and perceptions about norms it helped the researchers decide what data to collect and how to interpret it.

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Research focus:

The researchers took into consideration two different social systems; that is, patriarchy a system of social organization marked by supremacy of the father in the clan and matriarchy which is a system of social organization in which descent and inheritance are traced through the female line.

The regions of research were randomly selected after separately listing regions that have majority of ethnic groups under the social systems mentioned above.

Mbeya region was selected, as a representative of a patriarchy society while Morogoro came up as a region, which some of its tribes are matriarchy.

Mbeya region is divided into eight administrative districts. Our study was carried out in three districts, namely, Chunya, Rungwe and Ileje. In these districts one to two villages

were selected for the study. The criteria used for selecting the villages are the socio-economic practices. The selected villages are Mapogoro (Chunya District,) Mbambo (Rungwe District) and Ilulu and Isongole (Ileje District.) All these villages follow a patriarchy system. An economic activity carried out in these areas is agriculture. Cash and food crops are cultivated together with keeping few domestic animals.

The study on access to, ownership land control in a matriarchy society was conducted in Morogoro rural district, at Matombo division, Kisemvu ward, Kabangile and Mtamba Village. The economic activity of the area is agriculture. Crops cultivated include bananas, fruits, (such as oranges pineapples, mangoes) and coconuts. Other food crops are maize rice, cassava and yams. Moreover, low scale mining activity is taking placed in the area.

Research instruments.

Since this research sought to contribute to the cultivation of insight and understanding of women access, ownership and control of land a number of instruments were used.

These included, face-to-face interview, in depth unstructured open-ended interviews, focus group discussion and consultative workshops.

Women, who were mainly informants, were chosen through community Development officers. Selected respondents were placed into categories based on the position they hold with different questions for each category of informants.

Total of hundred and eleven women and men were interviewed, and were purposely selected among residents in the targeted regions. The respondents were selected from people of different occupations, and marital status.

The researchers found face-to-face interview more effective as respondents were very free and open to the researchers. Also the interviewer and interviewee established a working relationship.

When in-depth knowledge was required, the unstructured open-ended questionnaire was used to a small sample. This was administered to the Elites who were selected through stratified techniques on the basis of their experience in the research topic. These groups of people are considered to be influential, prominent and well informed in all issues

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pertaining to land ownership and control. The established relationships helped to get information that would have not been available if another method was employed. The interview was conducted to enable one get the picture of what is happening in the field on the issues researched

Focus group interview was used to generate relevant information and encourage the participation of both men and women. The groups were composed of people who were not very new to each other as they interact and compliment each other in economic and cultural spheres in the village they live .

Numbers of groups were formed during the focus group interview. One was composed of women only and the other of men and women. Also there was group of Village Councilors, CBO and Ward Tribunals. Through discussions the researchers expected to elicit women's rights views and their roles in respective or consultative position they hold in their respective villages. The interview questions were constructed with the aim of gaining insight on matters of land administrations in matrilineal and matrilineal societies.

In depth and Un-structured open – ended interviews was used in this study. The checklist containing questions prepared by researchers guided the interview. Interviews were conducted to individual men and women, elite's, focus group and government officials, so as to enable one get the picture of what is happening in the field on the issue researched. The unstructured open-ended questionnaire was used where the sample was not too large and in depth knowledge was required.

Consultative workshops were conducted for the purpose of disseminating the preliminary findings in the study area. A national workshop was also held for purposes of disseminating he findings, as well as sensitizing the policy makers and other stake holders on the need to enhance rights if women in land. Participants to the consultative workshops were identified during the data collection process. The outstanding respondents were invited to the workshop .A total of three consultative workshop were organized

Data analysis

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Like any other qualitative study, data analysis in this research was a on going process, which began in the fieldwork and, post field phase. The analysis was based on the themes that included:-

- Community conceptions on land
- Women's access/ ownership and control of land.
- Women's knowledge over land rights
- Factors limiting women's ownership land control of land
- Management, use and administration of land

Limitation and Constraints

Though the two regions selected are accessible by road, the main limitation that was faced was the time the research was being carried out .It was time for the General Election and people were, very busy, attending the campaigns and meetings The villages ere also far apart from each other.

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CHAPTER FOUR.

RESEARCH FINDINGS:

MBEYA REGION.

Our research findings are guided by the following themes: -

(i) Community conceptions on land

(ii) Women's access/ownership and control of land.

(iii) Women's knowledge over land rights

(iv) Management, use and administration of land – involvement of women.

(v) Factors limiting women's ownership and control of land

CONCEPTION OF LAND:

In Mbeya region the system of social organization is patriarchy.

Through individual in-depth interviews women defined land as a plot of land where they can cultivate food crops, such as cassava, maize, and groundnuts. They said Land is very essential for, building house, farming and their survival, as their children can inherit it and continue with the economic activity which is agriculture. "*Without land there is no life* "said one woman at Isongole village.

The focus group discussion defined Land or "*Ardhi*" as farms "*Mashamba*" with perennial crops such as coffee and bananas, trees, or seasonal crops such as beans, maize and vegetables. It also includes unoccupied land which could be cleared and grow crops, forests and cattle grazing areas. society also shared this definition. The interviewed groups of matrilineal society also shared this definition.

OWNERSHIP, ACCESS AND CONTROL OF LAND BY WOMEN:

Ownership of land under Customary and traditional land tenure.

The structure of rural Tanzania has evolved customary rules with an inheritance system, which ultimately benefit the males.

Customary system of land allocation was found in applied in rural areas of the regions under study. Under this system a certain clan owns land and men are the beneficiaries of the system. There is no documentary ownership land ownership Land passes from the

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father to the son or male member of the clan. Women have access to land, as daughters or wives, as they work on it. Women said that husbands allocate land to grow food crops but the access ceases upon divorce. It can continue if a woman is willing to be inherited by male relatives together with other properties. Daughters have access to land as long as they are not married. Generally there is no lack of access to land by women because women are the real producers on land.

During the study it was reverted that, land is mostly owned under customary tenure. It is men who own and control it. For example according to Nyakyusa and Walambya customs and traditions, land ownership is within the sphere of competence of a man. A woman to own land is treated as something unnatural. The interviews with women respondents have revealed that married women feel more secured on men's land than making efforts to acquire land of their own as it would result into being divorced. Divorced woman looses her access to land that has been supporting her and the children. Furthermore her parents would be required to refund the "dowry" (bride price).

Upon death sons inherit land previously owned by their fathers. Daughters rarely inherit it; they can inherit if there is no male person in the clan. This was narrated by a Mapogoro village was heard saying, "sons plan with their fathers and they have the right to inherit upon death of their father and daughters are for mourning." *Mtoto wa kiume anapanga mipango na baba na ana haki ya kurithi akifa. Mtoto WA kike Ni wa kupiga mayowe wakati baba akifa*"

In some instances the widow can have access through her children only if they are grown up and they chose to remain with her.

Ownership of land through allocation by Government.

.Right of Occupancy system:

According to this system both men and women can own land through application to the Ministry of Land. This system is applicable on surveyed land, in urban areas and in some peri-urban areas. Under this system a person is granted lease of 33, 66 or 99 years, and is given a certificate of ownership. This is a system of documentary ownership of land and it has more security of tenure compared to customary ownership. Our study revealed that within this system women hold less land as compared to men because the whole process

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of land allocation involves money. Statistics at Ileje District Land Office indicated that in the year 1996/1997 no single woman was allocated land compared to thirty-seven men who were granted right of occupancy. Further more in 1997/98, twenty-two men were granted right of occupancy and no single woman was ever granted. In 1998/99 nine women were granted right of occupancy compared to eighty-four men. And in 1999/2000 four women were granted compared to fifty men.

Ownership of Land through allocation by Village Council:

Villages were and still are allocated land by Village authorities. A specified portion of land is allocated to each household. The head of the household in most cases is a man. In these areas it was identified that few women were allocated land in their own names, most of them were aged, divorcees or widows. In Ilulu village only one woman, a divorcee owns land allocated to her by village authorities.

Food storage.

Harvested crops are stored in granaries known as "kihenge," or "ichipa" "ichanga"; these names are used interchangeably depending on the area. It is worth noting at this juncture that most of the people in the research areas practice Polygamy. Husbands allocate land to women. Food crops are grown. Women and children provide Labor on this land. The husband has his own piece of land where the women (as wives) and children work on. Produce from that piece of land belongs entirely to him (husband) and it is stored in a separate granary known as 'ichipa'. The wife's produce from her piece of land is stored in another granary known as 'kihenge'. The husband can have more than one granary, while the wife's granary is generally one.

Food stored in the Kihenge is for the family consumption and that stored in the shipa is for emergency cases during famine or drought season. However in practice, the researchers were informed that men do sell the crops in the "shipa" whether there's emergency or not, so as to get money with which they can buy property such as bicycles, cattle or pay bride price for more wives. He can use the rest for buying local brew and cigarettes. Interviews conducted with men group in Mapogoro village, revealed that, since the men's granaries are at their disposal, they justify using the food stored by "informing" their wives on the use of the same, and after selling the crops they can offer

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a piece of cloth material or some money to their wives. The woman cannot question how the money from the sell of the produce was used.

Women's produce in the 'kihenge' feeds the whole family, and there is no chance of getting surplus with which a woman can sell and get property. Even where the woman has to sell some of the crops so as to get some money to buy essential commodities, she can only do so by obtaining her husband's consent. Generally it can be said that women have no control of the food they produce.

WOMEN'S KNOWLEDGE OVER THEIR RIGHTS.

The interviews with divorced women revealed a high degree of ignorance of legal and human rights knowledge among women. Divorce in our study areas (patrilineal and matrilineal) is governed by customs and traditions, in which case a divorced woman is entitled to her clothes, some kitchen utensils and some of the harvested crops of that season if any. This state of affair exists despite the Law of Marriage Act of 1971 that provides for division of matrimonial assets on divorce.

There was no single case where the Law of Marriage Act of 1971 was applied to distribute matrilineal property during a divorce, though a statutory law is supposed to supercede the customary law.

A woman interviewed at Iltumba admitted that before meeting the researchers she did not know that a woman had a right to own land.

People in the researched area are not aware of other laws governing land tenure in Tanzania including the new Land laws.

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PARTICIPATION OF WOMEN IN MANAGEMENT AND ADMINISTRATION OF LAND:

Farming:

In all study sites, the population interviewed admitted that women are great laborers on the land but do not own or control the products from it. It is the man (husband) who decides on the appropriation of the harvest from the land. Women cultivate, harvest, and store, plan and cook. This sphere of activities revolves around them with no empathy or mercy. When there is no food they are blamed or cursed. Since wives and daughters work alone on the farm and in the home, their health is affected and they lack body

strength to work and produce sufficient food therefore food insecurity in the region is common. Furthermore none participation of men in farming has given rise to matrimonial conflicts and more women seek divorce than men.

Statistics in the Primary Court of Itumba in Ileje District, indicate that there were 37 women as compared to 14 men who sought for divorce in 1998; in 1999, 45 women and 9 men who sought for divorce, while in year 2000, 34 women against 10 men filed divorce cases.

Commenting on the increase of women seeking divorce in court, the Itumba primary Court Magistrate listed a number of reasons given by women seeking divorce like: - lack of family maintenance from the husband, extra marital affairs, violence, drinking and non assistance in farming and cooking and failure to provide food, for the family.

Maryanne Mwesongile (49) is happily remarried .Her occupation is farming, petty business and selling of local brew .She shares every thing with her new husband and whatever they get from their joint effort is collectively shared and planed .Her first marriage survived for fifteen years .The reason for breakage of marriage was that her husband was lazy and did not take part in any domestic activities especially farming. Moreover the husband was controlling and misusing the harvests, leaving the family to starve .In court she was awarded custody of two young months' children and nothing as a matrimonial property. She left behind other two children. When she returned to her parents, her father found an house for her from the neighbors, and he gave her a piece of land to earn her living .Two years letter when her ex- husband died, the brother in law of the deceased was appointed the administrator of the estate .he confiscated all the properties. Latter on he sold all the farms and chased the two children to the street. Eventually their mother had to them.

Training and use of technology:

Some of the government officers interviewed happened to be extension officers. They revealed that, in their training programs they have not been involving women, especially in using improved technology, Men are beneficiaries from this training though they are not actively involved in agriculture. Production is still low one of the factors being lack of modern farm implements such as fertilizers and tractors. Hoes are being used to a large extent. The farmed area therefore is small. Lack of modern agricultural technique, lack of full participation of men in farming combined with lack of modern farming equipment leads to low production of crops which are not sufficient in feeding the family.

Participation of women in decision-making:

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Village Council is entrusted to make decision on matters concerning village, and it is made up of twenty-five elected people, of which eight must be women. This composition is a result of affirmative action. The council is divided into several committees to facilitate its functions. One of its functions is to allocate land to villagers and to settle disputes. However given the ratio of women to men, the beliefs, customs, practices and lack of proper and accurate information, women have not being fully participating in making decision. In all villages under the study there was no woman who held the post of Village Chairman, Vice or Secretary. Women do not have the courage to speak in front of men. Women are also afraid of being given "names" if they are seen acting as men". In Mapogoro Village such women are called" jike-dume" meaning having two sexes, that of a man and a woman, and acting like a man.

FACTORS AFFECTING WOMEN'S ACCESS TO, OWNERSHIP AND CONTROL OF LAND

During the interviews we discovered that economic, financial constraints, customs, traditions and cultural beliefs, divorce, lack of knowledge and improper interpretation of concepts do limit women's efforts to realize their land rights.

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Economic Factor.

In our study area it was noted that women have not been able to acquire land that is being allocated by the Ministry of Lands. The main reason being economic constraint. For example between 1997/98 and 2000 only twenty-five women had applied for offer of right of occupancy compared to seventy-nine men. Interviewed women attributed this trend to economic constraints on their part. Land allocating authorities have introduced a cost sharing exercise in the process of land survey and demarcation. Those who want to be allocated have to contribute to surveying work. ***"Only those who pay are considered for allocation.,"*** the Acting Land Development Officer in Ileje informed the researchers. At the time of our research it was found out that applicants are required to contribute to cover some costs. T.Shs. 4500/= to 6000/= is required when applying for a plot of land before getting the letter of offer. The total amount needed for Title deed is T.Shs. 28,660/=.

This has been a major hindrance to majority of the women to access and own land. Ileje land women group interviewed shared the same view. Given the economic position of most of our rural women such an amount is a big sum for them to rise. The authorities said that payments could be done on installments, even though women complained that the payment by installments couldn't mitigate it because the rates are too high for them to pay, and the little money they get is for the family consumption. On the other hand women said that it is possible for men to pay such an amount because most of them have got money acquired through working on plantations, or working as casual laborers, bride price, sale of crops and other properties.

Cultural beliefs.

In Chunya – Mapogoro Village, women interviewed said were reluctant to apply for allocation of land, even to clear, or cultivate their own land as this was seen as something unnatural. Women as daughters on the other hand are supposed to use land owned by their fathers. Attempting to get their own land is a sign of misbehavior, which is immediately condemned by the entire community. " Daughters should marry and use land owned by their husbands". As some of the interviewed persons put it, these women wanting to acquire land will be seen as indifferent, or prostitute, and will not be accepted in this society".

Though there is ample land in Chunya, customs and traditions have made it impossible for women to acquire it Women as wives or daughters are supposed to use land owned by their husbands or fathers respectively. This cultural belief is so strong that even land allocating authorities in the village are reluctant to allocate land to a woman applicant, on pretext that they might cause family disintegration.

As soon as son gets married he is regarded as a grown up person, regardless of his age, and the father or the village council allocates plot of land to him. Daughters are never allocated land no matter their age. All the time it is expected that they will get married and get land from their husbands.

Customary system of inheritance upon death of a husband denies a woman her right to inherit land. A married under such law many patrolled communities in Tanzania women

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and daughters are completely barred from inheritor clan land and sometimes their own husbands or farther land

The assumption is that girls marry away from their parent's base and if they inherit. They will transfer it outside the clan or family through marriage.

It is evidential that the system of inheritance under customarily law discriminates females in the sense that unlike males they are either not entitled to inherit land or where they do they cannot sell it woman is seen as a property that is inherited with other matrimonial properties. If she refuses to be inherited she is chased away, or as women of Ilulu village said: -" ***the relatives of the husband will create the environment that will force you to leave or agree to be inherited.***" Most women have opted to be inherited so as to have the "security of tenure" for themselves and their children because going back to their parent's home makes them more insecure.

Divorce.

Divorce is another factor found to deny women land rights. In all the villages visited, interviews conducted and data collected from court, there were very few women who were given land as part of the matrimonial assets during divorce. Some women have been married for fifteen years or more but on divorce they loose land. This affects access as well as ownership for it is not done as according to the Law of Marriage Act, 1971 that provide for division of matrimonial assets.

The following case was decided in the primary court of Itumba in Ileje District: -

> ***Petitioner, who was the wife, was married to the respondent for almost 18 years. Two reasons were given for divorce. First that the husband had refused cultivating the farm and therefore life was becoming very difficult for her and the children, (they had four children) and secondly there was no peace and harmony in the house. The honorable magistrate found out that there was no matrimonial property. Nevertheless the Court ordered the matrimonial house and the plot (farm) to remain with the husband. (Ref: Civil case No. 21/2000).***

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Improper application/ interpretation of concepts.

The concept that land was to be allocated to the head of the household according to the Ujamaa Village policies, made it possible for men to get land. Patriarchy system armed with such policies closed all the avenues that women could explore to get land. In all the villages visited, for instance, there are two types of land allocated for cultivation. One is the common one that is allocated to every head of a household, and the other one is that land which is supposed to be allocated to every able adult person in the village. This land is meant for cultivation of drought resistant crops for food in case of adverse weather. . Village Councils have however continued to allocate this land to men and sons only,

Ignorance of rights.

In all the communities researched, both women and men are ignorant of the laws prevailing in the country. Women are not aware of the Law of Marriage Act, which has been in existence since 1971,they are also not aware of The Land Acts of 1999. The women groups and the village council were very keen to know more about these laws. The researchers had to use some time to high light some of the provisions of these laws in responding to questions posed during discussion. The focus group in Isongole village complained that, they only hear about certain laws in courts, especially when the law is been used against them. Women requested for training in marriage, inheritance and the land laws.

The society is also not sensitized on women's rights.

Existence of contradicting Laws.

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Primary courts of the areas researched were found to be using a different law in matters of divorce. During the interview the Primary court Magistrate informed the researchers that they apply The Law Of Persons. This is an old law, which among other provisions, provides for return of bride price or dowry by the parents of the female divorcee. It also talks of division of harvested crops on divorce. The Law of Persons also contradicts the recently enacted Land Act, 1999 and Village Land Act of 1999 which stipulates for interest in land and secures it for a person who has contributed his /her labour, and productivity, upkeep and improvement of land. The following case highlights what transpires in one Primary courts in granting divorce.

Wife had filed a divorce petition in court. Reasons for divorce being that:
-She did not want to shift with the husband. " We were at Ntembo village, my husband ordered that we shift to Nganga village. Since we shifted to Nganga my husband has not being staying at home, I don't know where he goes; I do the farming alone, I alone without him. When he came home this time he told me that we should shift to another village. So I am tired, it is better that we divorce." The woman narrated the story. The couples had stayed for four years and had one child of four years. The marriage had been in subsistence since 1976, and since 1997 it is not known whereabouts of the husband. The court found out the dowry paid was, 3 cows, 2bulls, I goat, 2 blankets and I hoe, all of which amounted to Tshs.37, 000/=. The father of the wife (the petitioner) was the one to pay back the stated dowry. Finally the court ordered the return of the dowry to the husband who was still at large.

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The Law of marriage Act of 1971, on the other hand provides for division of matrimonial assets acquired during the subsistence of a marriage. Matrimonial assets can include land and its fixtures. This law does neither provide for payment of dowry as a condition before marriage, or return of the same upon divorce. Returning of dowry does a serious matter in this areas, and refusal of the parent to returns them, can lead to him being sued. Fear of return of dowry forces women to tolerate abuses by husbands.

MOROGORO REGION:

OWNERSHIP, ACCESS AND CONTROL OF LAND BY WOMEN:

Customary and traditional land tenure:

The society is matriarchy in nature. Naming of children follows the mother line. In matriarchy societies, ultimate owner of land is the clan. Clan leaders in most cases are men. As a result the power of dealing with land is vested in men, however these powers are not absolute as compared to the patriarchal society. The research revealed that, in families, the power is vested in first-born child, whether a man or a woman. Men as husbands do not own land. Upon marriage, they move to the land allocated to their spouses, and upon divorce men leave the land. Daughters like sons can inherit land from the mother or uncle.

A major difference that was noted between the patriarchy and the matriarchy systems is that unlike in patriarchy, in matriarchy system perse few women own land. The clan cannot interfere with a land, which belongs to a woman. A woman has the right to dispose of this land. However the matriarchy system in the researched area seem to disintegrate in favor of patriarchy practices due to intermarriages, movement of people from one region to another and the Villagization process.

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Ownership of land through allocation by Government.

Land allocation by Village Authorities under Ujamaa policy "operation sogeza" of 1974/5.

Land in the area studied is grouped into three categories: -

a) Residential land (ardhi ya makazi)
b) Agricultural land – no permanent crops (ardhi ya kujikinga na njaa)
c) Agricultural land – permanent crops

Residential land:

During the operation of establishing Ujamaa villages (villagisation) an exercise known as "Operation sogeza" was instituted to the people in the study area. Under this operation heads of the household, who mostly were men, were allocated land for residential

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Residential land:

During the operation of establishing Ujamaa villages (villagisation) an exercise known as "Operation sogeza" was instituted to the people in the study area. Under this operation heads of the household, who mostly were men, were allocated land for residential

purposes. The chairman of Kibangile village said that this land was just enough for putting up a residential building. It is assumed that this land is given to both husband and wife as a family. But in reality sense it is registered under husband's name. It was also found out that this land is no longer available for allocation.

Agricultural land for non-permanent crops

The second category of land is set aside for non-permanent crops. This land is set aside for growing drought resistant food crops. The researchers were informed that the spirit behind this land, is any adult person who is able should cultivate, and is allocated a piece within this land so that he/she cultivate drought resistant crops in case of inclement weather. However, the interview conducted, revealed that, the village council (a Government institution) has been using the 'patriarchy approach (system') to allocate these plots. The plots are allocated to the head of the household at the rate of quarter an acre for adults and able individual in the household. For example, if the household has eight capable persons, it is given 2 acres (i.e. ¼ x 8 = 2). This land is allocated in the name of the head of the household who is usually a man.

Land for permanent crops

This category of the land, is allocated according to ones ability to cultivate .As in the previous categories, this land is also allocated in the name of the household the husband- At the time of this research and three years before, this land is no longer available for allocation.

The research further established that through out the years in all these three categories of land, only one woman, who was a widow was allocated land.

Land for residential and permanent crops is acquired only through purchase and as population increases the prices have being going up years after years, ranging from Tshs 60,0000 for mountainous land to 300000 for land in good location and with crops.

WOMEN'S KNOWLEDGE OVER THEIR RIGHTS.

As in Mbeya region the level of legal literacy is very low. When interviewed women as well as men seemed to be ignorant on prevailing laws such as the Law of Marriage Act, the Land acts of 1999. Most of this people apply religious laws, customs, general

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knowledge and Islamic law. For example in case of divorce a woman is returned back to her parents to wait for remarriage. No Case is taken to court to legalize the divorce as are a result she is left without any matrimonial property including land. This state of affair exists despite the Law of Marriage Act of 1971 that provides for division of matrimonial assets on divorce. There was no single case where the Law of Marriage Act of 1971 was exercised to distribute matrilineal property during a divorce, though a statutory law is supposed to supercede the customary law. People in the researched area are not aware of other laws governing land tenure in Tanzania including the new Land laws.

WOMEN PARTICIPATION IN LAND USE, MANAGEMENT AND ADMINISTRATION.

Land use.

Families depend on agriculture for survival .The husband is one who has a say other land. However women are the users of it this was admitted by the focus group interviewed. Agricultural land for permanent crops in some households divided into two parts: - one for husband and the other part for both husband and wife The husband plot is cultivated by himself or with the help of employed laborers .The produce is owned by himself. The other farm is for family. The wife and the children work on it and the produce are for family consumption.

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Training and use of technologies:

Land extension officers admitted not to have involved women in trainings, and use of new technologies, instead men are the one who benefit from this trainings. As a result there is mismanagement of land leading to land degradation, poor harvests, and hence affects food security in the household and the nation at large. This perpetuates poverty. Women have not being fully participating in making decision.

Ownership of land by women:

Women in the study area have access to land owned by head of household (farther or husband). In rare cases unmarried women

Women also do inherit land from their parents. (Inheriting from their husband depend very much on the relatives of the deceased). In most cases the widows are returned to

their relatives. If a widow has grown up children she may remain at the deceased residence under the condition that she does not re-marry. Even though observing this conditions does not guarantee a woman a right to stay on the deceased husband's land for in some cases, widows are chased away even by their own children.

FACTORS AFFECTING WOMEN'S OWNERSHIP AND CONTROL OF LAND

Influence of patriarchy system

The patriarchy system that was silently and unknowingly introduced by the Villages and Ujamaa Villages Policy/law through allocation of land to the head of the household had a negative impact to matrilineal society. Men took advantage of the system while women were disadvantaged. As a result women have lost even the little power and security they had over the land.

Under matrilineal society system the uncle has the power, as the following case explains: -

Grace Raphaels uncle gave her apiece of land, because her father had no land. She cleared and cultivated it. She planted coconut and orange trees. After several years, when she had just started harvesting, her uncle demanded back his farm. She learned that, the uncle wanted to sell it. She requested to buy the same, but the uncle said that, he is the owner and he had the right to choose the buyer and not her. Grace thought of seeking redress from the court, but she was intimidated, and after all her only witness who was her father, was already dead. So the farm was forcibly taken from her, and sold to somebody else who was not even his or her family member. The farm was sold at a throw away price, which she could afford.

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Land Shortage

Unlike Mbeya were land is plenty, Morogoro faces an acute shortage of land. For the past three years no land was available for allocation. Land is available on mountainous area and it is for sale. Most women have no cash to buy the land; hence they cannot procure it, which is allocation on, or purchase.

Economic factors related to land prices

Since many rural men tend to ignore women's ignore women's cash needs even where the income from cash crops is substantial women n sell the surplus food harvested to earn cash

Most women of the earning from their farms to provide for their families and little or nothing is left as an excess to sell. Hence they cannot procure the available expensive land through purchase.

Religious and Cultural Beliefs

According to Islamic Law (Edah) and some other cultural beliefs, a woman is supposed to remain in her house for forty days or more, after the death of her husband. During this period she is restrained from working and making any decisions. It is at this time when her in-laws without her participation or conceit resolve major issues over inheritance and division of matrimonial assets. Many women affected by this situation in surveyed area lamented that it is on fortieth day after the death of their husband when they discovered that they had lost their land, and other properties.

Ignorance of law

Statutory laws are rarely applied in day-to-day activities and issues arising thereof. Laws applicable in the area are, religious laws (Islamic), customs, and general knowledge and Islamic law.

Discrimination in inheritance (Influence of Patrilineal system)

Married women loose land upon the death of a husband. Unlike patriarchy, in matrilineal societies, divorce or death does not affect women's land rights .The interviewed group of women in Kibangile village revealed that, upon death of a husband, wife is returned to their parents. Sons, daughters and relatives of the late husband inherit the land that she once occupied.

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Asha S. Banjulu narrates: –My husband was involved in a fatal motor accident. His leg was seriously wounded. In attempt to save my husbands life he was admitted in several hospitals such as Morogoro, Muhimbili in Dares Salaam and Kilimanjaro Christian and Medical Center-KCMC. We stayed in hospital for three months. During this period the relative of my husband never assisted me –until my husband died. We buried him and on the second day the relative of my husband came asking me to show them the properties I had acquired with my husband of course including the farms. They counted furniture, beds, cooking utensils and the harvest in store. . On the third day they brought my relatives and handled me to them. Immediately after that they distributed the properties and farms among themselves, they even distributed the farms which I had acquired jointly with my late husband. My husband did not inherit any land from his parents; we bought five farms together. All farms except one was registered under his name. I managed to get the one that was registered jointly, after threatening to take court action. Now I am living in house that I built before I got married and it is on the other land that I inherited from my mother.

Unequal participation of women in decision- was making.

The research revealed that due to matriarchy influence, women in the surveyed area are courageous in expressing themselves and their opinion. However it was noted that their participation in various decision-making bodies, such as the Village Council responsible for allocating land, and dispute settlement bodies, is minimal. Or non at all in some villages The identified reasons were: -

- Lack of proper information during elections or establishment of certain bodies.
- Influence of tradition and manifestation of patriarchy system.
- Lack of timely information and invitation during meetings.
- Improper timing of meetings.

Women knowledge over land rights:

Women's knowledge over their land rights as provided under various laws is minimal. However some women are courageous in enforcing their customary land rights. Interviewed women were not aware of the laws governing land matters. Men on the other hand were aware of those laws that are related to paying taxes and school fees.

The interviewed people complained bitterly about ignorance of law. One person was heard saying that; " we need to know these laws just like we know how and when we should pay the taxes. You go every where, there are posters and notices explaining about

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the taxes, and the "Vitongoji Leaders" are busy educating their people on these taxes." (Vitongoji is the lowest Government administrative machinery in the village.)

> ***ecta is a living example to this situation. She has six children and she is separated from her husband. Since 19972.She is living in the house that they bought together with her husband. In absence of her husband she has got a piece of land that she inherited from her father. Through farming and petty business she has managed to buy a piece of land, on which she is building. "When I am old, this house will give me some earning for my survival" narrates Necta.***
>
> ***In another incidence, she said that; in their family they are four, three daughters and one son. "At one time, after the death of our father, our brother wanted to mess us up, by assuming the ownership of the inherited land. For example he will harvest the coconuts from all the trees, and give us only six, two for each of us. He was humiliating us. Being the first-born and knowing that this was our property I reported the matter to the ten-cell leader. Eventually the land in dispute was divided equally among four of us and everybody is happy.***

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SUMMARY OF FINDINGS.

Conception of land:

The society interviewed viewed land as a basic resource that could be cultivated. Inland is where the different lies between women and men. To women land is for food crops cultivation and general support of the family's welfare. If it happens that there is food shortage they are blamed by the society. Findings from the focus group where by men spoke most land was viewed as a plot where cash crops, and food crops, are cultivated. In all the study areas women are seeing as the caretakers of the family. Men on the other hand are expected to get cash and buy items or goods other than food.

Ownership access and control of land by women:

According to customary land tenure system in the regions studied women have access to land. Shivji 1997 that noted that women have access to land because they are the real producers but they lack of ownership also supports this. According to him in Law and in Practice ownership implies to control, manage, administrates and power to dispose of or alienate land. They findings have shown that women lack ownership.

Another problem noted is the question of what to be grown or how to control the harvests and selling of crops and land. Since men have the control and ownership of land and its produce they benefit more from land in terms of decision-making and status in life than women. Women on the other hand, relative to men are subjected to poverty and food in security at household level

Women are not consulted but are instructed to do what the husband has planned. Women cannot plan what to grow or make decision on the use of the harvests.

Ownership of land through allocation by Government:

Right of occupancy system.

This system does not discriminate men or women. Any person can be granted lease for a certain number of years. However women are at disadvantaged position because of the costs involved. They have to part with a total of 28, 660/= to raise this amount of money means having goods for sell. According to the customary land tenure system women have only the access; no ownership and therefore they will have nothing to take to the market.

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Interpretation of policies and laws:

In the study area, it was revealed that Village Councils have power to allocate land to the heads of household and abled adult person in the village. To the Village Council head the two mentioned above are one and the same means the same person. This clearly shows in ability to interpreted concepts and policies correctly the main contributing of factor to this trend discuss common practice and limited knowledge to the implementers since most of these policies have pop-down approach.

Women knowledge of rights:

In our research, despite the existence of the Law of Marriage Act, 1971, the Constitution of the United Republic of Tanzania and the land Policy, of 1995 Women's knowledge over their own rights is very limited. There is lack of or to mechanism to raise awareness among, the people concerned or to educate people on their rights as provided by concerned by different law.

There is little exposure to rights among women because of the social system are no mechanisms put cross to effectively articulate women's rights at village level. Most of these laws and policies are in language, not known to the majority (not an official language)

Training and use of Technology:

The research findings show that extension officers have not involved women in training and use of technology. The assumption is land belongs to men and they need the new technology.

Is very limited due to lack of sufficient knowledge of different issues, the way meeting are conducted. In the study areas are informal and formal decision making bodies. The informal owes are heavily dominated by men lone provide opportunities for women to participate in decision making in fortunately, women have not been able to exploit such opportunities due to customs, traditions, lack of information. As a result important including decision are still dependent on men's power.

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Food storage:

In the studied area husband's granaries are separate from the women granaries.

The common storage of food is in granaries. The quantity of food stored in women granary is little and is for family consumption only. In case of food shortage the woman is blamed. She has nothing to sell and therefore she is always in a poor condition compared to the man. Mans crops are stored in his granary and is for personal use. He can decide to sell the crops or keep them as a reserve in case of hunger. However in most times men do sell the crops for many reasons including payment of dowry, buying of cattle or for personal use. Food stored in the women's granary is for home use, meaning that a woman is not allowed to sell it even if she is in need of money to buy food ingredients or for medication purposes. This woman is completely subjected to abject

poverty. Men on the other hand have overall control of all granaries. Food insecurity in the household can result not only from poor or low production but also from the misuse of the harvest by men.

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CHAPTER FIVE:

GENERAL DISCUSSION AND RECOMMENDATIONS

Our research findings in the five themes reveal a contradictory picture. There are variations and differences according to the social organization and location of the societies concerned. Despite the differences there are also similarities. This chapter analyses the research findings in a broader perspective. The general as well as specific recommendations are then given, depending on the specificity of the problem.

Implication of laws.

The research has revealed that there has been a serious implication of laws on women land rights. As discussed from the historical perspective, coupled with the findings, the introduction of the Land Ordinance of 1923, and later on Ujamaa (socialism) policies and the land Acts of 1999, did not take into dwelt in depth on situation of women in land rights. Their existing independent rights are not considered in the process of enacting land laws/ policies, let alone their rights as human beings. Often times the word people is used, and in case of married couples, the word family is used. These terminologies in theory do represent both women and men, but in practical terms, and for those who enact the laws they have an image of a man owning and transacting land. As a result majority of women cannot afford to own land according to the required legal procedures as to them it is an expensive venture. Land allocation in Tanzania is cumbersome and difficult. Buying land for Agriculture and business is particularly expensive and out of reach for most women. In most cases small-scale women farmers and entrepreneurs are discouraged by the amount of capital needed to buy land and by conditions imposed on its development. Apart from the prohibitive minimum cost the law stipulates that the land must be developed within a specified short period. This stringent procedure serves as further deterrent to women's ownership of land. Men own to-date more than 80%of land in the rural areas. On the Other hand women in matrilineal societies have lost even the meager rights they enjoyed in land under this system as it is technically abolished through codification of patriarchal land tenure

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In both customary and statutory land ownership majority of women have the right to use land, they lack title deed, which is the guarantee of ownership, without the title deed, women are technically landless. Invisibly, the male gender owns a silent radical title.

Though the new Land Acts of 1999 have come into force, the effect of their application has not yet been felt. Largely the Acts grants the application of customary laws in Village land, only if the custom is not discriminative against female gender, children and persons with disability. The issue of whether the law is discriminative would be decided by the Court of law. Taking this into consideration the women's economic and land situation, it will be difficult and expensive to pursue court process. This will eventually lead to delayed justice and hence denied justice.

rtant including decision are still dependent on men's power.

Food security:

In the studied area there are granaries matters for the husband for the women.

It was noted that storage of food is in granary. The quantity of food stored in women granary is small is for family. In.case of food shortage the woman is blamed. She has nothing to sell and therefore she is always in a poor condition compared to the man. Mans crops stored in the granary is for personal use. He can decide to sell it.

Food stored in the women's grainy is for home meaning that a women is not all to sell it even if she is need of money to buy food ingredients or for medication purposes. This woman is completely subjected to abject poverty. Men on the other hand have overall of all granaries. Food insecurity in the household can result not only from poor or law production but also the misuse of the harvest by men.

Participation of women is minimal in number and even those few involved their voice cannot be heard because of the male dominating culture. This situation is worse in patriarchy society. Women in matriarchy society are more emancipated, but their counterparts outnumber them. In both societies the Village Council, is a very important organ that deals with land allocation. Unfortunately the representation of women in this important organ is poor. Apparently the Village Land Act provides for equal representation of women and men in bodies dealing with land dispute settlement, which is a positive step ahead. In order to strengthen the spirit of the Land Acts, the Local

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Government Act, 1982 should have been amended so as to give women equal representation instead of the current one third

The society at large is ignorant of the Constitution, Laws and the issues of human rights. Since these laws are not known to them, customary and or religious practices, and general experience are commonly practiced, mostly to the detriment of weak group such as women and children. There is a need of educating people on their rights, especially on the Laws that affect their daily lives. In particular the Laws related to property rights must be known to both men and women.

WHAT SHOULD THE GOVERNMENT DO?

Formulation for By - Laws.

The research has revealed that there are customary practices that are operating regardless of the existing statutory laws. The Village Authorities in cooperation with the District or Municipal Council should prepare by-laws to declare certain customary practices unlawful. Practices such as wife inheritance do not only render women insecure on land but also endanger their lives as they are exposed to the HIV/AIDS disease. This in turn affects production on the farms and the welfare of children. Other customary practices such as dowry should be regulated. The Law of Marriage Act of 1997 does not regard it as one of the elements of legalizing the marriage, however dowry is widely practiced in our societies. The by-law should regulate the amount to be paid, as most of the people feel that it is a symbol of unity between two families. Due to economic hardships dowry has been converted into another source of income. Since the husband feels that he gave out almost all of his income to the wife's parents, there has been a tendency and an attitude of a husband feeling that he bought his wife. Hence upon divorce, the woman who has been working on the farm leaves the land and goes back to her clan people. It is assumed that she goes back to her father, but in fact she has no land from her father. In this process not only the labour is wasted, but also the future of this woman is doomed and the land, which was once upon a time used for production is left unattended.

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Another By-law that needs to be introduced is in regard to storage of food at household level. Findings have revealed that men do control food and cash crops at household level. This practice is stronger in patrilineal societies. Serious attention needs to be paid to the storage system of 'Ichipa' and 'Kihenge' granaries. Separating the granaries perpetuates food insecurity and poverty among married women. The by-law should provide for equal ownership and control of land and its produce.

Review contradicting and discriminative laws.

It is high time that the Government abides by the Conventions already ratified, and therefore repeal and enact gender responsive laws. The Law of Persons contradicts the Law of Marriage Act, 1971. Also the Customary
Law Declaration Order 1963 is discriminative and contradicts the Constitution of the united republic of Tanzania, does not allow gender discrimination.

The Land Laws need to be continuously revised. Use of Customary Law in management and administration of land, works against women's land rights. Provisions on Customary Law application should be reviewed. To ensure security in land, married women, should have their names written in the land ownership certificate/ title deed. The current provisions only presume co- ownership in land, but the title belongs to the husband or vise versa. It is worth noting that, both in law and in practice ownership implies the power to control, manage and administer. If the provisions of co-ownership are left as they are, it will be cumbersome, and costly for women to demand their right in case denied.

A mechanism also needs to be put in place that will ensure that daughters as sons, have rights in land.

Costs involved in the allocation of land.

The Ministry of land should come up with a mechanism that will ensure that those who cannot afford to pay lump sum are able to pay in installments, and reasonable time should be given to them. There should be a mechanism of exempting those people who cannot afford the costs involved in allocation of land.

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Sensitization of Leaders.

Village Council, opinion leaders, women groups as well as the District Council should be sensitized on women's land rights, and food security at household level. This will enable them to articulate and advocate for change of biased customary practices towards women.

New Land Act of 1999 to be operationalised.

Operationalising the new Land Acts of 1999 would also contribute to enhancing women's rights in land.

The Government in cooperation with the NGOs should design a mechanism of providing legal aid and literacy to poor and vulnerable groups in the rural areas.

WHAT SHOULD BE DONE BY THE NGOS AND COMMUNITY BASED GROUPS?

Legal Literacy training.

There is a need of sensitizing the society on women's rights. Women are still being discriminated against because of the fact that they are women. Sensitization should aim at changing the people's attitude and a way of thinking. In improving women's access to land the following group needs to be trained. Women in general, women groups, Village and District Council, Village land Council; extension service workers, traditional leaders and Primary Court Magistrates.

The NGOs providing legal aid should extend their services to villages, to ensure timely justice to women with land related problems in the Villages or Wards.

Provision of credit facilities to empower women economically

The credit facilities are another means of empowering women Economically. This facility must have manageable conditions so those needy women can easily access them. Women should also be trained to manage the credit.

At sub regional level, there is a need to develop ways of sharing information, strategies, researches, initiatives and developments that are taking place within the East Africa countries, and the rest of the world on women and land rights.

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Unlike other research work, the implementation of the recommended action is very important if the struggle for women land rights is to have a meaning. EASSI should not only find ways of supporting proposed actions at National level, but also identify the common problem that cuts across women land rights in the sub –region and design a common strategy to achieve the desired impact.

Further research needs to be done on how to demonstrate decision – making powers at house level. For along time, the nucleus family has been left to conduct its own affairs on pretext that it is a private affair. However it has been proved that democracy, management, food security, peace and many more start at this very household or nucleus family.

Little is known about women and land rights in Zanzibar and pastoral lands in Tanzania. A study should be conducted unveil the situation.

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