

Statutory Law, Patriarchy and Inheritance: Home ownership among Widows in Uganda

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Abstract

This paper discusses the ways in which urban widows in Uganda are deprived of home ownership upon the death of their husbands. It is based on a qualitative research conducted in the middle-income areas of Kampala between 2004 and 2007. The results show that the institutional legal framework and the patriarchal customary practices and beliefs deprive widows of home ownership notwithstanding the gender sensitive Constitution. The study also shows that the special ways in which widows are able to inherit the matrimonial home upon the death of their husbands demonstrate the difficulty widows face to become home owners.

Keywords: *Home ownership; inheritance; Ugandan constitution; patriarchy; customary law*

Introduction

Studies in western countries reveal that inheritance is one of the ways in which women accumulate wealth (Deere, 2006). In this regard a woman becomes the owner of the matrimonial home upon the death of her husband, regardless of whether the home was previously jointly owned or solely owned by the husband marriage. Widows are only denied inheritance rights if they cannot afford to pay the mortgage rates. Home ownership through inheritance in western countries is thus determined by income and affordability. These two factors become crucial in home ownership making it a necessity or a prerequisite to have dual income in order to own a house. This is hardly the case in many countries in sub-Saharan Africa, statutory law does not guarantee a widow's inheritance rights except user rights of the matrimonial home (Asimwe, 2006; Deere and Doss, 2006; Kameri-Mbote, 2001; Okumu-Wengi, 2001; Munalula, 1995; Matere-Lieb, 1995). In many cases, statutory legal systems promote male dominance whereby land and housing are passed on to the male line - from father to son (Kanabahita, 2006;

Narayan et al., 2000; Asiimwe, 2005).

This patriarchal customary system deprives widows of the matrimonial home (Narayan et. al.2000). It is sons and not widows who inherit the matrimonial home and at times brother in-laws of widows have the right to claim household property which includes the matrimonial home unless the male children are old enough to inherit. If the deceased did not have a boy child, his younger brother becomes the heir (White et. al. 2002). They are only guaranteed user rights of the home and upon the death of their husbands become homeless (Okumu-Wengi, 2001; Owen, 1996; Larsson and Schlyter, 1995; Guyer, 1987). Those without children are more vulnerable to be disposed of their matrimonial home (Casimiro, 1996; Narayan, 2000). As a result one of the routes through which women could own property is closed (Miraftab, 2001). Home ownership through inheritance is thus highly gendered and culturally determined in a complex dynamic. This, however, differ in different countries and among ethnic groupings (White, et. al. 2002; Harley and Verbeek, 2005). Although a woman may have the legal right to inherit property through inheritance, this may not be realised if the claim is not socially and culturally recognised as legitimate (Farha, 1998).

Intestate succession law gives the matrimonial home to the first-born son of the deceased in a case where the husband does not make a Will bequeathing the matrimonial home to his wife. Although a husband is free to bequeath the matrimonial home to his wife, few husbands leave behind valid Wills. This state of affairs is examined in this paper which draws upon a qualitative data collected from life stories of widows. The paper discusses the two key determining factors, statutory inheritance law and the patriarchal customary system and some widows' experiences of both.

Statutory inheritance Laws in Uganda: the 1995 Constitution and inheritance

There are two national statutory laws that govern inheritance matters in Uganda namely the 1995 Constitution and the Succession Act (Amendment) Decree No.22/1972. These are examined in this section to establish how they translate themselves in guaranteeing the widow the right of ownership of the matrimonial home. According to the current Constitution, widows have a right to inherit their husband's property. However, it is upon Parliament to come up with a specific law that governs inheritance matters. For example Article 31(2), states that "Parliament shall make appropriate laws for the protection of the rights of widows and widowers to inherit the property of their deceased spouses".

Since the matrimonial home is not specifically mentioned, it is presumed to be part of the estate.

The Constitution gives general guidelines but does not deal with specific laws that govern inheritance matters; the onus is on Parliament to pass the relevant Bills, which specifically look at the detailed aspects of inheritance. While the Constitution seems to guarantee a widow the right to inherit the matrimonial property, this right can only be extended to her through an Act of Parliament. As at the time of writing, Parliament has not passed a new Act that specifically handles inheritance and other family laws. This means that Courts of law continue to apply the old laws inherited from the British Government, despite the various changes that have occurred since independence. The current succession law in place is the Succession Act Amendment Decree No.22 of 1972.

The Succession Act (Amendment) Decree No.22/1972.

The Succession Act, like many laws in Uganda, dates back to 1904. The 1972 Succession Act amended after the Succession Ordinance of 1906, which was based on English common law. The succession Act (Amendment) Decree was a clear attempt to put in place a uniform law of Succession that would apply to both intestate and testate succession (Wagubi, 2003; Okumu-Wengi, 1994). The amendment of the Decree was aimed at addressing gender issues and customary laws (Nanyenya, 1973). As a result, all succession matters shifted from the hands of clan leaders to the Courts of Law. Subsequently, new sets of rules of inheritance, that could neither be classified as custom or as fully statutory, was created. The Succession Act (Amendment) Decree No.22/1972 is divided into two parts; one part deals with properties of persons who die testate and the second deals with properties of persons who die without leaving wills (intestate). It is important to look at each of these sets of laws in relation to the matrimonial home.

Intestate Inheritance

Intestate inheritance refers to situations where a person dies without leaving behind a Will to dispose of his or her property. Although everyone above 18 years of age is allowed to make a Will, the majority of Ugandans die intestate (Okumu-Wengi, 1994). For example, only five out of every 100 cases reported to the Administrator General's office die testate. The reasons include, among others, the superstition that people attach to writing a will whereby many people

believe that writing a will hastens one's death (Kanabahita, 2006). Other reasons include lack of awareness about how to write a valid Will and lack of attention to its importance. Since the majority of people, especially men with property, die without any will the law provides for the appointment of a personal representative of the deceased to administer and distribute the estate of the deceased persons according to defined and fixed percentages. According to the distribution schedule a widow acquires 15 percent of the entire estate, the children can receive 75 percent, the legal heir one per cent and the dependants nine percent. The personal representative of the deceased, referred to as the administrator, acquires Letters of Administration before she or he can effect distribution of the property according to the schedule laid down (Nayenya, 1973). However, the matrimonial home, legally referred to as the principal residential holding, is not among the list of items distributed (Kanabahita, 2006; Rukimirana, and Bateson, 2000).

The matrimonial home is kept upon trust for the legal heir who is the eldest son of the deceased. In case there are no sons, any nearest male relative of the deceased inherits the home. The legal heir is defined as the nearest living male relative in patrilineal descent to a person who dies intestate. Lineal descent is that person who in a direct line of ancestry in an ascending line for example, a son and his father, grandfather, great-grandfather or in a direct descending line for example, between a man, his son, grandson, and great-grandson (Rukimirana and Bateson, 2000). Since the intestate Succession law prefers the male child in the appointment of a legal heir, it can be argued that the law promotes patriarchal inheritance customs, which in many cases discriminate against women.

While one would expect the inheritance statutory law to protect the widow, instead it supports the cultural image ideology that encourages male dominance. The intestate succession law guarantees the widow only the user rights to the matrimonial home and the eldest son of the deceased inherits the matrimonial home (Wagubi, 2003; Okumi-Wengi, 1994).

The intestate law does not recognise the widow's financial contribution to the matrimonial home. The Law looks at a widow as a dependant and not as a contributor to the home. Since very few male Ugandans leave behind valid wills, the administration of most estates, which include the matrimonial home, no doubt is handled under intestate succession laws (Kanabahita, 2006). Since under intestate succession the matrimonial home is not among the items distributed, we can conclude that the majority of Ugandan widows are unlikely to inherit the matrimonial home unless there are special circumstances. What makes the law contentious is that it does not cater for matrimonial homes that are jointly owned by married women with their husbands. The intestate succession law is also silent on who inherits what when a married woman dies. The Succession Law

therefore assumes that the matrimonial home belongs solely to the husband and therefore upon a wife's death, the husband automatically inherits the home.

Whereas the Constitution is gender sensitive, the intestate Succession law still displays elements of customary law ideology in its provisions. The Succession law provisions still emphasise male dominance that disregards a woman's contribution to the home. Unlike marriage laws where a married woman can present her case before the judge with proof of her contribution, in succession law there is no one to make a defence after a husband's death. Since husbands do not to make wills to specifically cater for their wives' contribution, widows have no choice but to depend on the unfair distribution coded in the intestate law. The intestate law does not take note of the different residential areas, urban and rural. The law ignores the contribution married women make to home projects in urban areas.

Therefore, granting the matrimonial home in the city to the eldest son of the deceased instead of the widow deprives the widow of her lifetime's contribution to the home project when her name is not on the title deed. Unfortunately, Parliament has not made substantial reform in the family laws over the years, although there has been a demand for change from NGOs and other women civil society groups representing women's rights.

Recent challenges on the intestate Succession Law

Recently, the Law and Advocacy for Women in Uganda, one of the NGOs in Uganda, petitioned the Constitutional Court to declare a number of clauses in the Succession Act unconstitutional. On April 5, 2007 the Constitutional Court declared Section 27 of the Succession Act, which guarantees a widow only 15 percent of the value of the estate and Rule 8 (a) of the Second Schedule that provides for a widow's right of occupancy only until she remarries, unconstitutional. The resultant lacuna created in the Succession provides an opportunity for lawyers to successfully argue their cases for widows. Although the Constitutional Court declared these provisions in the Succession Law unconstitutional, what remains to be seen is whether Parliament will change the law itself. Legislation needs to be put in place to address the widow's share in the entire estate of her deceased husband as was the inheritance of the matrimonial home. The Constitutional Court declared only the clause which states that a married woman loses occupation if she marries, unconstitutional: But the clause that states that the matrimonial home is not part of the estate to be distributed, remains contentious. Since the widow is unable to transfer the title deed of the matrimonial home into her name, it becomes difficult for her to use her

deceased husband's title deed as collateral for a loan. She thus cannot utilise the matrimonial home to generate income for the family. For example, in a case where a husband leaves a big matrimonial home in a prime area, the widow may find it difficult to sell it, buy a smaller one, and invest the remainder of the profit in business ventures. Hence a widow's freedom to utilise the matrimonial home for other purposes than living in it is curtailed.

It is not surprising; therefore, that individuals and civil society groups have tried to urge Parliament to approve the Domestic Relations Bill in order to address such inequalities in ownership rights (Kawamara, 2003; Kharono, 2003; LaShawn, 2005).

Testate Succession

Testate inheritance refers to a situation where a deceased person dies having written a statement that legally is called a Will (Nanyenya, 1973). In the Will, a person expresses his/her wishes regarding the disposal of his/her property and other rights or obligations (Okumu-Wengi, 1994). The testator is expected to name an executor or executors of the Will and the beneficiaries of the estate (Nanyenya, 1973).

The main strength of the rules of testate succession in the Succession Act is that they allow a person to dispose of his/her property as he wishes without following defined rules (Rukimirana, and Bateson, 2000). A husband is free to bequeath the matrimonial home to his legal wife. Therefore, the testate statutory law makes fair provision for a widow (Okumu-Wengi, 1994).

Patriarchal customary laws

Under customary law, women do not inherit property on widowhood. When a man dies, the clan appoints an heir, usually the first son in the family. He inherits the property of the deceased and is supposed to take care of the family. A widow only holds goods in trust for her sons until they are adults. The widow's right to access to the home and property within the home depends on whether she decides to remarry or not.

Customary law puts a woman in an economically insecure position. She inherits no property despite the fact that she has contributed to it through her unpaid labour in the home. The widow is left at the mercy of her husband's line and his heir. As a result, women continue to be marginalised as far as property ownership is concerned. Hence, statutory inheritance laws tend to echo the social-cultural norms that promote male supremacy. The life stories that follow

the above discussion present the different situations in which married women were denied inheritance rights upon the death of their husbands.

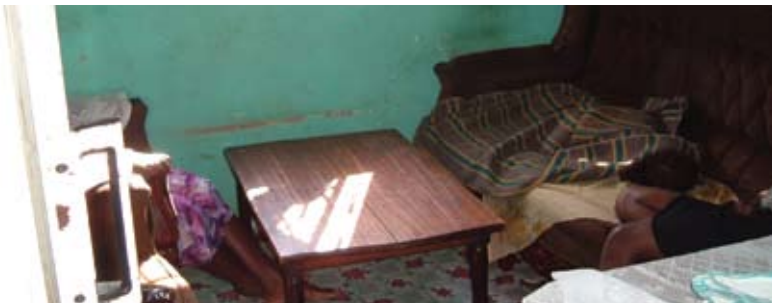
Patriarchal practices and beliefs in depriving a widow of home ownership through inheritance: the story of 'Evelyn Kalungi'

Evelyn is a widow who was unable to inherit the matrimonial home. Her husband died before he acquired the title deed. Evelyn lives in two bed-roomed servants' quarters with her two daughters and a stepson, aged 12, 10 and 9. The house is has a corrugated roof, with electricity (see fig.1). Evelyn moved out of the former matrimonial home (Fig.3) and rented it out to generate income to pay school fees for her children.

Figure1: Evelyn's current accommodation in the servant's quarters



Figure 2: The interior of Evelyn's two-roomed house



Evelyn, aged 30 years was born into a poor family in Mukono District. She had only six years of primary education due to lack of school fees. As a result she could not acquire any formal employment. Due to social problems in the rural village, Evelyn migrated to Kampala in search of any informal job. She rented a room in Kiwatule where she lived alone. She ran different kinds of businesses for a living and earned a reasonable income. It was at Kiwatule that she met Peter who was working with 'KK Car Clearing Company'.

Figure 3: Evelyn's main house



In 2000 Evelyn was married to Peter under customary law and they had two daughters. While married, Peter also had a son with another woman. By the time Evelyn was married to Peter, he had acquired a plot of land from his father but had not transferred it into his name. The couple first constructed a small housing unit (Evelyn currently lives in this unit) where they lived before they built the main house. Evelyn spent part of her income from her business on building materials for the main house while Peter met other construction expenses. The couple later moved from the servant's quarters to the main house.

In 2005, Peter abruptly fell ill and within two months he died. He left no Will. Immediately upon his death Evelyn's in-laws demanded the car keys on the pretext that they needed to use the car for the funeral preparations. After

the funeral Evelyn learned that her in-laws had sold off Peter's car. Evelyn learnt from the neighbours that her in-laws had transferred the Title Deed of the matrimonial home to which she had contributed. The action of the in-laws was aimed at deterring Evelyn from claiming inheritance rights to the home. By registering the home in their grandchildren's names, the property remained in the male line. If the matrimonial home was to be registered in Evelyn's name, it would mean transferring the family property to Evelyn's patriline. Although Peter died intestate and before he processed the title deed, Evelyn could not register the property in her name. The plot on which Peter built the matrimonial home was registered in Evelyn's father-in-law's name. His family thus had control over the title. Evelyn could not register home in her name because she lacked the consent of her father-in-law to do so.

In addition, before Peter died, his father had not given him an allocation letter for the plot of land on which he built the matrimonial home, as required by the Kiganda custom. According to Evelyn, in Kiganda custom when a parent gives a plot of land to his child, he or she is supposed to do so in writing. This agreement enables the child to register the land in his or her name. In Peter's case, there was no such agreement and when he died the land reverted to Evelyn's father-in-law. He then registered the land in his grandchildren's names. Had there been a written agreement between Peter and his father, Evelyn could have used it to register the title deed in her name. The matrimonial home legally now belongs to the children and hence Evelyn can only exercise user rights. When Evelyn's husband died in December 2005, she could no longer sustain the family because of her small income. She moved out of the matrimonial home and rented it out to generate school fees for her children. She consoles herself that her children will benefit from her contribution. Although she continues to put up new structures on her deceased husband's land, she plans to acquire her own land where she can construct her own home. In summary, Evelyn was unable to exercise inheritance rights over the matrimonial home she contributed to.

Deprivation of the home through Will making

Although husbands have the right to bequeath the matrimonial home to their wives, a widow's inheritance right to the home depends on how her husband writes a Will. The discussions that follow demonstrate the ways a widow is deprived of the home even when her husband dies testate.

Jennifer, a widow, was unable to inherit the matrimonial home because her husband did not make her the sole beneficiary and sole executor. Jennifer is 54 years of age. She lives in Kiwatule in her own three bedroomed house

with six of her children. The house has a corrugated roof with water and electricity (Fig.4).

Jennifer was born in Luwero, 50 miles from Kampala, and grew up in a poor family in Katikamu. Her life was one of pregnancies with different men, three of whom were married. As a result she had four children, each with a different father, and two from the man who finally married her.

Jennifer studied at Katikamu senior secondary where she completed seven years of education. In 1966, she dropped out of school due to pregnancy. After her first child was born Jennifer lived with her sister in Gombe and with the help of her brother in-law she completed her eighth year of study. She later joined Ishaka Hospital, where she did a first aid nursing course and qualified as a nurse aid. In 1970s she went to Kendu in Kenya and completed a three-year nursing course and qualified as a nurse. She then returned to Uganda and worked in Gombe Hospital. At Gombe she became pregnant again with her second child, whose father was a married man. Jennifer later left Gombe for Kampala and worked at a private clinic for one year.

Figure 4: Jennifer's house, registered solely in her name



In 1974 Jennifer undertook a course in midwifery at Mengo Hospital and completed in 1975. Meanwhile, she became pregnant with her third child from

yet a different father. She then acquired a job with the Muslim Supreme Council as a nurse. Her employer gave her a free house on South Street in Kampala city centre. She then left the father of her third child and moved to the house provided by the employer. She stayed there for five years. In the 1980s, Jennifer met Jamaine, who was a civil servant and a divorcee with three children. In 1981 Jennifer was legally married to Jamaine. She then stopped working at the Muslim Supreme Council and shifted to Kiwatule. In their nine years of marriage, the couple lived in Jamaine's home whose title deed was registered solely in his name (Fig.5) The couple had two children, a boy and a girl now aged 19 and 24 years. Having lost her job at the Muslim Supreme Council because of marriage, Jennifer used her qualification as a midwife to start a clinic in her matrimonial home to generate income. Had Jennifer not had any qualification, she would most likely have depended on Jamaine for income. She also jointly opened a pharmacy and a clinic in Ntinda with Jamaine. Although Jamaine invested more money in the pharmacy and the clinic than Jennifer, Jennifer's medical experience was an asset to the business.

Figure 5: Jennifer's original matrimonial home, registered solely in her husband's name



In 1990 Jamaine died testate. In his Will Jamaine made Jennifer usufruct of the home. She was allowed to live with her two children until she died or remarried. Her husband also made Jennifer as well as two male relatives executors. While Jamaine had the right to bequeath the matrimonial home to Jennifer as a sole beneficiary and to make her sole executor of his estate, due to patriarchal ideology, he preferred to include two other executors. Jamaine's action is a clear indication that he wanted his property to remain in the male line. Had Jamaine made Jennifer the sole executor and beneficiary, she would be able to transfer the home into her name. This could have the patriarchal family property reverted to her clan. Hence Jamaine included the two male executors as custodians of the family property. After the funeral rites, Jennifer and the other executors registered the Title Deed jointly in their names. The existence of the two male executors on the Title Deed limited Jennifer's inheritance rights. As a businesswoman, Jennifer could not use the Title Deed as collateral to borrow money. To do so, she needed consent from the two male executors. In 1995, Jennifer 'a woman of loans' as she describes herself, bought her own plot of land and registered it in her own name. Thereafter, Jennifer was able to acquire a loan from a financial institution. With the loan from the bank and the income from the pharmacy and the clinic Jennifer built her own home within two years. She converted the matrimonial home into a health centre and moved to her own house. Jennifer is proud to have a home of her own, as she puts it:

"I left that house and built this house I am in now. This house I am in is my own house; it's a woman's house." (Fig.5)

In conclusion, although Jennifer's husband died testate, the Will did not guarantee Jennifer outright inheritance rights. Jennifer was unable to inherit the matrimonial home because her husband didn't make her the sole executor and sole beneficiary.

Jennifer's life story demonstrates that the way a husband writes the Will determines the widow's inheritance rights to the home. Hence husbands can deny their wives inheritance rights if they do not make their wives sole beneficiaries and sole executors. Though Jennifer's husband had the liberty to bequeath the matrimonial home to his wife as a sole beneficiary and sole executor he preferred the home to remain in the male line by including two of his male relatives as executors in the Will to protect the family property.

The above discussion shows that patriarchal cultural beliefs and practices can affect home ownership through inheritance. Evelyn's husband died before he acquired the Title Deed of their home. She was unable to register the home in her name. Widows in Uganda do not automatically inherit the matrimonial home, they inherit the matrimonial home only under special circumstances. The discussions that follow present evidence on the special ways in which

widows inherited the matrimonial home.

Inheritance through Manipulation of the existing law: the Story of Namatovu:

Namatovu is a widow who inherited the matrimonial home even though her husband died intestate. Namatovu, aged 56 years, was born into a big family of 15 siblings in Bugerere Mukono District.

She lives in Kivatule in a four bedroomed home with her three children aged 24, 28 and 30 years. The house has a corrugated roof, two sitting rooms, two bathrooms, two toilets, and has electricity and water (Fig 6).

Figure 6: Namatovu's home in Kivatule that she inherited after her husband's death



Namatovu studied at Nagalama primary school from 1952 to 1960, before she joined Namagunga secondary school in 1961. She completed her eleventh year of education in 1964. She then joined Nsambya Nursing School for a three-year course in nursing, qualifying as a nurse in 1969. Namatovu joined World Health Organisation based in Mbale from 1969 to 1972. In 1972 she enrolled in Mulago School of Nursing and completed an advanced course in nursing in 1974.

In 1976 Namatovu was married to Saul, a police officer working with the Criminal Investigation Department (CID). They had three children, one boy and two girls aged 30, 28 and 24 years respectively. However, her husband had three other children, two girls and one boy, from other relationships. From 1974 Namatovu worked at Mulago Hospital as a registered nurse until 1986 when she became unemployed due to the political changes. She remained at home as a housewife until she left for the United States in 1988. While in the United States, she attended a course in pediatrics. In 1991, Namatovu returned to Uganda and joined Saul who was by then living in a government-owned house. Saul later bought a quarter of an acre (25 decimal) plot of land from one of the landowners in Kiwatule. He made structural building plans in his name and constructed a home on the untitled land (kibanja)*. In 1995 Saul died intestate, before he acquired the Title Deed for the plot of land on which he built the matrimonial home.

After the burial, Namatovu moved from the government house to the unfinished and untitled house in Kiwatule. Her in-laws granted her permission to solely administer Saul's estate. Namatovu obtained letters of administration to enable her to claim Saul's death gratuity and pension. Although Namatovu benefited from Saul's pension and death gratuity, the amount was inadequate to pay for her children's school fees and complete the matrimonial home. Namatovu also used part of Saul's death gratuity to start a clinic at home. Namatovu was able to start a clinic because she had a nursing qualification.

With income from the clinic Namatovu was able to construct more rooms for renting and expand her medical service business. She also rented a house in Ntinda where she started another clinic. With regular income from her clinic and rentals from the rooms, and using household property as security Namatovu borrowed more money from the informal credit associations within Kiwatule to build more rooms for renting.

Because of the enormous financial demands of completing the matrimonial home, Namatovu needed to access bigger loans from financial institutions. To do so, she needed a title deed in her own name. Namatovu then contacted the local council officials to introduce her to the landowner of Saul's plot of land. Because the local council officials already knew her as one of their residents they introduced her to the landowner and convinced him to sign the transfer forms in her favour. Namatovu paid about 3 000 dollars for ownership. Namatovu registered the plot of land with the matrimonial home solely in her name and acquired the Title Deed in 2005.

Namatovu was able to beat the inheritance system and its patriarchal laws because Saul died before he acquired the Title Deed and secondly her in-laws did not bother to follow up matters concerning their son's home. Namatovu's in-laws

were liberal and good-natured judging from their actions to grant her a family letter to solely administer Saul's estate. This is reflected in Namatovu's words after further probing as to how she succeeded in registering the plot of land in her name when her husband died intestate "My in-laws did not conflict with me at all and even when I received the death gratuity money they never insisted on sharing it. My in-laws did not bother me with the money or attempt to evict me because they are naturally good people. I observed their good behaviour before whereby all the women who have been married in this family after losing their husbands are left with their property. The only complaint I have with my in-laws is failure to assist me to pay the children's school fees."

Although legally letters of administration do not permit an administrator to register the plot of land in the widow's name especially, where her husband dies intestate, Namatovu managed to work around the inheritance system with the assistance of local council officials. She convinced the landowner through the local leaders to sign the transfer forms in her favour, knowing that her in-laws would never question her actions because of their good nature.

Had Namatovu known that her in-laws were problematic and possessive of their son's estate, Namatovu would most likely not have dared to register the plot of land solely in her name. Namatovu was able to have the plot of land registered solely in her name for four reasons. Firstly, she was single and free from the control of Saul. Had Saul been alive, he would most likely have registered the plot of land solely in his name, judging from the building's structural plans, which he registered solely in his name. Had Saul had an intention to register the plot of land in both his name and Namatovu's name; he would not have registered the building plans in his name alone.

Secondly, Saul died intestate and Namatovu found it extremely difficult to register the deed into her name. Thirdly, the Title Deed of the land on which Saul built the matrimonial home was not in any of Saul's relatives' names. Had the Title Deed been in the names of Namatovu's in-laws, Namatovu would most likely have found it difficult to have it registered in her favour. Because the title deed was not in the names of any of Namatovu's in-laws she was able to convince the landowner, through the local leaders, to sign the transfer forms in her favour. Fourthly, Namatovu's in-laws did not bother to follow up matters concerning the property because they were generous.

Although Namatovu's in-laws authorised her to acquire Letters of Administration, this good gesture did not necessarily mean registering Saul's home in her name. Under Succession Law, an administrator of a deceased estate is not supposed to transfer the deceased estate into his or her own names but he or she is supposed to protect and administer the deceased property on behalf of the beneficiaries who in many cases include the children, the widow, and the

deceased relatives. Fifthly, Namatovu was able to pay an equivalent of 3 000 dollars to the landowner. In summary, Namatovu was able to register the home in her name and got the support of local council officials.

Conclusion

The findings in this paper demonstrate the dominant patriarchal cultural practices as far as inheritance is concerned. While widows in western countries are guaranteed inheritance rights of the matrimonial home upon the death of their husbands through legislation, the legal framework in Uganda does not guarantee a widow inheritance rights upon the death of her husband. Inheritance matters are determined culturally. In this study I argue that the state presents a difficulty to a widow's inheritance rights. State laws carry with them customs that regard women as subordinates.

Ugandan inheritance practices are patrilineal and therefore, a widow is not allowed to inherit the matrimonial home both through customary or statutory law. The first-born boy child of the deceased inherits the matrimonial home. Even in situations where a husband dies before he acquires the Title Deed of the home, a widow can register the matrimonial home in her name only through manipulation of the legal system. In this case the widow must have enough money to pay for the transfer costs and must receive support from her in-laws.

On a cultural and interpersonal level, there is a complex nature of patriarchal customary beliefs that are deep rooted. Firstly, since married men insist on registering the matrimonial homes solely in their names during marriage, it indicates that they do not wish their wives to inherit the matrimonial home upon their death. In addition, the husbands' relatives are not willing to transfer the matrimonial home to the widow even in a situation where her husband died before he acquired the Title Deed.

Instead, they prefer to register the home in his children's names to ensure that the home remains in the male line. Secondly, many men die intestate which, simply implies that they prefer the matrimonial home to remain in the male line. Hence a widow is disadvantaged at every level and therefore has nowhere to run to demand her inheritance rights. The few husbands who make Wills rarely bequeath the matrimonial home to their wives as sole executors and beneficiaries.

When a husband does not name his wife as sole executor and sole beneficiary, he leaves the widow at the mercy of the other executors. Widows not only have to negotiate around patriarchal statutory law at institutional level, but also have to negotiate with customary laws at the interpersonal level.

Endnotes

* Ekibanja is a plot of land managed by a de facto owner, while it belongs to a de jure landowner. Often, though not always, it applies to tenants on mail or freehold land. See Nabwire, S., *The Impact of Health User Fees on Women's role in Household Health Care Decision-Making in Mukono District, Uganda: A Gender Analysis*, Ph.D Thesis, Queen Margaret University College, UK, 2003, p.213; In the period prior to colonialism, the different ethnic groups had land tenure systems governed by their traditions and customary practices. In Buganda for example, prior to 1900, there were four categories of rights of control over land:clan rights – Obutaka; the rights of the King and his chiefs – Obutongole; individual hereditary rights of occupation – Obwesengeze; peasant rights of occupation – Ebibanja. See Nkurunziza, E., *Informal Land Delivery Processes and Access to Land for the Poor in Kampala*, DFID Contract No. SSR Project R8076, Working Paper

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