

Some developments in Court interventions in Women's Access to Land Justice in Uganda: A view from the Bench

Hon. Lady Justice Olive Kazaarwe Mukwaya

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Judiciary Gender Policy 2012

Includes a strategy constructed on 5 Pillars:

- a. Ensure Equal Access to the Judiciary by women and men
- b. Ensure Timely and Responsive Administration of Justice for women and men
- c. Develop Capacity and skills for both judicial officers and non-judicial staff in Gender justice
- d. Strengthen Research and Data Collection on Gender and Access to Justice
- e. Address Gender Issues in Organisational Management and Development

Experience with the Judiciary Policy

- Multiple trainings of Judicial Officers at the Judicial Training Institute
- National Association of Women Judges Uganda directly mandated to deliver trainings on the subject to judicial officers
- Emergence of gender sensitive judgments among graduates of these trainings;
- SEE: Soroti Civil Appeal No. 46 of 2013 Adong Simon and others v Opolot David (reported on ulii)
- Ebiju & Anor v Echodu (Civil Appeal-2012/43) [2015] UGSC 122 (17 December 2015)
- Sefo Tumwesigye v Vangirista Bagamutengyera and Anor (Land Civil Suit-2015/53) [2021] UGHCLD 61 (31 March 2021);

Summary for court decisions on Women's Access to Land

Soroti Civil Appeal No. 46 of 2013 Adong Simon and others v Opolot David (reported on ulii) – Judge Henrietta Wolayo

1. A widow has a right to dispose of the land she inherited from her deceased husband as surviving spouse in light of **Article 31 (1) of the Constitution** that confers on men and women equal rights at marriage, during marriage and at its dissolution.

- **Ebiju & Anor v Echodu (Civil Appeal-2012/43) [2015] UGSC 122 (17 December 2015)- Judge Henrietta Wolayo**

2. The custom that bars widows who have inherited customary land to exercise proprietary rights is discriminatory and against the welfare of women and contrary to article 33(1) of the Constitution, which accords women equal dignity with men.

Summary Cont'd

- 3. With respect to customary tenure, although section 27 of the Land Act Cap 227 as amended permits the taking of decisions in accordance with customs, traditions and practices of the concerned community, such decision must not deny women access to ownership , occupation or use.
- 4. Article 32 (2) of the Constitution prohibits customs , cultures and traditions that are against the dignity, interests or welfare of women. Article 5 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) affirms the same principle when it urges States to modify social and cultural patterns of conduct of men and women with a view to achieving elimination of prejudices , customary and other practices which are based on the idea of inferiority or superiority of either of the sexes.

Summary of findings cont'd

- Sefo Tumwesigye v Vangirista Bagamutengyera and Anor (Land Civil Suit-2015/53) [2021] UGHCLD 61 (31 March 2021);- Judge Olive Kazaarwe Mukwaya
- 5. Court held that 1st Defendant was the rightful owner, of the first part of the suit land, having been a co-beneficiary of the marriage gift given to her late husband Emmanuel Bagamutengyera under Kigezi custom. She was well within her rights to sell the land having received consent from her children who ordinarily derived sustenance from the land in accordance with section 39 of the Land Act.

Judiciary Client Charter- 2020-2023

- Communicates the Judiciary's commitments in service delivery as follows:
 - **Vision**- Justice for All
 - **Mission**- To be an Independent, Competent, Trusted and Accountable Judiciary that Administers Justice to All
 - **Core Values**- Independence & Impartiality, Transparency, Professionalism, Integrity, Accountability and **Equality and Respect**

Client Charter cont'd

- **Select Service Commitments**

- a. Make just decisions of court to all manner of people without fear or favour, affection or ill-will.
- b. Treat all court users with dignity, courtesy, patience and respect.
- c. Provide accessible, timely and quality judicial services.
- d. Ensure that adequate compensation is awarded to victims of wrongs.
- e. Employ and deploy well trained professionally competent judicial staff and continuously build the capacity of all our staff.
- f. Provide services in an honest and transparent manner.
- g. Uphold the principles of justice, equality and affirmative action.
- h. Provide timely and appropriate actions on poor service delivery.

CONCLUSION

There is commitment at the institutional level in the Judiciary to provide an environment for women's access to land justice. Progress in my view, shall be demonstrated when individual judicial officers continue to apply the legal principles imparted through the regular training on this subject.