

SPECIFIC RECOMMENDATIONS

from the

GRASSROOTS ACADEMY

on the Legal Empowerment of the Poor

Organized by

Uganda Community Based Association for Child Welfare (UCOBAC)

in partnership with

Huirou Commission – New York

Grassroots women from 7 districts gathered at the grassroots academy at Busembatia Hotel, Iganga District from 13th to 16th November 2006 and spent their time sharing, learning, and exchanging knowledge on the legal empowerment of the poor, and creating the following recommendations for policy reform.

Issues and recommendations on property rights

1. Poverty

The participants highlighted the fact as much as every Ugandan has a right to property and the constitution provides for the protection of personal property, many of the grassroots people are too poor to afford the acquisition of properties such as land and animals.

It was also highlighted that those that have properties like land, only have user rights of the same.

Recommendations:

- To empower the rural people with entrepreneurial skills to increase their incomes so that they acquire properties. Government efforts to address issues of poverty do not permeate to the grass roots.
- Supporting income generating activities through provision of income in kind. Participants shared experiences on how projects that provide start up capital in kind like cattle have been helped tremendously.

2. Corruption amongst Local and Clan leaders that impede the poor from enforcing their rights to property.

Currently, the Local Council II courts can handle matters relating to land as a court of first instance and clan leaders also handle matters relating to land, not by law as such but because the rural people entrust them to solve family disputes to land.

Land being the main source of livelihood for the poor, there are usually many disputes that arise in respect to ownership and usage. It was noted that the Leaders are often times

bribed by the able party with a good or bad case. There are no set fees for filing in Local Council Courts and this means that it is at the discretion of usually the Chairman so it could be high or low.

That notwithstanding, when the poor lose their cases, they are denied the record of proceedings which they must use when filing in the next court because they have been comprised.

It was reported that in case of a land sale by anyone in the community, the local leaders interfere with the sale so as to take a percentage (about 10%) of the sale price. The cost is met by the vendor and/or buyer. This cost has no legal backing whatsoever and is simply a manipulation of the poor.

These factors are hindrances for the poor enjoying their rights to property.

Recommendations:

- Supporting anti-corruption initiatives at the lowest levels of Government.
- Empower the community to demand satisfactory service and accountability from their leaders.
- More emphasis should be made in strengthening legal structures at grass root level. Much has been done in the main stream legal system and yet not much is done in relation to the courts that are nearest or most accessible for the poor.
- Government should issue guidelines on court filing fees in Local Council Courts as well as emphasize the mandate of Local Councils in land transaction. This should be done with consideration of opportunities and outcomes for the rural and urban communities.

3. Cultural beliefs that do not support the property rights of women and children

It was noted that in the rural areas, females are marginalized especially in distribution of property after the death of either a spouse or a father. Real property like land is given to the boys while the girls either get nothing or other properties that are not of any value.

In the rural communities, when the father of children dies, the heir takes over the home including the widow and management of the property now lies with the heir. The children and their mother will often not have a share of their father's property as is required by law because there is now a "caretaker."

It is even worse in situations where the children have been orphaned completely; the property is taken over by the "caretaker" even if it is a child-headed family with one of the children being their father's heir.

Recommendation:

Strengthen government organs whose mandate involves working directly with the community, for example, the Probation and Social Welfare Officer and the Community Liaisons Officer. These offices should be empowered to conduct community awareness

sessions regarding issues of property rights of women and children. This will help change attitudes of the people in the Community.

4. Government policy on compulsory acquisition of land

Whereas it is constitutional for Government to acquire land compulsorily for public interest as long as they are compensated adequately. When the land of the poor is compulsorily acquired, their bargaining power is low and this means that often times the compensations given to them are not adequate. This is much the same even when such transaction is with a big investor.

There are also situations where the people settle in gazetted areas, e.g. forest reserves, wetlands, without knowledge of the fact that the areas are gazetted. They are evicted even if they settled there legally. This is done without compensation usually.

Recommendations:

- The government should involve the poor people in making decisions relating to their property.
- The community should be empowered to constitute themselves into a committee/group to increase the bargaining power of members of its community in case of a compulsory acquisition. These committees should be recognized by the Government in matters of compulsory land acquisition.

5. Community ignorance on property rights

It was noted that the community is often ignorant of property rights which hinders promotion and protection of the same. For example, a widow usually has no say in distribution of her late husband's property since the deceased's heir is left in control of all property including the widow and the orphaned children.

Recommendation:

Government should strengthen its structures in the community to consistently create community awareness on human rights including property rights.

Issues and recommendations on Financial sector development and access to credit to facilitate entrepreneurship

1. Poverty

It was noted that the poor would like to access credit facilities but most banking institutions require collateral to lend money. It goes without saying that the poor people do not have the kind of property that banks can take as collateral and those who have properties like land; it is often times not titled and hence can not be used. This means the poor are unable to access credit facilities and instead resort to family members, money lenders and savings clubs as a way of financing their businesses, if any.

The above notwithstanding, the mushrooming microfinance institutions have done a lot in improving people's incomes, but the interest rates are very high. Further, the participants shared that when someone obtains money from a micro finance institution to invest and repay the loan in say six months, the person is expected to start paying within one or two weeks after receiving the loan. This is unrealistic in any case.

The government policy – “*Bonabagawale – Wealth for all*” has not yet taken off (or if it has, the grassroots people do not know how it operates).

This leaves the poor people in a hopeless situation.

Recommendations:

- Government should move to sensitize the community on issues relating to finance, credit facilities including the “*Bonabagawale – Wealth for all*” policy and entrepreneurship skills as well as financial management so that the loans are put to good use. This should be done using community based approaches like community Training of Trainers (TOT)
- Government should ensure standardized interest rates in banks and microfinance institutions and fair terms of payment considering opportunities and outcomes of the rural and urban communities.
- Government should ensure that finance and credit facilities are extended to the grassroots communities. It was proposed that this should be at the County level so as to reduce transport cost which would hinder access to such services.
- Government should financially support community initiatives like “*Nigina – merry-go rounds*” through which most grassroots women acquire loans and property. It was proposed that a proportion of the “*bonabagawale*” scheme should also be channeled through merry-go rounds so as to benefit the biggest part of the population.

2. Cultural practices that discourage innovation

It was noted that in some communities, socially and culturally it is only the man to work and the woman stays at home or goes to the garden to grow food for home use and small scale trade for which the man finds the market.

The women that have broken away from this kind of tradition have been branded rebels and this sometimes culminates into domestic violence.

Recommendation:

- Strengthen government organs whose mandate involves working directly with the community for example the Probation and Social Welfare Officer and the Community Liaisons Officer. These offices should be empowered to conduct community awareness sessions regarding issues as such. This will help change attitudes of the people in the Community and encourage participation of both men and women.

3. Lack of market for produce

It was highlighted that although the people in the community grow much crops for trade, they lack the markets to sell the produce. The middle men that go to the community to buy the produce exploit the people by taking their produce at very low rates. The community has no choice but to sell at such rates because if they do not, their produce will go to waste.

This also highlights the fact there is no or little cultivation of traditional cash crops like coffee and cotton which were affected by lack of market.

Recommendations:

- Government should strengthen the services of extension workers in the community and provide good farm equipment.
- Government should increase agricultural subsidies.
- Government should re-establish cooperative societies.
- Government should identify stable markets for the farmer's produce.
- Government should improve infrastructure and security in the communities to enable the farmers transport their produce to market places.

4. Ignorance of market prices

Grassroots farmers are often ignorant of the prevailing market prices and therefore have a low bargaining power in the sale of their produce.

Recommendation:

Government should ensure timely dissemination of information regarding prevailing market prices as a strategy to empower farmers to bargain appropriately.

Issues and recommendations on labor rights

1. Ignorance of labor rights;

It was noted that the biggest part of the grassroots communities are not aware of rights relating to employment. For this reason, most or if not all their labor rights are violated without questioning. For example, employees are usually given minimal wages which they whole-heartedly accept with an assumption that they are being helped by the employers.

Recommendation:

Government should sensitize the community on issues relating to labor rights so to change community perceptions of employment. This should be done using community-based approaches like community Training of Trainers (TOT)

2. Gender discrimination/gender stereotyping

In the informal sector, society has cut out different roles for men and women, for example riding “*boda-boda*” (motor bikes) and building works are taken to be men’s jobs whereas market vending, hair braiding, and waiting in restaurants and hotels, which are taken to be women’s specialties, are also done by men.

Women do a lot of work which is not recognized (not paid), but which is instead considered to be their role.

There are many women who are able to do as much as the men are able to do, but because of their sex, they are not employed.

Recommendation:

Government in partnership with civil society organizations should sensitize communities on issues of non discrimination of all forms to foster attitude change amongst the people.

3. Work conditions

It was highlighted that in the informal sector, the conditions of work are unsatisfactory, for example;

- Employees in maize mills, paint industries, and cleaners often work without protective gear.
- Besides not having protective gear, there is no job security because employees are often times not given appointment letters.
- There is also no provision of any form of leave.

This is further compounded by the high levels of unemployment so that employees would rather stay under bad working conditions than leave the job or demand better conditions.

Recommendations:

- Government should formulate policies and law to protect employees in the informal sector and further sensitize communities on the same.

4. Child labor

In rural communities, children do heavy work without pay. For example, they make bricks and transfer huge brick piles from one point to another. This kind of work is usually considered “help” from the child and such a child is considered an “obedient and good child.” This has had health implications where some children have reported severe back problems due to the heavy work load.

Recommendation:

Government in partnership with child welfare civil society organizations should ensure promotion and protection of child rights by strengthening local government structures like the probation office to monitor child rights observance.

Issues and recommendations on access to justice and rule of law;

1. Traditional/clan courts discriminate against women

Whereas traditional courts are accessible, financial implications are minimized, and the language is familiar, they have been noted to be discriminative of women. This is because traditionally, only the men are the community judges/elders. If there is a matter involving a man and a woman and there are cultural roles, experience has shown that the court will side with the man.

This is in total disregard of the written law, say on equality before the law and the fact that cultural practices that are discriminatory and void as stated under the Constitution of Uganda of 1995.

Recommendation:

There is need for government to integrate the customary system of dispute resolution into the mainstream legal system so as to import into it issues of gender sensitivity and handling matters in accordance with written law hence proportionate punishment among others.

There will however be need for government to train elders about the legal system.

2. The formal justice system is inaccessible to the poor

Participants noted the following about the justice system:

- It is expensive; court filing fees are high in some matters.
- The courts are far off and some areas do not even have court buildings.
- There is too much bureaucracy in the courts.
- The community is not aware of court procedures and it is therefore hard to follow up their matters.

Recommendations:

- Government should waive court filing fees for indigent people especially in higher courts. It's noteworthy that the law allows for someone to file a matter as a pauper but the procedure is long and should be revised.
- Government should promote community sensitizations on the legal system.
- More emphasis should be made in strengthening structures at grass root level. Much has been done in the main stream legal system and yet not much is done in relation to the courts that are nearest or most accessible for the poor.
- Government should issue guidelines on court filing fees in Local Council Courts.
- Government should train local council courts at the beginning of every political term on laws and matters within their jurisdiction to handle as well as human rights issues.

- Government should decentralize human rights commission and Inspector General of Government (IGG) services so that they are accessible to the rural people in all districts.
- As a way to enable the disabled, particularly the dumb and deaf, to understand court proceedings, a sign language expert should be available in every district.
- There should be an interpreter for the dominant language in a given district attached to every district to ease understanding of the proceedings by the litigants.