



Religions and Development Research Programme

The women's land rights movement, customary law and religion in Tanzania

Bernadeta Killian

Religion is often seen as either a means of achieving or an obstacle to lasting social change, for example, improvements in gender equality. In practice, what role has it played in recent movements for social change in developing countries? In particular, how has the women's movement engaged with religion, with what outcomes? In Africa, women's disadvantaged access to land has been an important concern of many women's movements. This study examined whether and how the women's movement that campaigned for improvements to proposed land legislation in the 1990s in Tanzania engaged with religious beliefs and organizations.

Like many ex-colonial countries, at independence in 1961 Tanzania inherited a plural legal system including customary law and practices, Islamic personal law for Muslims and a statutory legal system introduced by the colonial powers (influenced especially by the English common law system). Termed a legal 'stew' or 'quagmire', the Tanzanian government has tried ever since to reform the system in order to achieve development objectives while keeping effective control in the hands of the state. However, by the time political and economic liberalization occurred at the beginning of the 1990s, the legal and administrative system governing land was full of contradictions, ambiguities and inconsistencies. The government announced its intention to reform land law and its administration, establishing a commission of enquiry to review the existing system and identify necessary changes. Two alliances of NGOs formed to lobby for the needs of disadvantaged groups to be addressed in the proposed legislation: the National Land Forum (NALAF) and the Gender Land Task Force (GLTF). The latter was particularly concerned with the ways in which existing laws discriminated against women, exacerbated by changes in agricultural production and pressure on land. Campaigning focused

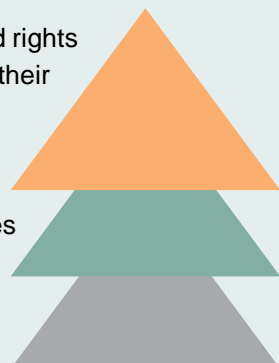
on the draft Land Bill, which eventually was split into two Acts: the Land Act no. 4 and the Village Land Act no. 5, both of 1999.

Between 2008 and 2009, a research team based at the University of Dar es Salaam reviewed available material on the issues involved, the draft Bill and the final legislation, and reports produced by the two alliances and their member NGOs; interviewed fifteen women activists, including many of the individuals most centrally involved in the GLTF; and interviewed representatives from five of the religious organizations that were drawn into the campaign.

Because rural land is still governed mainly by customary law and practice, the campaign adopted a rights-based approach, focused on ensuring that the constitutional principle of gender equality was incorporated in the new legislation and applied to customary as well as statutory law. They lobbied successfully to include clauses

- ensuring women's equal rights to use, occupy and control land
- safeguarding married, widowed and divorced women's rights through a requirement that certificates of occupancy are put in the names of both spouses, and
- providing for women's representation in village level bodies with land-related responsibilities.

Although some of the demands of the land rights campaigners were not met, the GLTF saw their campaign as successful. Its success was attributed to the organizational capacity, professional skills (especially in law) and distinctive contributions made by the Dar es Salaam-based NGOs that worked together in the GLTF.



Religion entered the picture (or did not) in a variety of ways:

- In Africa, customary beliefs and practices, including those relating to land, are often seen as having a spiritual dimension (often labelled African traditional religion/s). However, Tanzanians see them as custom and culture rather than religion, so campaigning for reforms to (or, by some, the abolition of) customary tenure was not seen as having a religious dimension.
- Islamic laws on property ownership and inheritance specify men's and women's entitlements, and are available to Muslims in Tanzania, although they are not always used. The women's land rights movement chose not to tackle gender inequality in Islamic law, to avoid antagonizing Muslims.
- Although almost all Tanzanians are either Christian or Muslim, GLTF members did not claim a specific religious motivation for their involvement, avoided the use of religious discourse, and accommodated diverse religious and cultural needs (e.g. accepting that some women are in polygamous marriages despite the disapproval of the Christian churches), to ensure wide support for the campaign.
- Civil society organizations (CSOs) are prohibited from engaging in active politics in Tanzania, so the women's land rights movement had to negotiate a delicate political terrain. No religious organizations joined the

GLTF, although during the campaign some, notably the Roman Catholic church (the Tanzania Episcopal Conference), the Christian Council of Tanzania (an umbrella organization of the Protestant churches) and, to a lesser extent, the Evangelical Lutheran Church and BAKWATA (the main Muslim umbrella organization), helped to publicize the issues amongst their members to generate public support for GLTF's demands.

Implementation of the Acts is arguably beyond the capacity of the legal and governmental system and has been very slow. Although NALAF continues to organize an annual meeting, in the last ten years the organizations involved in the 1990s campaign have tended to pursue their own specific programmes and little evidence on the outcomes and effects of the legislation for women's land rights is available.

The Tanzanian research demonstrates that the ways in which social movements engage with religion depend on the local religious, cultural and political context, as well as the issue of concern. It also indicates that religious organizations can act as facilitators rather than obstacles to campaigns to improve women's land rights.

Based on Killian, B. (2011) *The Women's Land Rights Movement, Customary Law and Religion in Tanzania*. Birmingham: Religions and Development WP 57.

<http://www.rad.bham.ac.uk/index.php?section=47>

