

Patriarchy and women's land rights in Botswana

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Abstract

Patriarchy has been defined as a gendered power system: a network of social, political and economic relationships through which men dominate and control female labour, reproduction and sexuality as well as define women's status, privileges and rights in a society. Taking Botswana as a case study, this essay examines the effects of patriarchy on women's access, control and ownership of land in southern Africa. It notes that while women were largely excluded from land ownership during the pre-colonial era, patriarchy has since been selective on the type and nature of land rights that women may enjoy. The essay argues that the weakening of traditional patriarchal structures, attitudes and practices in Botswana is a result of women's self-empowerment, economic transformations and the replacement of chieftainship with democratic institutions. It ends by noting that despite the apparent weakening of pre-colonial institutions and attitudes, there have emerged new forms of female subordination, which require vigilance and constant exposure.

Keywords: Botswana; Patriarchy; Land tenure; Women's land rights

Introduction

Although women in most parts of southern Africa have traditionally been responsible for growing food crops and, in some communities, building houses, they never owned the land on which they carried out these activities. Land ownership was vested in respective *jural* communities or tribes but administered by chiefs and headmen or tribal male elders (Kalabamu, 2000). In patrilineal societies (e.g. Sotho-Tswana groups, Swazi and Ndebele), women, regardless of their age, social and marital status, were explicitly excluded from land ownership and administration. They could only access land through husbands, sons or paternal male relatives. As the Lesotho National Council of Women aptly points out, "before marriage, women were children of their fathers, after marriage they were children of their

husbands, and during their widowhood they were children of their heirs or sons" (Molapo, 1994).

However, as a result of recent land reforms, women may independently own land in most countries in the region (Datta, 1995; Molamu, 1989; Lee-Smith, 1997; Miles, 1998; Jennifer, 1998; Mokhothu, 1998; Larsson et al., 2003). Despite the recent land reforms and improved women's land rights, few women own land while the majority have secondary rights (United Nations Department of Political Affairs (UNDP), 2003, p. 8) either due to cultural norms or the introduction of cash crops. Furthermore, women's application for registered land titles in Mozambique, e.g., are not processed with the same diligence as those submitted by men (Jennifer, 1998). Although the political climate in Swaziland is changing and pressure for women's independent land rights is increasing, Mafafo (2003) notes that meaningful land reforms are unlikely to take place in the near

future.

Taking Botswana as a case study, this essay argues that impediments to successful land tenure reforms are

due to the persistent patriarchal nature of southern Africa societies. The essay is divided into six sections: this introduction; definition of patriarchy as a concept, tool and ideology for analysing gender relationships; an exploration of women's land rights in pre-colonial and colonial Botswana; women's land rights in post-colonial Botswana; a discussion of factors that have tended to influence women's land rights in Botswana; a summary of conclusions and policy implications.

Conceptual framework: patriarchy

In contemporary academic discourses, patriarchy is conceived either as a tool/concept for analysing power and kin relationships; as ideology; or as a gender system (Coetzee, 2001; Moghadam, 1996; Bhasin, 1994, p. 3; Walby, 1990, p. 20). As a gender system, patriarchy is "reproduced through the ability of fathers to bequeath to their sons the power to command resources, direct the labour of their wives and children, monopolize material control of the 'public sphere'... [and] enforce ideologies which legitimate all this as natural, godly and inevitable state of affairs" (MacInnes, 1998, p. 3) or as "system of social structures and practices in which men dominate, oppress and exploit women" (Walby, 1990, p. 20). According to Rogers (1998, p. 2), although almost all men share in masculine privileges and institutionalised subordination of women, the benefits accruing to individual men "vary according to class, age, race, able-bodiedness and sexual orientation" to which may be added education, employment, social and political disposition. That is, in a patriarchal society, men of higher socio-economic and political status dominate all women and men of lower social standing.

To most commentators (e.g. Walby, 1990; Lee-Smith, 1997; Larsson and Schlyter, 1995) patriarchy is a dynamic system in which, when challenged, women win some activities, privileges and status while men give up some. Consequently, Walby (1990) conceptualises patriarchy as a system consisting of six discrete social structures—patriarchal mode of production; paid employment; state power; male violence; sexuality; and culture—of which the first three are particularly relevant to this essay. 'Patriarchal mode of production' refers to class relations within the household where housewives are the producing class and husbands are the expropriating class. 'Patriarchal structures within paid work' refer to closures within which "waged labour exclude women from the better forms of work and segregate them into the worse jobs which are deemed to be less skilled (Walby, 1990, p. 21)". 'Patriarchal structures within the 'state' and 'cultural institutions' (educational, religious, media etc.) have systematic policies and actions biased in favour of men's interests. As per Walby, the six structures are often combined in varying

doses in different patriarchal societies giving rise to a continuum consisting of private patriarchy, at one end, and public patriarchy, at the other.

Under private patriarchy, men (in their presumed positions as heads of households) control household labour in home-based subsistence production and try to regulate the fertility and reproduction of women. Furthermore, women are systematically excluded from participating in public activities including paid work and community leadership. In public patriarchal systems, women are not excluded from the public sphere but may, at times, be excluded from paid work and/or confined to lower paid and socially undervalued jobs. In a public patriarchal system, the ability of men to dominate and oppress women in the private sphere is variably restricted by state rules and regulations (MacInnes, 1998, p. 4). Consequently, under public patriarchy, women may have reduced dependence on men and the right to live independently of men, control their own fertility and to work for pay outside the home. According to MacInnes, the rise of public patriarchy in recent times has been due to "the development of modernity, individual rights, capitalist relations of production, commoditization of labour, and the decline in household or subsistence production" (MacInnes, 1998, p. 11).

Power, and the exercise of power, is central to the definition of patriarchy. "Power does not merely manifest itself in and through gender relations but gender is constitutive of power itself insofar as relations which may not always literally be about gender utilize the language of sexual difference to signify or legitimize power differentials" (Kandiyoti, 1998, p. 145). Men derive their power from culturally constructed rules on marriage, inheritance, work, social status and participation in politics and other extra-domestic activities. Other sources of power in contemporary societies include education attained, skills acquired, income earned and official or political position occupied. As Kabeer observes:

... power relations are expressed not only through the exercise of agency and choice, but also through the kinds of choices people make... [and which] derive from a 'deeper' level of reality, one which is not evident in daily life because it is inscribed in the taken-for-granted rules, norms and customs within which everyday life is conducted (Kabeer, 1999, p. 441).

People often make choices to conform to societal expectations, rather than what would have otherwise been their independent preferences. Women may tolerate domestic violence, e.g., in order to conform to social norms.

Patriarchy may further be viewed as a 'gender system' consisting of societal norms or contracts based on formal and coded or unwritten and assumed rules and

regulations that “govern the position of women and the prerogatives of men within the family and household, in the sphere of production or the labour market, in the political system, and in cultural institutions” (Moghadam, 1996, p. 101; Hirdman, 1991, p. 191). Gender contracts are in effect male–female power relationships that shape and arise from social, economic, political and sexual dispositions of men and women in a society. Various gender contracts constitute a gender system (e.g. patriarchy or matriarchy) under which cultural norms and common laws defining men’s and women’s rights, privileges, status and duties are defined.

Gender contracts and systems are formed over long periods of time through day-to-day interactions and are subject to change through bargaining and negotiation (Hirdman, 1991; Kabeer, 1999). Negotiation is a process through which women as individuals or groups of individuals challenge the status quo or position themselves so as to access, control and utilise resources located in the public sphere of men (Kabeer, 1999, p. 438).

In brief, this section has noted that patriarchy is both a system and an ideology that shapes and determines gender relationships and rights in a society. It has also noted that patriarchy is an open gender power system whereby the men and women are constantly searching for ways and opportunities for enhancing their power base, rights and privileges. The next sections will explore the influence of patriarchy on women’s land rights in Botswana.

Women’s land rights in pre-colonial and colonial Botswana

Pre-colonial Tswana¹ societies were based on patriarchal structures and institutions characterised by dominance and corresponding female subservience (Dow and Kidd, 1994, p. 1). At the household level, marriage was a vital gender contract through which men dominated women. First, any unmarried woman who became pregnant was publicly scorned and humiliated and her child killed at birth or made to grow under pronounced stigma (Schapera, 1994, p. 171). Second, every married woman was required to reside at her husband’s home throughout her life. Divorce was strongly discouraged. Third, polygamy was permitted and infidelity by men more tolerated than infidelity by women (Dow and Kidd, 1994, p. 28). Fourth, boys were preferred over girls (Schapera, 1994, p. 28).

In each household, women built houses, produced food crops and looked after goats and sheep while men

were responsible for cattle management and hunting (Kalabamu, 2001; Larsson, 1989, 1990). At adolescence, girls received home management training from their mothers while boys moved out of the domestic sphere to acquire cattle management skills from their fathers (Dow and Kidd, 1994, p. v). At the community or public level, men controlled the public sphere of politics, judiciary and government (Dow and Kidd, 1994, pp. 1–2; Larsson, 1999, p. 72). Regardless of their age and marital status, women were excluded from public meetings and court hearings. As the head of household, the husband, father or eldest son represented his wife, mother, sisters and unmarried brothers in such meetings. Then, *private patriarchy* was the dominant gender system while marriage was the dominant gender contract through which women’s roles, rights and positions were defined.

Although women were responsible for crop cultivation and housing, they could only access land through men—a father, husband, son, or paternal uncle. Only male siblings had the right to be allocated land from their fathers’ holdings, the tribal reserve or to inherit it from their fathers (Schapera, 1994, pp. 195–196). According to Agarwal (1997), ownership and control of property such as land tends to enhance women’s ability to survive outside a given power structure (e.g. patriarchy) or gender relationship (e.g. marriage) because that improves women’s bargaining power.

However, according to Schapera (1994) and Larsson (1999, pp. 75–76), during the colonial period chiefs in Botswana started to allocate land for housing and cultivation to unmarried mothers. To Larsson, women’s improved land rights was, at that time, facilitated by three factors. First, allocation of land to women did not threaten men’s interests because there was no ‘shortage’ of such land. Second, women’s ownership of land was both a social and an economic necessity that enabled unmarried mothers to raise and feed their children—an activity that men may have construed as part of women’s reproductive role.

Third, it was due to the increasing incidence of women-headed households. Due to prolonged absence of men from Botswana while in paid employment in South Africa, women increasingly assumed roles (including household headship) that were previously undertaken by men. At the same time, some women obtained paid employment, which enabled them to gain economic power and independence from men. So empowered, a number of women (including unmarried girls) were able to bear and raise their own children without the assistance of any men (Schapera, 1994, p. 33; Datta, 1995, p. 186; Dow and Kidd, 1994). While unmarried mothers set up independent households and become *de jure* heads, married mothers became *de facto* household heads. The improved socio-economic status of women notwithstanding, patriarchy still strived to

¹Although Botswana has several tribal groupings (San, Khoi, Kalanga, etc.), this essay is limited to Setswana speaking tribes who constitute the majority and occupy the largest part of the country.

uphold the marriage contract as evidenced by hefty fines levelled against men on divorce (Larsson, 1999; Schaper, 1994).

Post-colonial women's land rights: now addressed, now not

Although Botswana's post-independence Constitution forbids all forms of discrimination, it does not specifically mention sex and/or gender as one of the basis for discrimination. Consequently, policies and legislation adopted soon after independence were more favourable to men than women. Most of them have, however, since been amended to make them gender-neutral. This section examines these policies and pieces of legislation using gender lenses.

The Tribal Land Act

In its original formulation, the Tribal Land Act of 1968 (Cap: 32:02), which transferred the power to administer and allocate customary land rights from chiefs and headmen to land boards (also established by the same Act), bore all the hallmarks of a patriarchal institution. For example, Section 10(1) of the Act provided that, "all the right and title to land in each tribal area ... shall vest in the land board... in trust for the benefit and advantage of the tribesmen in that area..." instead of tribesmen and tribeswomen. Although the term "tribesman" was defined as a "citizen of Botswana who is a member of the tribe occupying the tribal area", its widespread usage tended to reinforce the patriarchal perception that land in Botswana belonged to men. Both the Tribal Land Act and its subsequent rejoinder, the Tribal Grazing Land Policy (TGLP), were insensitive to women's needs and interest in land particularly when the Act excluded the use of customary arable land rights as economic assets while making it possible to do so for grazing land rights (Government of Botswana (GOB), 1983, p. 2, 5).

The Tribal Land Act was overhauled in 1993 not because it was gender insensitive but because, among other things, section 10(2) of the Act was utilised by individuals to oppose land boards from dealing with arable land in peri-urban areas. With the 1993 amendments, the words 'tribesman' and 'tribesmen' were replaced with 'citizen/citizens of Botswana'. The amendments were ostensibly carried out to achieve gender neutrality. However, with or without the amendments, the Act does not spell out gender rights for married, unmarried, single, divorced or cohabiting women and their siblings. Furthermore, as noted by Molokomme et al. (1998, pp. 26–27) and Natural Resources Services (NRS) (2003), many land boards do not allocate land to married women without the written consent of their

spouses while the same rules are not applied when allocating land to married men.

Married Persons Property Acts

Until 1971, when the Married Persons Property Act was passed, husbands were sole administrators of properties held by both parties. Each husband had absolute power over the joint estate and was at liberty to dispose of it in any manner without the wife's consent. Purchase of household goods and receipt of medical treatment were the only decisions wives could make without their spouses' assistance (Molokomme, 1986; Dow and Kidd, 1994). The above provisions were based on the Roman Dutch Law and were similar to situations pertaining in Lesotho, Swaziland, South Africa and Namibia.

However, the 1971 Married Persons Property Act provided intending couples a choice to marry either in-community of property or out-of-community of property. Under the latter regime, properties belong entirely to the spouse in whose name they are registered to the exclusion of the other partner. If married under the in-community-of-property regime or under customary law, properties acquired by either partner belong to both parties in equal but undivided shares but under the administration of the husband. Although the Act appears to favour women married to richer men, husbands can easily cheat since properties are registered in their names. Furthermore, women have been socialised into rejecting the out-of community-of-property option because it is assumed that marrying under such a regime denotes lack of commitment to the marriage on the part of a woman (Kalabamu, 1998).

Deeds registry

Until 1996, section 18 of the Deeds Registry Act provided that no immovable property could be registered in the name of a woman married in-community-of-property unless the property was specifically excluded from the marital power of the husband. Even then, the husband was required to give his consent. According to the Registrar of Deeds, the other exception was when a wife was a sole proprietor of a business. Sub-sections 18(3) and (4) of the Deeds Registry Act were amended in 1996 to provide that neither spouse, whether married in community of property or not, may alone deal with the Registrar of Deeds without the written consent of his/her partner.

Amendments to Deeds Registry Act do not affect husbands' 'marital power' under the Married Persons Property Act. First, under the latter Act, women married in-community-of-property may, e.g., not obtain bank loans without the husband's consent. Second, the amendment fails to address the management and

disposal of unregistered properties. Third, the amendments do not deal with issues of inheritance, and properties of cohabiting partners. Fourth, sub-sections 18(1) and (2) which require women to disclose their marital status and husbands' full names were not amended to require men to do the same.

Inheritance under customary laws

According to Schapera (1994), Roberts et al. (1970), Othogile (1992) and Dow and Kidd (1994), customary laws and procedures for property inheritance among Tswana tribes generally exclude or disadvantage women. Under the general customary law, when a spouse dies, the surviving spouse automatically assumes sole ownership of the family property. However, when a man dies, the eldest son, if mature, assumes his father's position as head of the family. When a man dies before marriage or without a male issue, his property, if any, is inherited by the father, brother, paternal uncle or any other male relative.

When both parents are deceased or if the widow chooses to divide the estate of the deceased spouse, the type and amount of property each child is entitled to inherit is dictated by the child's sex and position in the family. The largest share of the deceased man's estate goes to the eldest son or principal heir on the assumption that he would "look after his siblings in the same way that their parents had done when they were alive" (Molokomme et al., 1998, p. 28). Daughters receive smaller shares than sons on the premise that female siblings would get married and become someone else's concern (Molokomme et al., 1998, p. 28). The youngest son inherits the homestead and the family ploughing fields as well. The above customary rules on inheritance are similar to other countries within the region—e.g. Swaziland (Daly, 2001), Zimbabwe (Louise, 1998) and Lesotho (Molapo, 1994).

A study undertaken by Kalabamu (2004) in the village of Tlokweng, on the peri-urban fringe of Gaborone, the capital of Botswana, indicates that customary rules of inheritance have been reformed. At present the major objects of inheritance are houses, money, business, arable fields, cattle and personal possessions—notably cars—instead of cattle and land. Furthermore, the old practice whereby the eldest son inherits the lion's share is no longer the preferred option. Instead parents prefer to divide the estate equally among all siblings (regardless of sex and age) by either writing a will or publicly distributing the properties before their death. Cohabiting partners are presently entitled to a share of the deceased partner's estate if there is adequate evidence that the two had lived together for several years and/or had children together. Finally, the study revealed that inheritance has become both patrifocal and matrilineal—that is children inherit the mother's estate or the

estate developed by the joint effort of the mother and the biological father. The above differs from findings by Molokomme et al. (1998, p. 27) which noted that female children were being given token shares (e.g. one beast).

Gender neutrality policies

Since the 1980s, the Government of Botswana has tended to pursue gender-neutral policies and legislations by avoiding the use of such words as men, women, girls, boys, father and mother in prevalence to phrases such as "households", "citizens", "their staff", and "government officers". With the exception of the 1999 national policy on housing (which has six lines on gender issues in a 24-page document), post-1980 policies avoid making reference to men or women's needs. In pursuance of gender-neutral policies, access to land and housing, among other publicly controlled resources, is currently on the basis of "first-come-first-served". This procedure, and gender-neutral policies in general, may be criticised for attempting to ignore historically constructed economic, political, cultural and social differences between men and women by assuming that gender equality before the law will automatically translate into practical equality.

Despite strict observance of the first-come-first-served principle, women have been discriminated. First, land boards and town councils have been reluctant to allocate land to married women on the grounds that doing so would be tantamount to breaking up families and encourage unruly behaviour (Molokomme et al., 1998, p. 27; Kalabamu, 1998; Natural Resource Services (NRS), 2003). Second, unmarried women often have to be assisted by older men and/or parents before they can get plots (Molokomme et al., 1998, p. 27). Third, as noted by Kalabamu (1998) and Kalabamu and Morolong (2004), land—especially urban and peri-urban land—is no longer availed on the first-come-first-served principles, but largely on the basis of economic power and affordability.

Drivers and stoppers of women's land rights

The history of women's land rights in post-colonial Botswana is as confusing as it is contradictory—because at times women's interests appear to be taken on board and then ignored. This section seeks to identify drivers and stoppers of the progressive changes.

Democratic governance

As noted earlier, at the time of independence in 1966, the Botswana Government adopted a non-discriminatory Constitution. According to Larsson (1999, pp. 74, 77), the constitution gives women the same rights as men

and provides a platform for challenging any form of female discrimination. It is on this platform that some women (e.g. Unity Dow) and non-governmental organisations (e.g. Emang Basadi) have challenged discriminatory laws in Botswana and agitated for more gender equality. Following the case of *Unity Dow vs. Attorney General* in 1991, sections of the Citizenship Act that discriminated against children born by Botswana women married to non-citizen men were repealed and replaced with gender-neutral provisions in 1995 (Molokomme et al., 1998, p. 5). Other pieces of legislation that have been amended following pressure from civil society include the Marriage Act; Married Persons' Property Act; and the Deeds Registry Act.

Globalisation and feminist campaigns

According to Molokomme et al. (1998), since the 1980s Botswana has been a party and signatory to several regional and international conventions advocating for women empowerment and elimination of all forms of discrimination against women. The Government of Botswana is signatory to the 1997 Blantyre Declaration on Gender and Development that seeks to repeal and reform all laws and practices that discriminate against women. The declaration also seeks to increase women's representation in parliaments of SADC states to at least 30%. In 1996, the Government of Botswana acceded to the United Nations Convention on the Elimination of All Forms Discrimination Against Women (CEDAW) (Molokomme et al., 1998, p. 5). Botswana sent high-level delegations to women's conferences in Nairobi and Beijing. As Molokomme et al. (1998, p. 5) notes, government collaboration with Women's NGOs has resulted in the identification of critical areas of concern, establishment of the Department of Women Affairs, and adoption of a National Policy on Women in Development, among others. Women and the Law in Southern Africa (WILSA) has probably been the most influential non-governmental organisation agitating for reform/repeal of laws that discriminate against women in various countries within the region.

Economic prosperity and transformation

Women's empowerment in Botswana may also be attributed to the economic boom and transformation that the country has enjoyed since the early 1970s. The sale of mineral products enabled the country's economy to grow at an average of 6% per annum between 1966 and 1995. Consequently, the country's per capita Gross Domestic Product (GDP) rose, at constant prices, from Pula 1683 in 1966 to Pula² 7863 in 1995. While the

²Pula is Botswana's monetary currency. In 1995, 1 US Dollar = 4 Pula. At present, 1 US Dollar = 5 Pula.

contribution of the agricultural sector to GDP was reduced from 43% in 1966 to 4% by 1995, the contribution of the mining sector rose from zero at independence to about 17% in 1975/1976, reached a peak of about 49% in 1985/1986 and then declined to about 34% in 1994/1995 (Government of Botswana (GOB), 1997, pp. 17–19).

The economic boom has created numerous opportunities for cash employment especially in urban³ areas. Due to rural–urban migration and in-situ urbanisation,⁴ the population living in urban areas has increased from 20,993 or 4% of the national total in 1964 to 876,949 or 52% in 2001 (Kalabamu and Thebe, 2002). Inevitably, urbanisation has been accompanied by increase of people in cash employment. The proportion of economically active population⁵ in cash employment⁶ increased from about 18% in 1971 to 63% in 1991 and 66% in 2001 (Government of Botswana (GOB), 1972, p. 136; CSO, Central Statistics Office, 1994, Table 1; Siphambe, 2003, Table 3).

In the meantime, women as a percentage of population in cash employment increased from 24% in 1971 to 37% in 1991. Although Siphambe (2003) does not provide data on women in cash employment, the current proportion of women in cash employment may be estimated at about 42% of the economically active population. Women have also made inroads into hitherto exclusively male fields. Botswana boasts of many female magistrates, several high court lady judges, women chiefs, ministers, priests and other top dignitaries including the governor of the central bank. These social economic changes have not only enhanced women's self-esteem and economic independence from men, but also positioned them in equal status with men and as a force to reckon with.

Shifts in men's interests in land

Changing men's interests in land and economic opportunities have probably been the most influential factors in determining when and what type of land rights are available to women. In the past, especially during the pre-colonial and colonial eras, men were mostly interested in cattle and, indirectly, grazing land. According to Schapera (1994), women were excluded

³For census purposes, an urban area in Botswana is defined as a settlement with a minimum population of 5000 inhabitants and whose at least 75% of its labour force are employed in non-agricultural activities.

⁴A process through which a village or any other rural settlement attains urban status as defined in footnote 2 above.

⁵Defined as all individuals aged 12 yr and above who worked as employees, self-employees, in a family business or at the lands, farm or cattlepost or were actively seeking employment.

⁶Defined as all persons that worked for money wage, salary, fees, commission, business profit, etc.

from use of grazing areas including visiting cattle posts. Products of female labour (i.e. cereals and mud-thatch houses) were then seen as socially less valuable than cattle. To that end, chiefs granted women independent land rights during the colonial era when deemed necessary for reproductive purposes.

As noted earlier, policies adopted soon after independence (1966 to the mid-1970s) ignored women's land rights. At the same time, according to Fosbrooke (1971a, b), the government encouraged arable farmers (most of whom were women) to migrate permanently to their ploughing fields in order to boost food production. Then, land boards and the government tolerated and condoned self-allocation⁷ of arable fields (Kalabamu and Morolong, 2004). Within urban areas land requirements for women and the poor were ignored while the state provided free or subsidised housing to middle and senior public servants—mainly men. However, between 1975 and 1990 women were able to acquire urban residential land through self-help housing projects. More women than men acquired self-help housing plots simply because women constituted the largest proportion of the urban poor. Despite being poor, a recent study by Kalabamu (2003) revealed that numerous women failed to acquire self-help housing plots in Lobatse because they were either unemployed or married in which case the land would be formally allocated to the husband.

From the mid 1980s, men's focus and interest in land appear to have increasingly shifted from pasture land to urban and peri-urban areas. This shift may be attributed to two major factors:

- (a) Government desire to diversify the economy and increase citizen ownership and management of retail and manufacturing businesses as exemplified by the introduction of the Financial Assistance Policy in May 1982.
- (b) Increasing perception that livestock farming is a risky and less profitable business due to severe and persistent droughts; high input costs; and lack of insurance cover schemes.

The change of focus has, as expected, translated into increased demand for residential, commercial and industrial land in major towns and cities. As more and more people failed to obtain urban land, the demand and value of peri-urban arable land increased remarkably. By the late 1980s, arable land in Mogoditshane and other peri-urban areas was up for sale (Kalabamu and Morolong, 2004). The government responded to

increased sale of arable land in peri-urban areas by setting up a Presidential Commission of Inquiry (Government of Botswana (GOB), 1992a, b). The commission concluded, and the government concurred, that large amounts of agricultural land in Mogoditshane and other peri-urban areas had been 'illegally' converted to residential uses and transferred to individuals without the land board's approval.

In terms of a gendered perspective, the setting up of the Commission reflected men's focus and interest in peri-urban land, which was previously arable land and largely of interest to women. While the government (read 'male civil servants') had condoned and encouraged self-allocation of arable fields, the same government was now labelling the process 'illegal'. The point is, now that arable land had attained market value, men considered it necessary to control and administer its transferability. Consequently, the Government established Mogoditshane sub-land board to monitor and halt the 'illegal' land transfers. However, when the 'illegal' land transfers persisted, in August 2000 the President ordered the land board to demolish all peri-urban houses built on 'illegally' acquired land. The demolition process involved the President, the police, army and land boards, which serves to underline men's heightened interests in peri-urban arable land and the demise of women's interests in peri-urban arable land.

Persistent patriarchal attitudes

Despite the replacement of the rule of chiefs with modern democratic institutions, patriarchy is still a dominant gender system in Botswana because women are still grossly under-represented in decision making and policy enforcement organs. For example, in the mid-1990s, women accounted for about 11% of members of parliament, 17% of urban and district councillors, 13% of cabinet ministers and 22% of town clerks/council secretaries and their deputies (Government of Botswana (GOB), 1998). Furthermore, the post-independence political leadership has largely been composed of men who deserted chieftaincy and successfully transformed themselves into democratic leaders (Good, 2002; Colclough and McCarthy, 1980). Hence, policies and legislation enacted soon after independence were vouched in masculine terms and were oblivious of women's land rights. Legal and policy reforms carried out since the 1980s have been due to local and international feminist campaigns.

The persistence of patriarchal attitudes on the part of the ruling elite is further demonstrated by the adoption and unwavering adherence to gender neutrality. The Government has to date never initiated policies seeking to address women's housing needs or land requirements. Neither the National Gender Policy adopted after the 1995 Beijing conference nor the 2000 National Housing

⁷Self-allocation is hereby defined as acquisition and occupation/use of public land, or transfer of such land from one individual to another, without the knowledge and approval of responsible public body (e.g. land board).

Policy have provisions for addressing women's land needs. To date, housing and land policies have tended to focus on legal reforms without stating how women's land requirements would be addressed in light of increased land commoditisation and feminisation of poverty. The belief that legal or statutory equality would translate into women's empowerment still rules because it does not threaten men's interests—at least not in the immediate future.

Conclusions

This paper has highlighted the 'apparent weakening' of patriarchy as an ideology and gender system and women's struggle for access, control and ownership of land. It has noted that colonial policies which resulted in female wage employment and prolonged male absence from their home villages created opportunities for women to challenge the 'rule of the father' at household level, which has in turn resulted in increasing female headship and unmarried motherhood. In response men were forced to concede to women's pressure for equality: stigmatisation of children born by unwed mothers ceased while chiefs and headmen were obliged to allocate residential and arable land to women.

Although women in post-colonial Botswana have made numerous strides into hitherto 'male only' domains (e.g. chieftainship), there have not been corresponding achievements in terms of land control and ownership. Recent land reforms and adoption of gender-neutral policies, much as they are welcome, do not empower women—especially those that are poor. Increased commodification of land has the effect of excluding women (especially married women) from land ownership. Continued exclusion of married women from land control and ownership is directly attributable to persistent patriarchal elements at the public or state level since decision-making structures in Botswana continue to be dominated by men. To date women in Botswana continue to be excluded from mining activities and the armed forces while few women are employed in the police force. Women occupy lower positions in almost all private and public sector enterprises and decrease proportionally as steps go up the ladder. Patriarchal attitudes continue to manifest themselves in government's refusal or reluctance to undertake gender analysis when formulating development projects, programmes and policies. The government prefers gender blindness instead of gender mainstreaming. As observed elsewhere (Kalabamu, 2001, p. 222), gender-neutral policies, however persistently pursued, do not result in women's empowerment. In this light, recent legal land reforms must be seen as exercises that conceal women's exclusion from land resource management and ownership.

Due to persistent patriarchy, the story of women's land rights in post-colonial Botswana is characterised by conflicts and contradictions—hope and despair—as women have gained and lost ground. This unhappy situation may be blamed on men's change of focus from cattle ownership and investment that characterised men's interests up to the late 1970s to urban-based property ownership and economic investments since the 1980s. Since patriarchy is still the dominant gender system in Botswana, women's land rights can only be properly addressed through continued pressure from all progressive forces and feminist campaigns. The pressure should seek to ensure that future development policies are based on extensive gender analysis and that they contain proposals for addressing women's needs and concerns. The invisible should be made visible. There should be positive discrimination in favour of women especially those who are vulnerable and/or disadvantaged by existing cultural norms, practices and poverty.

On a more general level, the paper has underlined the mutative nature of a patriarchal gender system. It has noted that patriarchal ideologies and attitudes (as well as men's interests) change continuously in response to feminist challenges and social, economic, political and environmental transformations. This calls for a continuous interrogation of socio-cultural systems in order to identify new forms and types of female subordination and exclusion including those affecting women's land rights.

References

- Agarwal, B., 1997. Bargaining and gender relations: within and beyond the households. *Feminist Economics* 3 (1), 1–51.
- Bhasin, K., 1994. *What is Patriarchy?* Raj Press, New Delhi.
- Coetzee, D., 2001. South African education and the ideology of patriarchy. *South African Journal of Education* 21 (4), 300–304.
- Central Statistics Office (CSO), 1994. *Census 1991: Employment Indicators*. Central Statistics Office, Gaborone.
- Colclough, C., McCarthy, S., 1980. *The Political Economy of Botswana: A Study of Growth and Distribution*. Oxford University Press, Oxford.
- Daly, J.L., 2001. Gender equality rights versus traditional practices: struggles for control and change in Swaziland. *Development Southern Africa* 18 (1), 45–56.
- Datta, K., 1995. Historical observations on the impact of gender on labour migration in Botswana. *Migration Research Unit Paper No. 12*. University of Wales, Swansea, 1995.
- Dow, U., Kidd, P., 1994. *Women, Marriage and Inheritance. Women and Law in Southern Africa (WILSA)*, Gaborone.
- Fosbrooke, H.A., 1971a. The role of tradition in rural development. *Botswana Notes and Records*, vol. 3, pp. 188–194.
- Fosbrooke, H.A., 1971b. Land and population. *Botswana Notes and Records*, vol. 3, pp. 172–187.
- Good, K., 2002. Rethinking non-accountability and corruption in Botswana. *Africa Insight* 32 (3), 11–18.
- Government of Botswana (GOB), 1972. *Report on the Population Census 1971*. Central Statistical Office, Gaborone.

- Government of Botswana (GOB), 1983. Report of the Report of the Presidential Commission on Land Tenure. Government Printer, Gaborone.
- Government of Botswana (GOB), 1992a. Report of the Presidential Commission of Inquiry into Land Problems in Mogoditshane and other Peri-Urban Villages. Government Printer, Gaborone.
- Government of Botswana (GOB), 1992b. Land Problems in Mogoditshane and other Peri-Urban Villages. Government Paper No. 1 of 1992. Government Printer, Gaborone.
- Government of Botswana (GOB), 1997. National Development Plan 8: 1997/98–2002/03. Ministry of Finance and Development Planning, Gaborone.
- Government of Botswana (GOB), 1998. Women and Men in Botswana: Facts and Figures. Central Statistics Office, Gaborone.
- Hirdman, Y., 1991. The Gender System. In: Adreasen, T., Borchorst, A., Dahlerup, D., Lous, E., Nielsen, H.R. (Eds.), *Moving On: New Perspectives on the Women's Movement*. Aarhus University Press, Aarhus, pp. 187–207.
- Jennifer, G., 1998. The nature of rights under Mozambique's reform land law. In: Barry, M. (Ed.), *Proceedings of the International Conference on Land Tenure in Developing world*. University of Cape Town, Cape Town, pp. 175–185.
- Kabeer, N., 1999. Resources, agency, achievements, reflections on the measurement of women's empowerment. *Development and Change* 30, 435–464.
- Kalabamu, F.T., 1998. Gender neutral housing delivery systems: a critical analysis of housing in Botswana. In: Larsson, A., Mapetla, M., Schlyter, A. (Eds.), *Changing Gender Relations in Southern Africa: Issues of Urban Life*. Institute of Southern Africa Studies, National University of Lesotho, Roma, pp. 56–76.
- Kalabamu, F.T., 2000. Land tenure and management reforms in East and Southern Africa—the case of Botswana. *Land Use Policy* 17, 305–319.
- Kalabamu, F.T., 2001. Housing delivery systems in Botswana: the inadequacy of gender neutral policies. In: Rwomire, A.T. (Ed.), *African Women and Children: Crisis and Response*. Praeger, Westport, pp. 205–224.
- Kalabamu, F.T., 2003. *Changing Gender and Institutional Roles in Self-help Housing in Botswana: The Case of Lobatse*. National University of Lesotho, Roma.
- Kalabamu, F.T., 2004. *Intergenerational Gender Perspectives on Property Inheritance in Botswana: Insights from Tlokeng Village*. Report presented at a workshop on “Gender Research on Generations and Urban Living Conditions in Southern Africa”. Organised by the University of Lesotho and held Garden Inn Court, Johannesburg, 5–8 August, 2004.
- Kalabamu, F.T., Morolong, S., 2004. Informal land delivery processes and access to land by the urban poor in Greater Gaborone, Botswana. Research Report Funded by DFID. Published by the University of Birmingham, UK, in print.
- Kalabamu, F.T., Thebe, B., 2002. Urbanisation of traditional settlements in Botswana—the case of Kanye. Paper Presented at the Planning Africa 2002 Conference. Durban International Convention Centre, South Africa, 17–20 September 2002.
- Kandiyoti, D., 1998. Gender, power and contestation. In: Jackson, C., Pearson, R. (Eds.), *Feminist Visions of Development*. Routledge, London, pp. 135–151.
- Larsson, A., 1989. Traditional versus modern housing in Botswana: an analysis from the user's perspective. In: Bourdier, J.-P., Alsayyad, N. (Eds.), *Dwellings, Settlement and Tradition: Cultural Perspectives*. University Press of America, Lanham, pp. 503–525.
- Larsson, A., 1990. *Modern Houses for Modern Life*. University of Lund, Lund.
- Larsson, A., 1999. Gender system and gender contract: the case of Botswana. In: Goodman, S., Mulinari, D. (Eds.), *Feminist Interventions in Discourses on Gender and Development*. Lund University, Lund.
- Larsson, A., Schlyter, A., 1995. Changing gender contracts and housing conflicts. In: Sithole-Fundire, S., Zhou, A., Larsson, A., Schlyter, A. (Eds.), *Gender Research on Urbanisation, Planning, Housing and Everyday Life*. Zimbabwe Women's Resource Centre and Network, Harare, pp. 212–231.
- Larsson, A., Mapetla, M., Schlyter, A. (Eds.), 2003. *Gender and Urban Housing in Southern Africa: Emerging Issues*. Institute of Southern Africa Studies, National University of Lesotho, Roma.
- Lee-Smith, D., 1997. *My house is my husband*. Doctoral Thesis, Lund University, Sweden.
- Louise, F., 1998. Why women's property rights matter. In: Barry, M. (Ed.), *Proceedings of the International Conference on Land Tenure in Developing world*. University of Cape Town, Cape Town, pp. 160–174.
- MacInnes, J., 1998. Analysing patriarchy, capitalism and women's employment. *Europe. Innovation: The European Journal of Social Sciences* 11(2) p. 227, 22p, 3 charts, 7 graphs. <http://www.tandf.co.uk/journals>.
- Mafafo, M., 2003. Housing policy and institutional practice in Swaziland: incorporating a gender perspective. In: Larsson, A., Mapetla, M., Schlyter, A. (Eds.), *Gender and Urban Housing in Southern Africa: Emerging Issues*. Institute of Southern Africa Studies (ISAS), Roma, pp. 100–121.
- Miles, M., 1998. Housing and domestic work in women's coping strategies: evidence from Swaziland. In: Larsson, A., Mapetla, M., Schlyter, A. (Eds.), *Changing Gender Relations in Southern Africa: Issues of Urban Life*. ISAS, National University of Lesotho, Roma, Lesotho, pp. 184–205.
- Moghadam, V.M., 1996. Economic restructuring and the gender contract: a case of Jordan. In: Rai, S.M., Lievesley, G. (Eds.), *Women and the State: International Perspectives*. Taylor and Francis, Bristol and Pennsylvania, pp. 99–115.
- Mokhothu, M.G., 1998. Housing loans' schemes and gender relations among the educated in Lesotho. In: Larsson, A., Mapetla, M., Schlyter, A. (Eds.), *Changing Gender Relations in Southern Africa: Issues of Urban Life*. ISAS, National University of Lesotho, Roma, Lesotho, pp. 226–243.
- Molamu, L.L., 1989. *Francistown Phase IV Development Area Study*. Applied Research Unit, Ministry of Local Government, Lands and Housing, Gaborone.
- Molapo, M., 1994. *Women and Shelter Development*. Paper Presented at the ‘Housing for the Urban Poor’ Symposium. International Convention Centre, Birmingham, 11–14 April 1994.
- Molokomme, A., 1986. *His, Mine or Ours? The Property Rights of Women Married under Botswana Common Law*. Ministry of Home Affairs, Gaborone.
- Molokomme, A., Selolwane, O., Somolekae, G., Othogile, B., Molutsi, P., Kgasa, M., 1998. Review of all laws affecting women in Botswana. Draft Final Report Prepared for the Women's Affairs Department. Ministry of Labour and Home Affairs.
- Natural Resource Services (NRS), 2003. *Review of Botswana National Land Policy*. Department of Lands, Ministry of Lands and Housing, Gaborone.
- Othogile, B., 1992. *The Law of Inheritance in Botswana. Women in Law in Southern Africa*, Working Paper No. 6, unpublished.
- Roberts, S., Campbell, A.C., Walker, J.M., 1970. *The Maletle Law of Family Relations, Land and Succession to Property*. Government Printer, Gaborone.

- Rogers, M.F., 1998. Clarence Thomas, patriarchal discourse and public/private spheres. *Sociological Quarterly* 39(2), p. 289, 20p. <http://www.uiowa.edu/journals>.
- Schapera, I., 1994. *A Handbook of Tswana Law and Custom*. International African Institute, London and The Botswana Society, Gaborone.
- Siphambe, H.K., 2003. Economic Activity and Labour Force. Paper Presented at the 2001 Population and Housing Census Dissemination Seminar. Gaborone International Convention Centre, September 8–11, 2003.
- United Nations Department of Political Affairs (UNDPA). 2003. *Land Reform in Southern Africa: Case Studies and Recommendations*. First draft.
- Walby, S., 1990. *Theorizing Patriarchy*. Basil Blackwell, Cambridge and Oxford.