

Feminist reflections on the exclusion of women from the acquisition of land and from participating actively as members in traditional courts

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Abstract: Section 3 together with section 11 (3) (b) of the Black Administration Act 38 of 1927 serves as the genesis of the dilemma of the legal exclusion of women from actively participating in customary decision-making forums. Section 3 excluded women from customary decision-making forums and was complemented by section 11 (3) (b) of the same Act which declared women as the perpetual minors for the rest of their lives. Eventually this became part and parcel of the living customary law. Marital power of a husband was eventually abolished in South Africa and the progressive legislative developments were made to bring about the equality of both men and women. Despite the presence of the pieces of legislations advocating for the equality of both sexes, women continue to be excluded from the acquisition, control and the ownership of land. In nearly three decades of our constitutional democracy that is founded on, inter alia, the value of equality and non-discrimination, women are still poorly represented and generally excluded from traditional forums responsible for taking decisions pertaining to the distribution of land. Women continue to be discriminated against in the traditional courts despite the presence of progressive legislative developments advocating for their representation in traditional councils. Patriarchy remains deeply rooted in traditional courts and in many instances, women are regarded as gossips that are not taken seriously and are excluded from participating as members of traditional councils. In view of the plight of women regarding access, control and ownership of land and their exclusion in traditional decision-making forums, this remains a feminist issue. In view of the already mentioned discrimination against women that persists despite the presence of the progressive legislation, broad awareness campaigns are essential to enlighten the public about women's land rights more generally. These campaigns can be conducted via television, radio, print media and internet to inform the public about women's rights to land and access to traditional courts, distributing such information in local languages. This would ensure that such campaigns effectively include and reach the marginalised and illiterate women.

Keywords: traditional courts, exclusion of women from land acquisition and decision making

Introduction

Most important decisions regarding the sharing out of land are customarily taken by man only (Nsebeza, 1999). The land in the rural areas of the former Bantustans is governed by the traditional leaders and is regarded as not surveyed, unregistered state land and trust land (Nsebeza, 1999). The foundation of this classification can be traced back to the Native Land Act 27 of 1913 and Native Trust and Land Act 18 of 1936. The latter mentioned Acts abolished individual land ownership by black people and brought trust tenure through the establishment of the South African Development Trust (Kloppers and Pienaar, 2014). According to the Native Trust and Land Act of 1936, occupation of the land was founded on the permission to occupy (PTO) system. The permission to occupy system assured permanent occupation but was not free from its own weaknesses, since it perpetuated unsecure land tenure and the holders of PTOs continued to be at risk of being forcibly removed without being consulted if the government (the nominal owner of the land) deemed necessary. In some instances, holders of PTOs were evicted from their land and their houses smashed down without any form of reimbursement or recourse to law (Nsebeza, 1999). After the promulgation of the Bantu Authorities Act of 1951 the traditional leaders played a major role in the

allocation of land. Women are generally regarded as gossips and as people who lack intelligibility of mind and a gift of personality that men possess, and their evidence is usually treated with suspicion (Van der Waal, 2004). The position is slightly changing but they continue to be excluded from actively participating in traditional courts. This exclusion constitutes discrimination against women and is not in line with section 9 of the Constitution. To explore ideas fully in their proper context, this paper is divided into six thematic parts. The first part briefly introduces the legislative background on the exclusion of women from the acquisition of land and from active participation in traditional courts. The second part focuses on the acquisition of land for residential purposes while the third part focuses on the acquisition of arable land. The fourth part focuses on the discussion of the relevant international human rights instruments and the international policy on the issue of access and control of land. The fifth part focuses on the discrimination against women's participation in traditional courts. The sixth part addresses the question as to why the acquisition, control and ownership of land remain a feminist issue.

Legislative background on the exclusion of women from acquisition of land and from Active Participation in Traditional Courts

The exclusion of black South Africans from owning land began after the promulgation of the Native Land Act of 1913. This piece of legislation paved the way for apartheid policy, the separation of land ownership rights into areas exclusively reserved for whites and areas exclusively reserved for blacks (Feinberg, 1993; Kloppers and Pienaar, 2014; Robinson, 1997). It is indeed very disturbing that most of the population were forced to occupy approximately eight % of South African land (Rugege, 2014). Twenty-three years later, legislation was passed to increase the land reserved for black South Africans to thirteen % (Robinson, 1997). The legislation not only increased the percentage of ownership to 13 % but also eradicated land ownership by blacks and introduced the trust tenure (Davenport, 1985). As a result of this, blacks were forced to be perpetual leaseholders in their own land (Claxton, 2003). Section 3 of the Black Administration Act 38 of 1927 serves as the genesis of the exclusion of women from actively participating in decision making under customary law dispute resolution mechanisms. The latter mentioned section only permitted males to decide on land issues and many other important issues. It did not end there; it also exacerbated the situation for women by declaring them as perpetual minors under their husbands for the rests of their lives. Perpetual minority meant that women had no contractual capacity and were not permitted to litigate without the assistance of their husbands. This legal position eventually changed in the country, but it was deeply embedded in the mind set of many people and continues to be part and parcel of the living customary law (Mnisi Weeks, 2011; Himonga et al, 2014). The marital power of a husband that made women to be their perpetual minors was abolished in 1984 but not for marriages between black people. Finally, in the year 2000 such abolition of marital power of a husband was extended to marriages between black people by the Recognition of Customary Marriages Act 120 of 1998 which places age of majority at 18 years. This tendency of treating women as perpetual minors became so deeply embedded in the mind set of some people in traditional communities despite the emergence of legislative changes. Traditional leaders appointed their own male councillors in traditional courts and women are generally not considered to traditional leadership positions. The Traditional Leadership and Governance Framework Act 41 of 2003 (TLGFA) attempted to ameliorate the position for women by mandating for a change in the composition of traditional councils and stipulated that women must constitute a particular percentage in traditional councils. Nearly two decades have passed since the enactment of the TLGFA but many traditional types of councils across the country have not had the necessary elections.

Elections of traditional councils took place in other places such as Nongoma (KZN), and it appears that the headmen together with the chief pinpointed the name of people that they wanted to be chosen and influenced the community members to vote for such people. As a result of this, one and the same group of people ends up serving in the traditional councils and the chief's committee (Traditional Courts Bill Workshop KZN, 2008). Hence, the issue of the exclusion of women to fully participate as members of the traditional councils remains a dream that is yet to be attained. In more than two decades of constitutional democracy women are still generally not included as members of traditional councils. In view of this loophole, TLGF Amendment Bill of 2017 was tabled in parliament with an intention of addressing the latter mentioned loopholes.

Residential land acquisition

Every married man belonging to a tribe in a traditional society or group has a legal right to land on which to build his homestead. Under normal conditions he would get it from his father, an unoccupied space of land on the portion that was originally allocated by the headmen (*induna*) to the family. To make it sure that the rights of neighbours and other community members are not encroached upon, the headman together with other members of his ward would inspect the plot of land allocated to him by his father to satisfy themselves that the land in question belong to that family

(Schapera, 1970). If there is no one challenging the latter mentioned allotment, the man can continue to build his homestead.

If the family has no available vacant land, the headman is approached by the married man who intends to erect his homestead and it is the duty of the headman to ensure that all his people are properly settled (Schapera, 1970). In a situation where there is still an available unoccupied piece of land that is not yet allocated to any family, part of it can be allocated to the applicant. If there is no vacant land available under the ward holding, the headman can ask the heads of other families if they have any spare portion of land that they are prepared to let the man have (Schapera, 1970). However, the heads of other families are not obliged to hand over the land once it has been allocated to them and they ought to give it out of their own free will and volition. South Africa is a patrilineal society, and the tradition demands that residential plots of land are allocated to men (Bloem, 2006). Patriarchy is still deeply rooted in the traditional court system and in the manner of allocating residential plots of land. An unmarried woman is generally not permitted to be allocated residential land if she intends to erect her own homestead. She must be represented by a man (Traditional Courts Bill Workshop KZN, 2008). However, the situation seems to be gradually changing in favour of women. In Escourt, for example, unmarried women are generally not allocated residential plots of land but women who have children while still residing at their father's homestead may be allocated land to allow them to raise their children (Traditional Courts Bill Workshop KZN, 2008). Even though there is a slight noticeable change in favour of women, discrimination against rural women in the allocation of residential plots of land by traditional leaders still lingers in Kwazulu-Natal and some other parts of the country despite major legal changes (Urmilla Bob, 2007). It is so unfortunate and disappointing that a comparative study of Zimbabwe that shares a similar history with South Africa point out that despite progressive legislation, women's capacity to acquire and efficiently control the land has not changed much after independence (Urmilla Bob, 2007). It is argued in this paper that legislative change is a good starting point, but the practical evidence reveals that there is more that still need to be done to ameliorate the plight of women in rural areas. The government together with the civil society ought to embark on the process of educating the rural communities about legislative changes that have a direct impact on rural communities.

Traditionally there is no amount claimed by a man who decides to transfer his land to another person (Schapera, 1970). However, that has changed in some communities due to the demand for land and its scarcity. As a result of this, now a man who transfers his portion of land to another hardly does so without a price tag attached on that portion of land. Kwa-Dlangezwa (next to the University of Zululand) serves as one of the practical examples of this, where many residents have their homesteads built on the tribal area that is under the jurisdiction of Mkhwanazi Traditional Authority. Many of them are landlords and they use their homesteads to accommodate the University students as their tenants. So, it is hardly rare to find a vacant land next to the University that is not allocated to a particular family. Hence, if you need land to erect your homestead you must approach the head of the family that has a spare land and if he agrees then he would tell you the price he would charge for the transfer of the land. If you accept the price and pay him, then he would take you to the headman of the community who will formalise the transfer of land to you, and you will be appropriately integrated to the community. The land is normally measured by the headman in the presence of the neighbours who serve as witnesses and after few weeks you can approach the headman for the relevant papers to the land.

Arable land

In a tribal community the land is normally demarcated into residential area, arable land for cultivation, grazing area, hunting area, rivers and so on. After the distribution of residential sites, a chief and his tribal council goes around the village looking for a fertile land that would be suitable for cultivation (Schapera, 1970). After finding a fertile land that is suitable for cultivation, the chief chooses the best portion for himself and then show the remaining one to the headman of each ward the boundaries of the land within which his people can cultivate (Schapera, 1970). Once a man has been allocated the land that he would use for cultivation he is expected to put some marks to indicate where his boundaries end (Schapera, 1970). It is noted that women are often excluded from actively participating in traditional courts and in village council meetings where significant resolutions about land rights are taken (Bloem, 2006). Unmarried females have no control of the land, but her father is the one who has control of the agrarian land. If a female eventually gets married, again she does not control the land, but her husband is the one who is in control of the land (Dancer, 2017). If a woman is a widow, she accesses land through inheritance and preference is given to elder widows who have children especially the male ones (Dancer, 2017). In a situation where a widow is young and she still stand greater chances of remarrying, she usually loses her husband's land to her husband's family or the chief (Claassens and Ngubane, 2008). It is highly disturbing that women are usually confronting huge difficulties when it comes to the access and control of the land in South Africa, even though they are the ones responsible for tilling the land (Urmila Bob, 2000). So, women do have access to agrarian land, but the main problem lies with the control of it

in a manner that they deem fit (Tlale, 2018). There is also a land that is left unassigned to any family to meet any future needs that may arise due to the natural increase of the population.

Under normal circumstances a young man when he marries would start by asking his father for land on which to cultivate. If land is available on the portion that is already allocated to his family group, part of it would be given to him. It is noted that the right to arable land is merely subjected to usufruct for the purpose of cultivation and not the one of absolute private ownership (Schapera, 1970). In the winter season that takes place during the months of June and July when the old maize meal has been reaped, and no new ones planted yet; other members of the community can graze their livestock on the maize meal stalks that are remaining in the fields. During the winter season the arable lands are technically *res communes omnium* (Koyana, 1980). When the winter season is over, community members commence the process of cultivating their arable land and the owners of livestock are obliged to prevent their livestock from trespassing on the cultivated land, otherwise they would be delictually liable for trespass (Koyana, 1980).

International Human Rights Instruments

Universal Declaration of Human Rights (UDHR) laid down a clear and unequivocal foundation for the right of women to property by providing that “everyone has the right to own property alone as well as in association with others” (Article 17 (1)). It goes further by stipulating that “no one shall be arbitrarily deprived of his property” (Article 17 (2)). Convention on Elimination of all forms of Discrimination against Women (CEDAW) is the only international human rights instrument that deals extensively with the equality of men and women in many aspects of human existence. CEDAW mandates all member state parties to end discrimination against women in its laws, policies and harmful practices. States parties are mandated to take all suitable actions, including legislation, to amend or eradicate existing laws and customs which constitute discrimination against women (article 2). It calls upon states parties to take suitable actions aimed at eradicating discrimination against women in rural areas to guarantee, because of equality of men and women that they partake in and enjoy benefit from rural development (article 14). The participation and the enjoyment of benefits from rural development also comprise an assurance of equal treatment in the acquisition of land for residential purposes as well as agrarian schemes.

States parties have an obligation of ensuring equal rights for both spouses regarding the ownership, acquisition, administration, enjoyment and disposition of property, either for free or for a valuable consideration (article 16 (1) (h)). Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa views the right to land as having a connection with food security. It provides that member states shall take suitable action to provide women with clean drinking water, land and the means of producing nutritious food (article 15 (a)). The Woman’s Protocol also provides that States parties shall take all suitable actions to “promote women’s access to and control over productive resources such as land and guarantee their right to property” (article 19 (c)). The Women’s Protocol envisages that if women can have access to the acquisition of land and its control that would have an immense contribution to their enjoyment of sustainable development.

In its preamble the Women’s Protocol also noted that women’s essential role in development has been reaffirmed in the international conference on population and development. The international conference on population and development has called upon states to promote and reinforce women’s access to productive resources such as land and its ownership. In a similar vein, in 1995 the world conference on women also encouraged states to allow women to have access to land and be permitted to own it and other property. Again, in few years later during the United Nations conference on sustainable development, the heads of states decided to embark on the legislative and administrative reforms to grant women equal rights with men to economic resources such as land and its ownership (UN Conference on Sustainable Development, 2012). The above mentioned international human rights instruments and conferences paved the way for right of women to acquire and own land but the true attainment of those rights in practice is yet to be achieved and there is still more to be done.

Discrimination against women’s participation in traditional courts

As far as the traditional courts applies the principles of natural justice such *audi alteram partem* (to hear another side of the story) and *nemo iudex in sua causa* (no one should be a judge in his or her own case) but they do not apply equality as entrenched in the Constitution and in the international human rights instruments (Claassens and Ngubane, 2008; Bennett, 2004; Weeks, 2013; Curran and Bonthuys, 2005; Mnisi, 2011). The South African government has done a lot to align traditional practices with the Constitution that is founded on, *inter alia*, the value of equality and non-discrimination, and other numerous pieces of legislation that also promotes the value of equality. The Constitution as the supreme law of the republic also strengthened the safeguard of women in terms of section 9 (1) which stipulates that everyone is equal before the law and in the exact sense of the word has the right to equal protection and benefit

of the law. Moreover, the Constitution explicitly forbids the discrimination based on sex. As a result of the influence of the Constitution, gender discrimination is gradually fading away in the traditional tribunals such as the traditional courts (Aiyedun, 2013). It is likewise noticeable that patriarchy is still deeply rooted in the traditional courts and is refusing to fade away completely even in our new Constitutional dispensation. This sentiment is also shared by Bob (Urmilla Bob, 2007) and Khuzwayo (Khuzwayo et al, 2019). A woman is still generally not allowed to approach the traditional court directly without being represented by a male person. She is expected to report the case to one of the male elders in the family and if the family fails to resolve the issue the next step is to take the matter to the village headman. If the matter is not resolved by the headman, then it can be taken to the traditional court where a woman is expected to be represented by a male person (Aiyedun, 2013). This brings back the ugly memory of the marital power of a husband where women were treated as perpetual minors for the rest of their lives. In view of this exclusion of women from actively participating in traditional court proceedings and the discussions about Traditional Courts Bill of 2008 women groups organised consultations around the country to have a real picture on the position of women in traditional tribunals now. They found out that nowadays women continue to be excluded from actively participating in traditional courts and this is aptly captured by the report of the consultation meetings between a combined submission by the Centre of Applied Legal Studies (CALs), Commission on Gender Equality (CGE) and the National Land Committee (NLC) and rural women which provides that: "When a woman has a complaint that she wants to report to traditional court, she first must report the complaint to one of the male elders in her family. The elder will act as her witness and representative and will report the case to the councillors at the headman's court. During the court proceedings, a woman only talks when talked to or asked questions and is not allowed to give input during the court proceedings. Single women and girls are not allowed to attend a court session. In other instances, after being asked questions, a woman would be told to leave. This means women are not allowed in courts when they are complainants. On the other hand, according to our respondents, men can bring their cases to court without a witness, participate during the court proceedings and ask questions."

This is a blatant discrimination against women and is not likely to pass constitutional muster and it attracts the interests of feminist scholars.

Feminist Approach

Some people generally feminise our planet by referring to it as "mother earth", but common-sense dictates that the acquisition, control and ownership of land as a feminist issue go that goes beyond metaphor (Tzili Mor, 2021). This is so because the majority of the poorest of the poor of the world population highly depend on land for survival. They highly depend on land for shelter, food and for identity but they often lack legal control over it (Tzili Mor, 2021). Research reveals that in many parts of the world, the sharing of land is not gender neutral and the women's rights to land are gender biased. Laws and gender biased societal norms continue to be a barrier to women's rights and their access to land (United Nations Human Rights Office of the High Commissioner, 2013). Lower literacy rate for women has detrimental consequences for them as they end up lacking awareness of their rights and the possibilities for claiming their rights. Broad awareness campaigns are essential to enlighten the public about women's land rights more generally. Awareness campaigns can be conducted via radio, television, print media or internet to inform the public about the rights of women to access, use and control of land (United Nations Human Rights Office of the High Commissioner, 2013). There is a need of ensuring that such awareness campaigns effectively include and influence the marginalised and illiterate women. Land management and the control of its profits keep on being perceived as male territory. As already mentioned earlier, this led to an unfortunate situation where women are generally not allowed to actively participate in traditional councils (in rural areas) responsible for taking important decisions relating to the distribution of land and investments. Women should have rights to access land, to own it and to have control over the resources produced in that land. This would ensure that women are able to effectively meet the basic needs of their families such as food and for them to be economically independent (Makhado and Pelizzo, 2016). In most cases, women are the ones who do the voluntary and undervalued work such as collecting water, cooking, cleaning and taking care of children, caring for the elderly and the sick. Dictated by societal norms, women are generally expected to spend greater part of their time and days doing house chores, which limits their ability to gain income outside the family home. Many rural women end up looking for employment in urban areas as a route to economic survival and advancement (Walker, 1998). In the context of South Africa that is already struggling with the extremely high unemployment rates, there are minimal chances for women to secure employment. Therefore, access to land continues to be an important factor in the economic survival of female-headed households in rural areas (Weideman).

In arguing for the law reform, feminist legal writers have opposed customary law rules as discriminatory against women. They argue that customary law discriminates against daughters, wives, widows and divorcees when comes to the access and the effective control of productive resources such as land (Ochieng, 2015; Yngstrom, 2002). One of

the feminist writers suggests that women ought to fight their own battles and not merely put their hope in the basic human rights approach to deal with their gender specific concerns about commercial pressures on the issue of land (Wisborg, 2013). As already argued earlier, the plight of women continues to be the same even after the legislative changes in the regulation of traditional leaders. In view of this, there is still more that ought to be done to address women's varied interests in the issue of land as well as policy formulation (Moagi, 2008; Walker, 2011).

Conclusion

As already argued earlier, despite the promulgation of progressive legislations aimed at bringing about equality of both sexes, women continue to experience discrimination regarding the acquisition, control and ownership of land. In a similar vein, women are not sufficiently represented in the traditional decision-making bodies such as traditional courts. Patriarchy remains deeply rooted in traditional decision-making bodies where women are perceived as gossips and as people who do not possess intelligibility and character that is possessed by their male counterparts. As a result of this perception towards women, their evidence is viewed with high suspicion and are generally not allowed to actively participate in traditional decision-making bodies or to be members of traditional councils. This exclusion of women in traditional decision-making bodies and their exclusion from the acquisition and ownership of property make it a feminist issue. Moreover, discrimination against women that keeps on lingering in traditional decision-making forums is not in line with the doctrine of equality and non-discrimination that is entrenched in the international human rights instruments and the Constitution. As already argued before, poor literacy rate for women makes them unaware about their rights and the avenues for claiming them and it has been suggested that awareness campaigns might assist in educating women about their rights and the avenues for claiming them. In addition to this, awareness campaigns would complement legislative measures that are already in place to bring about true equality between men and women.

References

1. Aiyedun, Y.A. (2013). Fair Trial and Access to Justice in South Africa: How Traditional Tribunals Cater to the Needs of Rural Female Litigants, PhD Thesis University of Cape Town 123.
2. Bennett, T.W. (2004). Customary Law in South Africa, 168-169.
3. Bloem, L. (2006). Land Reform and Gender Equality in South Africa, (master's Dissertation Lund University 50.
4. Clark, M. & Luwaya, N. (2017) Communal Land Tenure 1994-2017 Commissioned Report for High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change, An Initiative of the Parliament of South Africa, Land and Accountability Research Centre (LARC) at 14.
5. Claassens, A. & Ngubane, S. (2008). Women, Land and Power: The Impact of the Communal Land Rights Act' in Claassens A and Cousins B (eds) Land, Power and Custom: Controversies Generated by South Africa's Communal Land Rights Act (University of Cape Town Press, Cape Town 2008) 154-183.
6. Claxton, H. (2003). Land and Liberation: Lessons for the Creation of Effective Land Reform Policy in South Africa, Michigan Journal of Race and Law 538.
7. Curran, E. & Bonthuys, E. (2005). Customary Law and Domestic Violence in Rural South African Communities' SAJHR (21) 632-633.
8. Dancer, H. (2017). An Equal Right to Inherit? Women's Land Rights, Customary Law and Constitutional Reform in Tanzania, Social and Legal Studies (26) 3 7.
9. Davenport, T. (1985). Some Reflections on the History of Land Tenure in South Africa, Seen in the Light of Attempts by the State to Impose Political and Economic Control, 65.
10. Draft Submissions for Comment: Traditional Tribunals and the Judicial Functions of Chiefs CALS, CGE and NLC13.
11. Feinberg, H. (1993). The Native Land Act of 1913 in South Africa: Politics, Race and Segregation in the Early 20th Century, International Journal of African Historical Studies 65-109.
12. Himonga, C., Nhlapo, T., Maithufi, I.P., Mnisi Weeks S. Mofokeng, L., & Ndima, D. (2014) African Customary Law in Southern Africa: Post-Apartheid and Living Law Perspectives, 257-258.
13. Khuzwayo, N., Chipungu, L., Magidimisha, H., & Lewis, M. (2019). Examining Women's Access to Rural Land in Umnini Trust Traditional Area of Kwazulu-Natal, South Africa, Town and Regional Planning (75) 35.
14. Kloppers, H.J. & Pienaar, G.J. (2014). The Historical Context of Land Reform in South Africa and Early Policies, Potchefstroom Electronic Law Journal (17) 2 681-682

15. Koyana, D.S. (1980). Customary Law in a Changing Society, Juta & Co, Ltd 69.
16. Mnisi, S. (2011). Traditional Courts Bill: Controversy Around Process, Substance and Implications, SA Crime Quarterly (35).
17. Mnisi Weeks, S. (2011) Securing Women's Property Inheritance in the Context of Plurality: Negotiations of Law and Authority in Mbuzini Customary Courts and Beyond, Acta Juridica 140-13.
18. Moagi, L.A. (2008). A Gendered Perspective on Issues and Challenges Surrounding Land Tenure Security in South Africa: An Analysis of Critical Security Studies, International NGO Journal (3) 12 221
19. Ntsebeza, L. (1999). Land Tenure Reform in South Africa: An Example from the Eastern Cape Province, A Paper Presented at the DFID Workshop on Land Rights and Sustainable Development in Sub-Saharan Africa at Sunningdale Park Conference Centre, Berkshire, UK 1.
20. Ochieng, R. (2015). Opportunities and Challenges for Kenya Women in the New Land Laws, (Lambert Academic Publishing Kenya) 13.
21. Robinson, L. (1997). Rationales for Rural Land Redistribution in South Africa, Brooklyn Journal of International Law 472.
22. Rugege, S. (2014). Land Reform in South Africa an Overview, International Journal of Legal Information 284.
23. Schapera, I. A. (1970). Handbook of Tswana Law and Custom 1970 Frank Cass and CO Ltd at 197.
24. Tlale, M.T. (2018). A Critical Evaluation of the South African Land Tenure Policy: A Comparison with Selected Aspects of the Kenyan and Tanzanian Law, (PhD Thesis North-West University) 223.
25. Traditional Courts Bill Workshop Kwazulu-Natal, Cedara (Pietermaritzburg), organised in Conjunction with the Rural Women's Movement 28-30 October 2008 at 2.
26. Urmilla, Bob. (2007). Gender, the Role of the Chieftaincy and Rural Women's Access to Land under the Land Reform Programme in Kwazulu-Natal, Alternation (7) 2 51.
27. Walker, C. (2011). Women's Land Rights, Agrarian Change and
28. Gender Transformation in Post-Apartheid South Africa, in Du grain moudre Verschuur C Du grain moudre (Graduate Institute Publications Geneva) 264.
29. Weeks, S. (2013). Traditional Courts Bill: Access to Justice of Gender Trap? ,in Nhlapo, T., Arogundade, S. & Garuba, H. African Culture, Human Rights and Modern Constitutions 25.
30. Wisborg, P. (2013). Transnational Land Deals and Gender Equality: Utilitarian and Human Rights Approaches, Feminist Economics (20) 1 35.
31. Yngstrom, I. (2002). Women, Wives and Land Rights in Africa: Situating Gender Beyond the Household in the Debate over Land Policy and Changing Tenure Systems, Oxford Development Studies (30) 1 225.

Legislation

Constitution of the Republic of South Africa 1996

Promotion of Equality and Prevention of unfair Discrimination Act of 2000

Recognition of Customary Marriages Act 120 of 1998

Traditional Leadership and Governance Framework Act 41 of 2003

Traditional Leadership and Governance Framework Amendment Bill B 8 of 2017

International Human Rights Instruments and Conferences

Convention on Elimination of all forms of Discrimination against Women

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 200

Report of the International Conference on Population and Development, Cairo 05-13 September 1994

Report of the Fourth World Conference on Women, Beijing, 04-15 September 1995

Report of the United Nations Conference on Sustainable Development, Rio de Janeiro, Brazil 20-22 June 2012

