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Assessing Co-Titling Desirability in Matrimonial Properties in Urban Land Ownership in Tanzania

Sophia Marcian Kongela¹ and Florencia Bahati Didas²

¹⁻² Department of Land Management and Valuation, Ardhi University, Tanzania

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Abstract

Laws in Tanzania allow married couples joint ownership of land but in practice single land titling in the husband's name only is most common. The ability to co-title was expected to attract couples to own their matrimonial properties jointly; however, the rate at which spouses are adopting co-titling remains low. This paper assesses the desirability of co-titling in land ownership among spouses using key informant interviews and a survey of couples. It is based on a case study of Makongo Juu settlement in Dar es Salaam City where a regularisation programme was implemented. The paper reveals a number of benefits as well as constraints of co-titling for married couples. Findings show that a majority of female spouses had little awareness of the existence of co-titling arrangements. Whereas a majority of female spouses showed interest in co-titling of their matrimonial properties, male spouses were hesitant and, in some cases, they even denied their spouses rights to matrimonial land ownership. Traces of social norms, customs and traditions that generally do not favour co-ownership of matrimonial properties were noted to influence the couple's decisions. By looking into co-titling as a dimension of enhancing women's matrimonial property rights, this paper contributes to a wide discussion on women's land rights in the course of economic empowerment. The findings can be used in the formulation of gender mainstreaming policies and programmes in developing countries.

Keywords: Land Titling; Co-titling, Women's Land Rights; Joint Ownership; Tanzania

¹ kongelasophia@gmail.com

1. Introduction

The United Nations indicated that women owned only 1-2% of all titled land worldwide in 2003 (Steinzor, 2003). The rate was reported to still be less than 5% in 2005 (Ik Dahl et al., 2005). Women, on average, made up less than 20% of the world's landholders in 2012 (UNHR, 2017). Much of the attention in the growing debate about strengthening women's land rights in Africa has focused on gender equality in land reform (Ik Dahl et al., 2005; Bayisenge et al., 2015); however, apart from incorporating gender equality provisions, there has been a failure in substantively addressing the close relationship between land and marriage as it affects women (Dancer, 2017).

Many developing countries still lack adequate provisions for women to hold land rights independently of their husbands or male relatives; and whenever provided for by statutory law, enforcement mechanisms are often absent (FAO, 2002; Bayisenge et al., 2015). Women constituted, approximately 13% and 25% of sole land owners and joint land owners respectively in sub-Saharan African countries, in 2016 (Gaddis, 2018). Deininger et al. (2017) reported female ownership at 18% in Ethiopia, 45% in Malawi and 28% in Uganda. However, female ownership was only 3.1% in Mali in 2004 (Doss et al., 2015). In 2005, women in Kenya owned only 5-7% of the registered titles (Ik Dahl et al., 2005). Only 4% of land is owned by women in Nigeria (Hull et al., 2019). Women in Tanzania were estimated to own only about 19% of titled land in 2005 and their average land holding size was less than half that of men, ranging from 0.21-0.30 hectares compared to 0.61-0.70 hectares for men (Ellis et al., 2007)¹.

Local and international agencies have been intervening to improve gender land ownership rights (Deere and Leon, 2001a; UN-HABITAT, 2007; UN, 2013). Interventions include revising legal provisions to recognise joint titling² for couples (UN-HABITAT, 2007). Some of the African countries where joint titling for marital couples is allowed by law include Swaziland, Mozambique and Tanzania (UN-HABITAT, 2006).

Many land titling programmes have made co-titling between spouses a requirement (Ayelew et al., 2005). Although titling has been recommended to ensure women's names are included in the title documents for matrimonial property, titling programmes, in their design and implementation, have generally not targeted women (UN-HABITAT, 2006). The rates of joint ownership are often lower than expected after implementation of the titling programmes (Deere & León, 2001b; Collin, 2013; Ali et al., 2014). Joint ownership by married couples is still uncommon (UN-HABITAT, 2007) in some countries with joint land ownership accounting for 5%–6% of registered titles in Kenya (Kenya Land Alliance, 2014), 17% in Ethiopia (in 2012), 0.6% in Malawi (in 2011), 2.9% in Niger (in 2011), 5% in Tanzania (in 2011) and 10% in Uganda (in 2010) (Doss et al., 2015).

¹ That size of land is common in rural land, the plot size in unplanned settlements in urban areas may be even less than 100 square meters

² In this study co-titling and joint titling are used interchangeably

Land in Tanzania is considered a primary asset. It is mostly owned by men despite many land laws recognising women's rights to land. Co-titling was expected to attract couples to own matrimonial property jointly, however, the reality is that the number of spouses owning land jointly is insignificant in land titling programmes (Ali et al., 2013). In some cases of land formalisation in Tanzania, women have made up as little as 2% of registered land rights (Wegerif, 2015). The experience in Tanzania is not very different from what is reported in many other developing countries that have adopted joint-titling policies intended to shift household bargaining power in favour of women.

To further understanding in this area, this paper assesses the desirability of co-titling of matrimonial property using evidence from a land regularisation programme implemented at Makongo Juu settlement in Dar es Salaam City, Tanzania between 2015 and 2019. The regularisation programme was one of the projects in Dar es Salaam that aimed to improve informal settlement land tenure security. The programme entailed surveying and issuing land titles to the land owners. The study also explores various initiatives aimed at promoting co-ownership of matrimonial properties and analyses limitations to co-titling.

There is a knowledge gap in the existing strands of literature on the link between regularisation and gender issues. The paper adds knowledge to the studies aimed at addressing gender inequality in land ownership. It reveals the opportunities that regularisation programmes can provide women in pursuit of their land rights. The paper makes a case for joint ownership of matrimonial property, which is key to women's economic empowerment.

2. Background

In many countries, co-titling and registration are uncommon, even where mandatory due to customs and traditions (UN-HABITAT, 2006). Despite mandatory joint titling, women have failed to exercise control rights over land (Deere & Leon, 2001a). In Africa, joint ownership of land does not necessarily mean that men and women have equal rights over the land (Doss et al., 2015). Lack of gender equality principles and mechanisms for joint tenure have contributed to continued male dominance in land ownership (Holden & Bezu, 2014). Evidence shows that homeownership in developing countries is generally male dominated (Adu-Gyamfi et al., 2019).

Oxfam (2018) reveals that, although land titling provides an opportunity to address inequality in land ownership, progress remains limited in Tanzania due to the low level of awareness of pertinent laws and patriarchal tendencies. Collin (2013) notes that while many developing countries have adopted legislation to reinforce gender equality in property ownership, the de facto state of women's right to land often remains unchanged; formal land ownership is vested in men. Women in many patrilineal societies in Tanzania are considered to be the property of men, they do not own any resources even from their father's home and they are not provided with land (Asantemungu, 2011).

Recent discussions of the continuing efforts toward gender equality in land ownership show that lack of awareness of policies, programmes and implementation processes play a significant role in undermining existing efforts (Ik Dahl et al, 2005; UN-HABITAT, 2007; Durand-Lasserre & Selod, 2009; Hallward-Driemeier & Tazeen, 2013; Rakodi, 2014; Bayisenge et al., 2015). UN-HABITAT (2006) finds out that there are several common issues and conflicts in legislative frameworks at the country level regarding joint titling, joint registration, and assurance of women's rights to land and property. Very often legislation does not address or reflect issues related to traditions and customs at the household level, which have a much greater effect on women than on men.

Existing literature shows an outcry that women's land rights in Africa are not well protected because of archaic laws and African traditions and customs that, in large measure, favour patrilineal interests more than women's land rights (Magawa & Hansungule, 2018). In a few African countries, laws provide for co-ownership of marital property such as the family home or other assets, however, these laws have proven very difficult to enforce because they go against the grain of cultural practice (Joireman, 2008). The idea of a woman acquiring property in her own name during marriage is incendiary as it implies that she is not committed to the husband or his family (Joireman, 2008). To be effective, provision for the joint allocation and titling of land to couples must be mandatory rather than optional (Deere & Leon, 2001a; Hallward-Driemeier & Tazeen, 2013; Rakodi, 2014). Without the support of a mandatory joint tenure law, in many cases women within a marriage will not be able to own land, because customary or religious laws subordinate women to men in the household and vest property rights in men (UN-HABITAT, 2007; Leavens & Leigh, 2011; Hallward-Driemeier & Tazeen, 2013).

Although joint titling is encouraged and may be practised, property rights and tenure security of those living in male-headed households are determined not only by the formal laws but also by social customs (Radoki, 2014). Some strands of literature highlight a number of challenges of joint ownership by married couples. For instance, its enforcement is still often dependent on customs (Giovarelli et al., 2013), joint tenure rights can be adversely affected by legal regulations, customary or religious practices and norms, gaps in legislation, and poorly implemented laws (UN-HABITAT, 2006).

Tanzania is one of the countries in Sub-Saharan Africa that have implemented gender sensitive land reform. Land regularisation is one of the components of land reform and it is aimed at formalising land ownership titling and strengthening tenure security in informal settlements. However, there is a mismatch between the laws and practice. According to Ali et al. (2013), despite many land formalisation programmes making joint titling between spouses an option in Tanzania, the response is still very low. The authors also note that land titling programmes generally report a low inclusion rate of women as co-owners. The legal framework in Tanzania supports joint ownership of land between women and their husbands. There are several

pieces of legislation advocating for co-titling in the country. The Law of Marriage Act No. 5, Cap 29 of 1971 recognises joint efforts of spouses in the acquisition and maintenance of a matrimonial property. The law entitles the wife to possess a share in the matrimonial property based on her services rendered through performing household chores during the subsistence of a marriage relationship (Magawa & Hansungule, 2018). Section 59 of the Act, Cap 29 supports co-titling by detailing ownership of matrimonial property, including land, which can be owned jointly by spouses. The Act stipulates that interest in a matrimonial home is owned jointly and that a spouse is not allowed to alienate it by way of sale, gift, lease, mortgage or otherwise without the consent of the other spouse. Such right is protected by caveat, caution or otherwise under any law for the time being in force relating to the registration of land title. In addition, sections 159 (8) and 161 of the Land Act No. 4 of 1999 clearly stipulate co-ownership of land for spouses. It is worth noting that in Tanzania, religious tenets may still influence the desirable mode of land ownership between couples. For instance, in Islamic law a man with two or more wives is allowed to apply for a co-title, with all of the wives enjoying equal rights. However, for Christians, only a husband and one spouse can apply for a co-title.

Although the Land Act provides husbands and wives with equal shares in marital property and requires spousal consent for transfers, it appears that in the absence of both names being recorded on titles, these provisions are not respected (Rakodi, 2014). A large number of women's groups in Tanzania³ have played significant roles in promoting gender sensitive land reform. These reforms include the enactment of Land Acts in 1999, which explicitly allow for joint titling among spouses. In an effort to improve tenure security for land owners, regularisation programmes were introduced in the aftermath of the Land Act and Village Land Act of 1999. The initiative, whose key objective is to formalise land ownership in informal settlements through issuance of residential licences or certificates of title, has emphasised on the protection of women's land rights (Ikdahl et al., 2005; Chiwambo, 2017). Exploring ways of making land titling schemes more gender inclusive in Tanzania, Ayelew et al., (2005) revealed that very small subsidies are capable of inducing households to include women in formal land ownership when applying for land titles. These programmes have positively influenced women's attitude towards strengthening their land rights, leading to their increased involvement in land-related decision making (UN-HABITAT, 2006), household decision-making (Doss et al, 2014), greater security and bargaining power (Datta, 2006), and safeguarding and empowering women during and after marriage (Holden & Tefera, 2008; Rakodi, 2014).

Land regularisation in Makongo Juu aims to identify, record, group and register land rights and interests for the population currently occupying land

³ These include Tanzania Women Lawyers Association (TAWLA), Tanzania Gender Networking Program (TGNP), Tanzania Women Media Association (TAMWA), Land Tenure Study Group (LTG), Gender Land Task Force (GLTF), Women Advancement Trust (WAT), Women's Legal Aid Centre (WLAC) Women in Law and Development in Africa (WiLDAF) and HakiArdhi

in the neighbourhood. Land owners have their plots surveyed and titles processed and, in exchange, they willingly release part of their land to be used for providing social services like access roads. Education provided before land regularisation programme implementation is expected to attract many couples to own land jointly because studies have found that women are often not aware of their statutory land rights (Kongela, 2020).

Despite legal reforms, even where joint tenure is permitted, it is common for relatively few titles to be registered in joint names (Rakodi, 2014). Evidence of the impact of joint titling on women's outcomes is limited (Ali et al., 2014). Although Tanzania is among the developing countries with gender sensitive land ownership legislation and implementation programmes, women are not exercising their rights. Single land titling in men's names only is still dominant. The aim of this paper is, therefore, to seek to understand the factors that explain the low desirability of co-titling despite the efforts to legislate and promote it in order to enhance female spouses land rights.

3. Methodology

This study draws its findings from Makongo Juu settlement in Dar es Salaam. The settlement is located about 17 km northwest of Dar es Salaam City centre. Makongo Ward had a population of about 15,700 people in 2012 and was growing at an annual rate of 4.3%, according to the National Population Census (URT, 2012). The neighbourhood is largely unplanned and has a diverse population comprising mixed income households of different ethnic groups with varied traditions and beliefs. Makongo Juu settlement was selected for study because land regularisation and processing of land titles was ongoing. Makongo Juu settlement used to be unplanned and the majority of the residents used to occupy land without land titles. The regularisation programme entailed surveying and issuing of certificates of title to the land owner, which enhances tenure security. Land owners in the settlement were also educated on gender issues in land ownership, which made it possible to obtain relevant data about co-titling among spouses. The regularisation programme at Makongo Juu, which started in 2015, adopted a participatory approach. The project was designed and undertaken mainly with property owners' interests at the centre, incorporating their full involvement from the inception of the project. The residents formed a local regularisation committee, namely KAUMAMA, to oversee the project. The committee engaged a team of technical staff from the Ministry of Lands, Housing and Human Settlements Development (MLHHSD) and Kinondoni Municipal Council. The team was stationed at Makongo Juu and was involved in land title applications processing on site.

The data was gathered from key informants among government officials, local leaders, CSO and KAUMAMA officials and married couples. Data collection was done in two phases. The first phase was a pilot study that involved interviews with a small group of land owner couples, government officials, local leaders and CSO and KAUMAMA officials. The interviews were conducted to develop, test and refine the questionnaire for the broader

project. Interviews with the key informants were conducted between June and September 2019 and the questionnaire was administered between October 2019 and January 2020. As provided in literature (FAO, 1997; Perneger et al., 2015), normally a small number of respondents is selected for pretesting a questionnaire. Creswell and Creswell (2018) note that qualitative data needs to be collected from a small sample prior to designing a survey instrument for a large sample. Apart from ensuring accuracy of survey instruments and the quality of the data collected, the interviews also enabled the researchers to gain an in-depth understanding of the research issue, participants' perceptions and other important issues surrounding co-titling during the implementation of land regularisation programmes before designing the final questionnaire.

Using a register of residents maintained by KAUMAMA and the local government, a purposive sampling technique was used to select 6 couples to participate in the pilot study. The spouses were interviewed separately to obtain self-disclosure of facts evolving co-titling from each spouse. The couples invited to participate were considered the best fit because their properties were considered in the regularisation programme; therefore they were expected to understand the research issue. There was one couple who were in a polygamous marriage. For the intention of having sets of married couples in the study, the sample included only the male and one female spouse who was willing to take part in the interview session. All face-to-face interviews were conducted at the couples' homes. Local leaders were selected based on the rich information they possessed, their roles as leaders and their involvement in the regularisation project. Two Kinondoni Municipality land officers who were in-charge of the regularisation exercise were selected along with the land officer from the MLHSD who was in charge of the project. One CSO officer was included because CSOs had conducted a number of awareness creation sessions on gender issues in land ownership in the neighbourhood in the form of meetings, community conversations and seminars. Two members of KAUMAMA who were members of the local regularisation committee stationed at Makongo Juu were also interviewed.

Three sets of interview guides were developed for discussions with the key informants. The first one was for the land and CSO officers and it consisted of 13 open ended questions seeking their opinions about the legal position of spousal co-ownership, benefits of co-titling, the couples' attitudes about and response to co-titling and efforts to encourage co-titling. The second guide for the local government and KAUMAMA officials consisted of 16 open ended questions similar to those asked to land officers and a CSO officer and three additional questions designed to obtain their opinions about the efforts in place to encourage and educate spouses to opt for co-titling, the success of the efforts and the preferred mode of land ownership among spouses. The interview guide also sought to establish officials' opinion of spouses' willingness to co-titling. The third interview guide, which was employed for the 12 spouses in the pilot study differed significantly from the other two in that it focused on their personal opinions and experiences on reaching the decision regarding the preferred mode of land ownership. It examined couples' awareness of legislation relating to co-titling; willingness for co-

titling; significance of co-titling and benefits and constraints for accepting co-titling. The responses to the open ended questions from the key informants in the pilot study were used to develop the final questionnaire (open and closed ended question) for survey phase.

The survey phase consisted of data collection through a questionnaire administered to a larger sample of land owner couples in the area. A random sample of 65 couples was selected from the register of residents maintained by KAUMAMA and the local government. The same questionnaire was administered to each spouse individually. Of the 130 questionnaires distributed to the couples' homes, 118 were completed and returned, which is about a 91% response rate. Although each respondent had to fill in the questionnaire independently, many female spouses did not want to fill in the questionnaire in the absence of their husbands, which necessitated multiple visits to households. This merely serves to highlight the need for research on women's spousal rights.

The findings from the two phases of data collection were then integrated during the data analysis phase. Qualitative data analysis was through thematic analysis while percentages and a chi-square were used for analyzing quantitative data. The chi-square test was used to analyse the significance of the difference in the distribution of the men's and women's answers on Likert scale questions.

4. Results

The results provide an assessment as to the officials' awareness of legislation relating to co-titling, institutional efforts towards co-titling, initiatives taken by CSOs in providing awareness and education on joint land ownership based on the interviews with the informants. Analysis of survey data is used to determine the significance of co-titling to couples, the extent of desirability of co-titling, benefits of co-titling and constraints for acceptability of co-titling among couples.

4.1. Awareness of Legislation Relating to Co-titling

Analysis of interviews and survey data revealed a range of awareness of the legislation related to co-titling. For instance, one local leader was completely unaware of the provisions of the law on co-titling while another one had little knowledge about it. This suggests that local leaders who were directly involved in the process were not knowledgeable of legal land rights as to the co-titling of land among couples in community-led regularisation project. Meanwhile, the land officers and a CSO official interviewed were fully aware of the legal position on co-ownership of land for spouses. The questionnaires similarly established a divergence of understanding amongst the land owners. The majority of spouses (78.0%) had little awareness of the existence and applicability of the joint property ownership option for spouses. The problem was more pronounced among female spouses than male spouses. Of the 59 female spouse respondents, 64.4% were totally unaware of the possibility of

having co-titles in land ownership whereas the remainder were only slightly aware. The majority of male spouses (64.4%) were aware of the possibility of owning land jointly; however, only 17.0% of them were willing to opt for that type of land ownership.

Only 13.6% of male spouses indicated that they were totally unaware that a woman's name could be put on a certificate of title. Thus, males have greater awareness of co-titling opportunities. This is in line with UN-HABITAT (2006) who reports that one of the constraints to women being granted land titles under the titling programme in Honduras was lack of awareness of their rights to have titled land jointly with their spouses. Even Durand-Lasserre and Selod (2009) found that two-thirds of respondents were unaware of the land titling law in Greater Accra, Ghana.

Further analysis of the significance of the difference in the distribution of the men's and women's awareness level using a Chi-square test is shown in Table 1.

Table 1: Awareness Level of Co-titling

	Aware	Slightly Aware	Unaware	Total
Men	38	13	8	59
Women	0	21	38	59
Total	38	34	46	118
<i>Chi-Sq</i>	59.45			
<i>p</i>	1.2E-13*			
<i>N</i>	118			

Note: * $p < .05$.

Source: Author Analysis, 2020

Results in Table 1 imply that respondent's gender has a statistically significant relationship with land law awareness. Female spouses lack awareness of legislation relating to land ownership and co-titling compared to male spouses. This is in line with Rakodi (2014), who finds that few women are aware of their rights or of the benefits of joint registration. One explanation for this study finding could be literacy; 79.7% of males were literate compared to 47.5% of the females.

4.2. Impacts of Existing Efforts Towards Co-titling

It was clear from the interviews with land officers from the MLHHS and Kinondoni Municipality that the government and its institutions are actively engaged in the promotion and enforcement of the gender equality provisions of the Land Act No. 4 of 1999. One of the efforts is promotion of joint ownership of property among married couples. Land officers reported that they insist that the spouses agree on the name(s) to be recorded on the title when handling title applications for matrimonial properties. In case of disagreement between the spouses, an application is put on hold until the matter is resolved. The three land officers reported that, in all cases, it was

the female spouse who was denied having her name included in the title application. This shows that the government and its institutions are keen to ensure that co-titling is promoted, especially for matrimonial properties. The informants believe the institutional efforts have been successful in ensuring women's land ownership rights are protected. However, it was noted that in practice, the government cannot force spouses to agree to co-own land.

Although land officials reported few cases of disagreement on the mode of land ownership among couples, 46 of the 59 female spouses were interested in having co-titles but mentioned that they were denied the opportunity by their husbands. Of the 46 female spouses who were denied the ability to own property jointly by their male spouses, 28 had not reported the matter to the government authorities for further actions to be taken. The other 13 female spouses reported no resistance from their male spouses but they saw no problems having title under their male spouse's name.

4.3 Initiatives by CSOs to Create Co-titling Uptake

CSOs are crucial at different levels and stages of land rights and housing programmes. The pressure of CSOs to legally recognise women's land and property rights has resulted in important reforms of land, family, inheritance, and housing laws (UN-HABITAT, 2006). Out of more than 300 CSOs operating in Dar es Salaam, about 17.0% focus on empowering women in securing their rights, especially access to land and decision making (FCS, 2018). However, as observed by Asantemungu (2011), these rights were mostly violated under the "umbrella" of culture. To influence residents and achieve acceptance of co-titling, CSOs undertook efforts such as awareness creation programmes, education, seminars and legal aid provision. The efforts by CSOs in facilitating awareness of co-titling in the case study area are summarised in Figure 1.

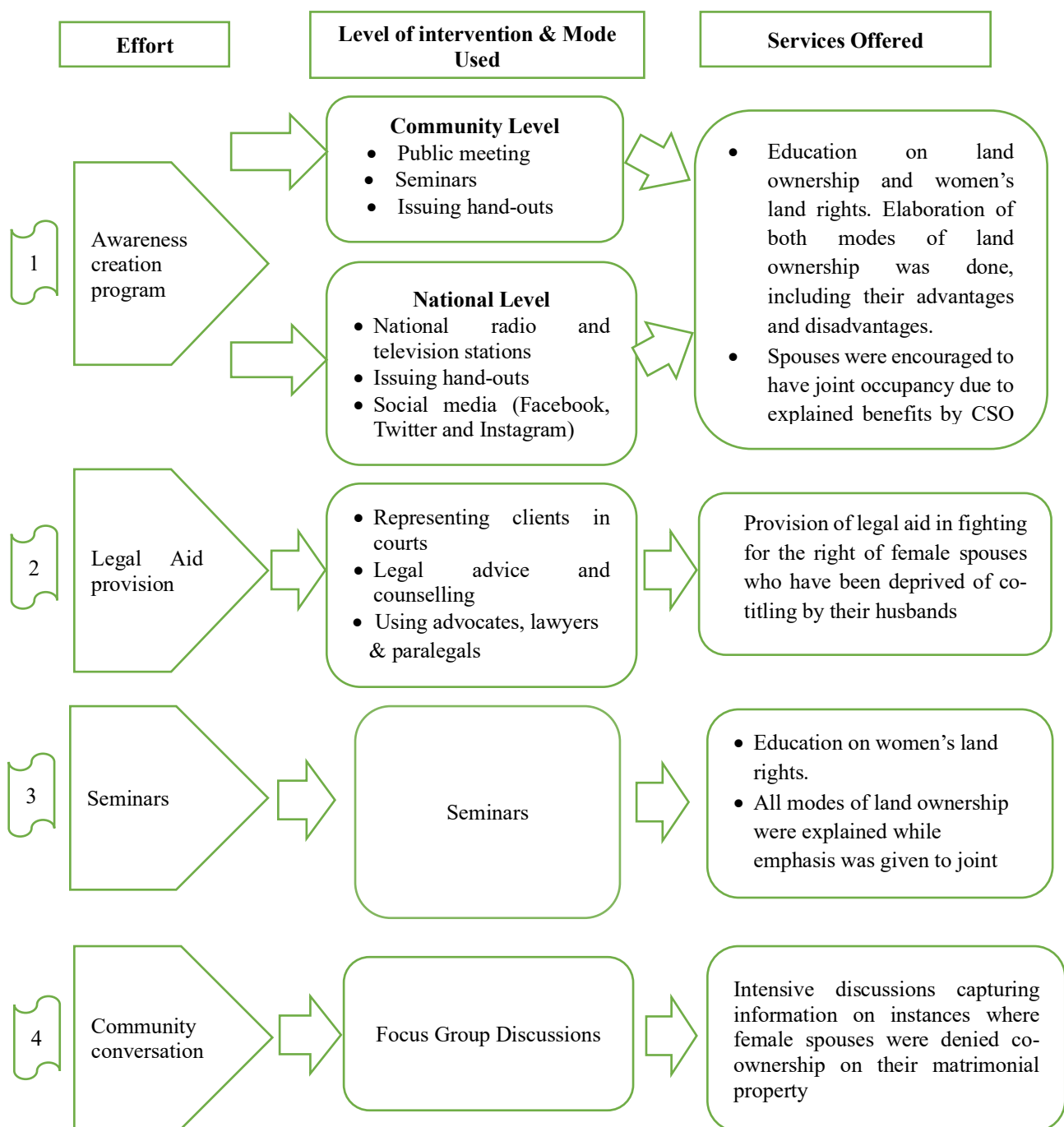


Figure 1: CSO Efforts in Facilitating Awareness of Co-titles among Couples in Makongo Juu

Source: Author's conceptualisation, 2020

The CSO official interviewed played a role in ensuring gender sensitive land rights by providing education and legal aid. The participants in the CSO programmes were educated on various modes of land ownership and couples were encouraged to apply for joint occupancy (co-ownership) for their matrimonial properties. However, the CSO official acknowledged lack of willingness of male spouses to agree to co-own. The informant noted that co-

titling was highly constrained by patriarchal norms. The officer had this to say regarding co-titling for couples:

“Whenever one is talking about co-titling, one is referring or considering the aspect of women empowerment on land ownership”

Interview conducted with CSO Official on 12.09.2019 at Makongo Juu.

The survey revealed that 83.1% of the respondents were unaware of the basic legal procedures of owning land jointly before the regularisation programme in their neighbourhood. The CSO targeted to have 1,500 people (about half of the population) under the regularisation programme attend awareness creation programmes through meetings, seminars and conversations; however, only 54.1% of the target participants managed to attend. The participants were issued with handouts that explain gender land rights and aspects of co-titling. Other handouts were kept at the local government offices for the entire population to access. Legal aid and community conversations between the CSO officer and the participants were used, but were not very effective according to the CSO officer. The CSO judged the efforts for creating awareness on co-titling as satisfactorily accomplished based on reaching more than 50% of the targeted participants. The efforts made by CSO strengthened awareness about co-ownership among some spouses. A majority of spouses in this study were unaware of co-titling before the regularisation programme; however, more than three-quarters of those who attended the meeting and seminars and participated in community conversations gained little awareness of co-titling and regarded the activities of CSO to be effective in creating awareness.

4.4. Significance of Co-titling in Urban Land Ownership

The couples had varied perceptions regarding the significance of co-titling, which was noted to be highly influenced by the gender of the respondents. Results show that majority of the couples surveyed (60.2%) agree that co-titling in land ownership is important. Only 33.6% of the male spouses appreciate the importance of owning land jointly while the majority of female spouses (89.8%) regarded it as an important way of owning land for couples.

A chi-square analysis of the significance of differences in opinions about the significance of co-titling in ownership of a couple’s property is presented in Table 2.

Table 2: Respondents’ Opinions on the Significance of Co-titling

	Highly significant	Significant	Low Significance	Not Significant	Total
Men	10	8	20	21	59
Women	31	22	6	0	59
Total	41	30	26	21	118
Chi-Sq	45.83				

<i>P</i>	6.17005E-10*	
<i>N</i>	118	

Note: * $p < .05$

Source: Author Analysis, 2020

It implies that opinions about the significance of co-titling in property ownership are significantly different among men and women. Female spouses accorded higher weight to joint land ownership than the male spouses.

4.5. Preferences for Co-titling

As presented in Figure 2, analysis of the questionnaire responses revealed that only 27.1% of males, compared to 69.5% of females desired to own land jointly. This illustrates the contrast between men's and women's opinions about the desirability of co-titling. Almost three-quarters of men did not desire such ownership.

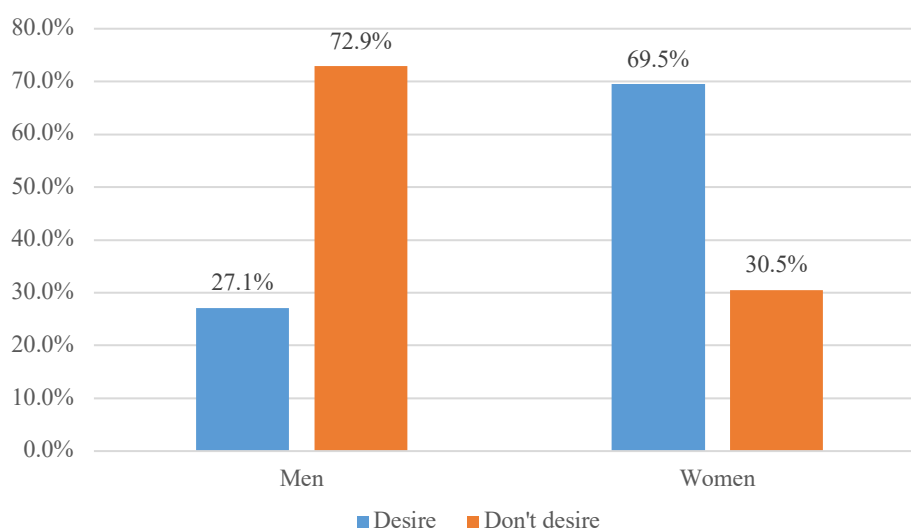


Figure 2: Co-Titling Desirability Among Couples

Source: Author Analysis, 2020

Note: $N=57$ Male; $N=59$ Female

Figure 3 provides the mode of land ownership decided on by the sampled couples during title application at Makongo Juu. The figure shows that the majority (69.5%) of couples titled land ownership in the name of men only, 15.3% in only women's names, and only 10.2% were co-owned by spouses. Byabato (cited in Mattingly, 2013) observes that about 90% of properties were registered in the husband's name and there were no joint registration of husband and wife in two planned neighbourhoods of Dar es Salaam, Tanzania in 2005. It is interesting to note that our study's results are not that different from rural land formalisation programmes in Tanzania. For example, a study carried out in Bulongwa Village in Makete District (Moyo, 2017) indicates 55% of residents who applied for a Certificate of Customary Rights of Occupancy (CCRO) were men, 27% were women, and the remaining 18%

were for joint occupation. Meanwhile, the experience in the ongoing regularisation programme shows that only 3.2% chose joint ownership by spouses while 73.5% chose men only, and 21.1% women only title arrangements according to the Office of KAUMAMA and Kinondoni Municipality. The mentioned studies show that the trend of inclusion of women as co-owners differs among regularisation programmes. Although the findings are from different population sizes and settings, there is slight increase in women's inclusion in titles. The study shows that, despite having provisions of the law to allow joint land ownership, that mode of land ownership was generally not put into practice by the majority of land owners in the study area; many titles are still issued solely in the names of husbands. So, low co-titling response could be due to lack of knowledge, although even after education co-titling response is still low, suggesting that comprehensive programs are needed from government institutions instead of leaving the task to be performed mainly by CSOs.

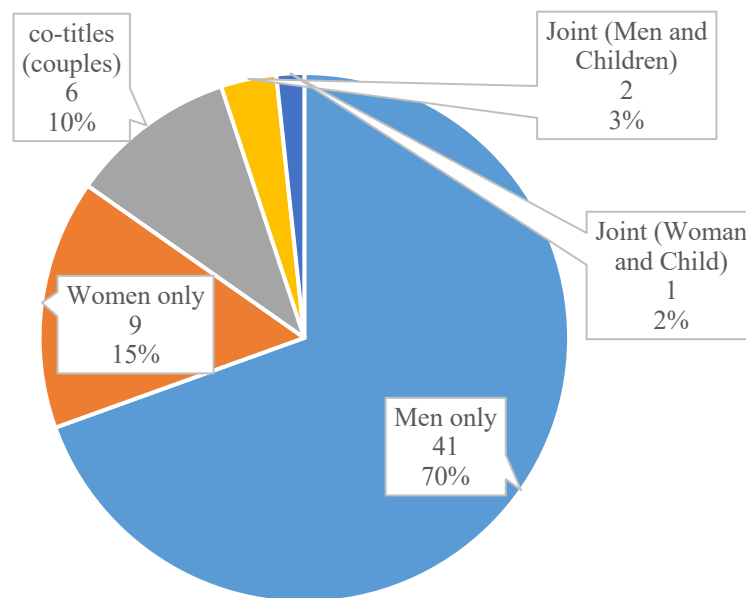


Figure 3: Land Ownership Modes Among Couples

Source: Author Analysis, 2020

Note: N=59 Male; N=59 Female

The study explored the reasons behind the low desirability for co-titling among male spouses. They cited various reasons why owning land jointly is undesirable, as shown in Figure 4. It appears that deprivation of individual rights is the main reason for male spouses not favouring co-ownerships. Others were afraid that division of properties after divorce would be expensive, which is triggered by the bureaucracy in litigation and loss of value as a result of sale proceeds sharing. The majority of male spouses revealed that the reluctance of their female spouses to agree on granting a spouse's consent when it comes to taking a mortgage is a challenge. The majority insisted that the problem is more prominent when the decision of mortgaging a property was preceded by certain conflicts in a marriage. It was

also observed that some male spouses were afraid that the right of survivorship might be misused when they die, especially when the widow decides to marry another man. A smaller number of male spouses believed women tend to be disrespectful once they know that they have equal land ownership rights with their husbands. Land officers and CSO official concurred with most of the arguments put forward by male spouses as undesirable about co-titling. Misuse of the right of survivorship by female spouses when male spouses die was the main undesirable thing about co-titling that was accorded higher weight by land officers.

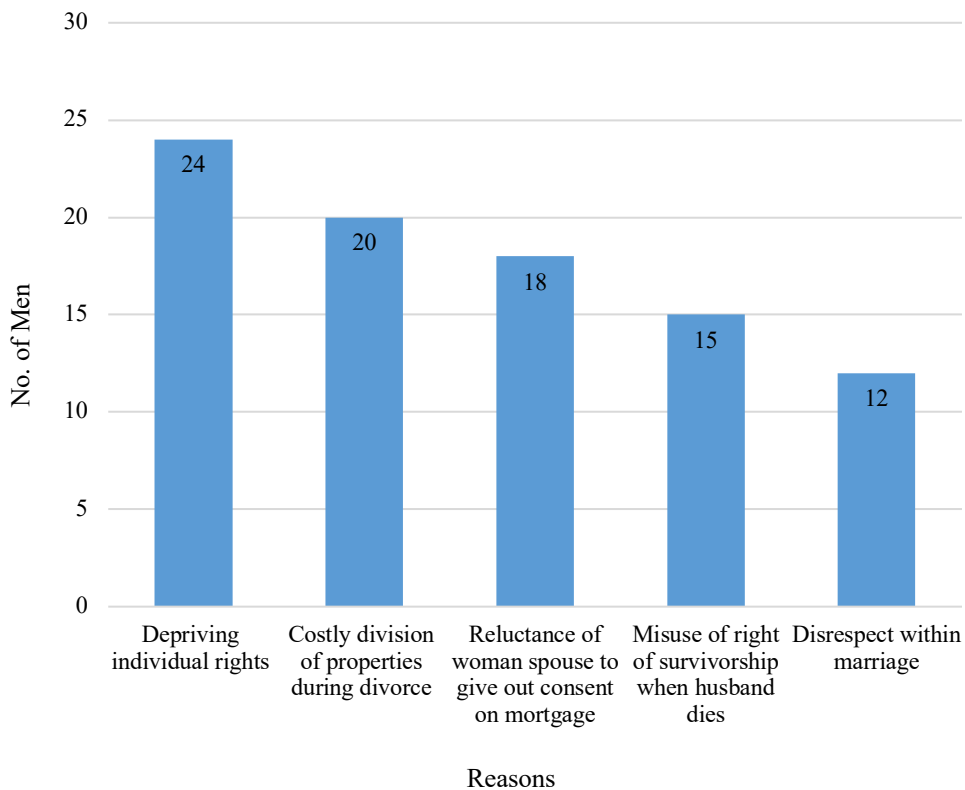


Figure 4: Reasons Male Spouses Think Co-Titling is Undesirable

Source: Author Analysis, 2020

Note: N=59 Male

4.6 Benefits and Constraints for Acceptance of Co-titling

Key informants and survey respondents cited benefits and constraints of co-titling. Analysis of the benefits of co-titling from the key informants revealed that although co-titling is still unpopular among couples, it has had positive impacts for couples. One local leader had this to say:

“If couples own land jointly it will be easy for women to continue occupying their matrimonial properties after the death of their husbands, the reported cases of widows being evicted are increasing.”

Interview conducted with a local leader on the 21st September, 2019 at Makongo Juu.

When the couples were asked whether men and women should be treated as equal in owning land, all female respondents were in support of the idea while only a quarter of the male respondents were in agreement. The couples' perceived benefits of co-titling are summarised in Figure 5. While more than 90% of female spouses mentioned economic empowerment as the main benefit of having co-titling, male spouses accorded it little weight (20.3%). Enjoyment of right of survivorship was ranked the second most common benefit followed by intra household decision making. Benefit of having freedom in intra household decision making was also cited by Doss et al. (2014) who revealed that, in Tanzania, women who report joint ownership of land are more involved in household decision-making. Although only 3.4% of male spouses saw equality in division of property in case of divorce as a benefit, more than 60% of female spouses mentioned it as a benefit. This is in line with Holden and Tefera (2008) who observed that joint titling tends to strengthen women's position in cases of divorce and death of husbands.

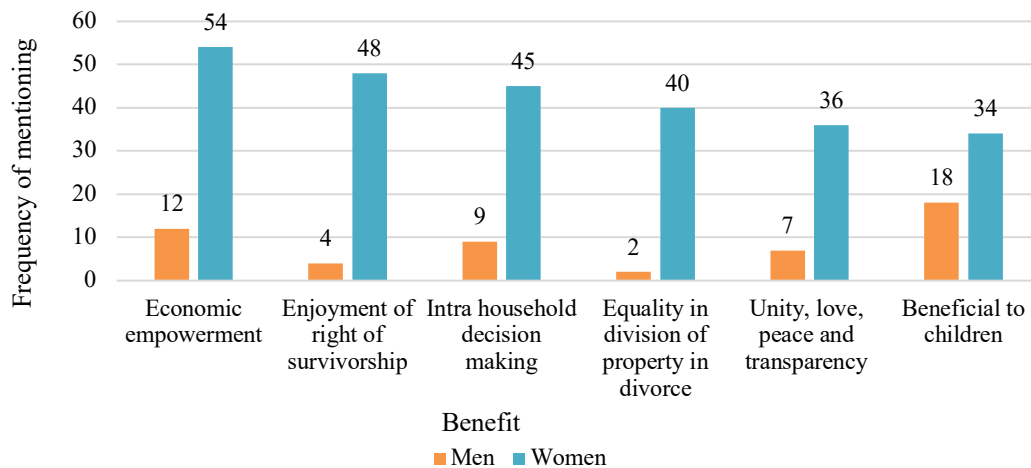


Figure 5: Benefits of Co-Titling

Source: Author Analysis, 2020
 Note: N=52 Male; N=54 Female

Respondents also cited some constraints of land co-ownership among spouses. Table 3 shows the constraints as cited by respondents. The two major constraints identified are lack of transparency and marriage conflicts. It would appear that it is difficult to have joint spousal land ownership supported amidst mistrust, fear, secrecy and conflicts in a marriage. The need for individual freedom was also cited as a constraint, mainly by male respondents. Some male spouses stated they did not want to share proceeds from land transactions when leasing or selling a property. Others reported that spouses faced challenges when planning to undertake development activities involving jointly owned properties as it required spouses' consensus on any decision with respect to any transaction involving the subject land.

Table 3: Constraints for Acceptability of Co-titling

Constraint	Male	Female
Lack of transparency	11	20
Marriage conflicts	24	7
Lack of individual freedom	18	5
Name that should appear as title holder	7	5
Low awareness of co-titling	5	6
Patriarchal society	3	8
When and who pays for land acquisition	8	2
Polygamous marriage	2	6
Ignorance	2	4
Relatives and peer pressure	1	3
Myths about women	1	0

Source: Author Analysis, 2020
Note: N=56 Male; N=54 Female

Spouses had different views on whose name should appear in titles. Most male spouses preferred only their names to appear on the land title, whereas some female spouses preferred the title to bear the names of their children. Responses from these female spouses seemed to be aligned with the *'invisible hand'* metaphor implying that they would enjoy ownership right through their children.

Lack of awareness of the existence and applicability of joint property ownership for spouses as described in Table 3 was cited as a barrier to co-titling by 11 respondents. Lack of awareness of rights is a barrier to female spouses to initiate the move towards co-titling. Another 11 respondents cited the patriarchal system as a barrier to co-titling. This is not surprising since more than 70% of the tribes in Tanzania follow a patriarchal system (Hodgson, 1999). In such a system, males are regarded as heads of households having a final decision, hence having mandate on household assets including land. Regarding decision making on the mode of land ownership among couples, about 65% of female respondents stated that men were normally the ones who decided on the mode of land ownership while about 90% of male respondents reported that they are the ones who are responsible for decision making. Female spouses revealed that their ownership rights would have been deprived even if joint spousal land ownership was an option mainly because of the patriarchal attitudes that recognise the man as the head of household. One of the interviewed female spouses had this to say:

“Even if we apply for joint land ownership, my husband will never give me a portion of rental income from our property as I’m regarded as his dependent”
 Interview conducted with a female spouse on the 12th September, 2019 at Makongo Juu.

It is common for men to keep the income in the family even if it is generated by a woman. Leavens and Leigh (2011) and Moyo (2017) made similar observations regarding gender income sharing among couples. However, that

is contrary to Section 56 of The Law of Marriage Act, 1971, which presumes that the spouses have equal beneficial interests towards the land registered under both names. Both male and female spouses agreed that land acquired or even a building constructed by one spouse before marriage was much harder to be co-owned. Similarly, if it happened that the costs related to land acquisition were paid by male spouses, female spouses were seen not to deserve to own it jointly. The observation that property acquired in the name of a husband belongs solely to him was also noted by Leavens and Leigh (2011). Furthermore, some couples described that the mode of acquiring land such as inheritance and gift created hindrance on the acceptability of co-titling among couples. For instance, land acquired by inheritance by a female spouse was regarded to be under co-ownership with the male spouse and not her property, which is contrary to section 60(a) of the Law of Marriage Act, 1971, which states that:

“Where during the subsistence of a marriage, any property is acquired in the name of the husband or of the wife, there shall be a rebuttable presumption that the property belongs absolutely to that person, to the exclusion of his or her spouse”.

One of the female spouses had this experience to share regarding land given to her as a gift during her first marriage:

“A piece of land was given to me as a gift from my uncle, but it was on my name. My previous husband tried to convince me to put it into a joint ownership but I refused, due to that decision, we entered into a serious conflict which led to my divorce a few years ago”

Interview conducted with a female spouse on the 12th September, 2019 at Makongo Juu.

In line with the argument above, Leavens and Leigh (2011) observed that Tanzanian statutory law provides for women to retain and control their own property whether it is acquired before or during marriage. The law assumes that where any property is acquired during marriage in the name of either spouse, the property belongs absolutely to that person. However, this provision most often works against women.

Neither of the two female spouses who were in polygamous marriages were interested in co-titling. To them it seemed unimaginable to have co-titles involving all wives or even with only one of them as it would attract conflicts. None of the male spouses mentioned disadvantages for not having joint ownership. This could be explained by the mode of land ownership as presented in Figure 3, whereby ownership under “men only” comprises a great share. More than three-quarters (78.0%) of female spouses revealed that they miss some advantages for not having joint-ownership of their matrimonial properties. The identified missing advantages by female spouses are presented in Table 4.

Table 4: Advantages Missed by Women not having Co-Titles

Missing Advantage	% of Respondents
Accessing loans from banks/micro finance institutions	59
Enjoyment on property in case of divorce/death of husbands	51
Freedom in property related decision making	31

Source: Author Analysis, 2020

Note: N=59 Female

A majority of female spouses (59.0%) mentioned that ability of accessing loans from banks and micro finance institution is the main missing advantage for not owning land jointly with their husbands. More than half of the respondents mentioned enjoyment on property in case of divorce/death of husbands as one of the missing advantage. More than one-quarter of the spouses cited freedom in property related decision making as another missing advantages.

5. Discussion and Conclusion

The findings show that majority of female spouses lacked awareness of the legal procedures and the possibility of owning matrimonial property jointly. Male respondents, on the other hand, were more aware but were resistant to accept joint ownership of matrimonial property with their spouses. Analysis also shows that a majority of female spouses were interested in obtaining co-titles for their matrimonial properties but faced resistance from their husbands. Although the number of female spouses in favour of co-titling compared to male spouses was higher, the number of co-titles applications was small. It seemed difficult for couples, especially male spouses, to accept joint land ownership unless the couples contributed monetarily in acquiring or developing the land. CSOs were perceived to be effectively involved in creating awareness, conducting community conversions, seminars and education regarding joint land ownership rights for couples. CSOs also provided legal aid whenever a female spouse reported a case of being denied her co-titling rights by her husband. However, although CSOs advocate for joint land ownership for couples, patriarchy norms were cited to be a main constraint in assisting female spouses.

Findings show that the majority of male spouses did not consider co-titling to be important while the majority of female spouses considered it to be important and good for married couples. The results seem to indicate that mainly men want independence and control. They also seem to be concerned with the financial aspects (land transaction costs, mortgages and divorce settlements costs). The government through the MLHSD and Kinondoni Municipality have been supportive in ensuring that female spouse ownership rights are protected. Co-titling is one of the avenues for achieving equality in property ownership, however, the identified constraints undermine the provisions of these laws. Awareness creation and education, especially among male spouses, to observe provisions of the law on gender equality and

to female spouses on the legislation advocating for gender equality in land ownership is paramount.

Due to the fact that co-titling strengthens women's land ownership rights, it is important that more initiatives are devised so as to enhance acceptability of co-titling amongst couples. Attaining a high level of desirability of co-titling requires strategies to address norms, customs and traditions constraining co-titling for couples. As laws support joint land ownership by spouses, awareness should be strengthened for spouses to appreciate advantages of owning land jointly and to adhere to these laws. However, challenges facing co-titling need to be addressed. Looking into co-titling as an avenue for women to own matrimonial property, this study contributes to studies on women's land rights to empower women economically. It also considers how co-titling can be used to address inequality in land ownership. Future research may be undertaken to assess interest in co-titling among couples who own multiple landed properties over and above a matrimonial property.

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