

HUMAN RIGHTS, GENDER AND GOVERNANCE: A CASE STUDY OF WOMEN AND ACTIVE CITIZENSHIP IN LOCAL WATER GOVERNANCE STRUCTURES IN MALAWI

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1. Introduction

- Background & Context: Water resources, water demand, and legal and policy framework.
- Conceptual framework: In the context of law reform, constitutionalism and active citizenship.
- Research question. Decentralized water governance, women's active participation, and right to water.
- Methodology and research sites: Qualitative, in selected areas in Malawi.
- Research findings and Analysis.
- Tentative overall conclusions.

2. Background & Context

- Declining availability of water vs increasing water demand in Malawi.
- Malawi's regulatory and policy framework on access to water and women's right to participation:
 - i. International legal obligations on access to water: *ICESCR (arts. 11 & 12), ICCPR (under art. 6), CEDAW (art. 14(2)), CRC (art. 24(2)(c)), UDHR (art. 25), UN Res. 64/292, Protocol to ACHPR on Rights of Women in Africa (art. 15(a))* etc.
 - ii. National law, and law reform, on access to water: *Constitution, Water Resources Act, Water Works Act, Water and Sanitation Bill.*
 - iii. National policy framework on access to water: *National Water Policy (2008)* - considers water as an economic good, and *MGDS*.
 - iv. International obligations on women's right to participation: *CEDAW (art.9)*.
 - v. National legal obligations on women's right to participation: See section 13(a)(i) *Const., & Local Govt. Act.*
 - vi. National policy framework on women's right to participate: *Decentralization Policy (1998), and National Gender Policy (2000), and National Water Policy (2008)*.

3. Conceptual Framework

- In the context of law reform, constitutionalism, and active citizenship, the paper focuses on relationships among:
 - i. Access to water: Water must be of good quality, in adequate supply, and be within safe physical reach for all, affordable to all, and accessible to all in law and in fact.
 - ii. Right to water: duty to *respect* (state to refrain from interfering directly or indirectly with enjoyment of access to water); duty to *protect* (states parties to prevent third parties such as corporations from interfering in any way with the enjoyment of access to water; and duty to *fulfill* (states parties to adopt the necessary measures to achieve the full realization of the right to water (WHO, 2003).
 - iii. Water governance: Water governance refers to the range of political, social, economic and administrative systems that are in place to develop and manage water resources, and the delivery of water services, at different levels of society (Global Water Partnership 2002).
 - iv Active citizenship: A citizen demanding and claiming rights, and mobilizing others to do the same; fulfilling the potential of the status of a citizen (Lister, 1997).

4. Research Question

- Key question in the paper: Whether, on one hand, decentralized water governance systems facilitate the inclusion and protection of women's right to water and right to participation; and, on the other hand, how women perceive themselves as active citizens and interact with water governance structures in order to realize the right to water
- Specific issues of study:
 - i. The gendered nature of access to and use of water.
 - ii. The regulation of water provision and management.
 - iii. The governance structures for water provision and management: state and non state actors.
 - iv. Women's participation in local water governance structures.
 - v. The effects of women's participation in decision /law /policy-making on access to water.

5. Methodology & Research Study

Sites

- A qualitative grounded exploration of women and human rights in decentralized water governance in Malawi was adopted— through literature review, key informant interviews, focus group discussions and observations.
- A qualitative design was adopted to allow a detailed analysis of local water governance and learn from women as citizens by identifying their experiences and knowledge and thus taking women's perceptions and practices as the starting point.
- It was also a useful approach for gaining insight into issues of women's right to water, access and the practice of participation by studying and observing women in sites where they experience the issues under study, and interpreting the women's narratives and material practices (Denzin & Lincoln, 2005).
- Within the qualitative design a grounded theory approach was deemed appropriate for this study because it allows the generation of conclusions and theory based on data from the field that is located in the actions, interactions, and social processes of people (Cresswell, 2007).
- The research study sites were purposely chosen, to reflect differing political and legal contexts regarding the degree of government commitment in incorporating human rights obligations; scale of donor influence; strength of civil society and women's organisations: Nkolokoti, Blantyre, has the first and oldest Water User Association (WUA) among the five WUAs established in the city; Nkata Villages, in Chileka, Blantyre, have committees initiated with support of an NGO that provided the water facilities; and Luno Njowe Village, Mpemba, has a water point and a committee out of initiation from below.
- The period of the study is from 2010 to 2012 – it is on going.

6. Research Findings & Analysis

a) Women and access to water:

- i. Quality of water: Most women draw most of their water from sources of poor water quality (streams, unprotected dug wells etc).
- ii. Adequacy of water: Most women do not manage to draw adequate water.
- iii. Accessibility: Some women in rural areas cover long distances, fetch water in unsafe conditions, fetch water while negotiating physical barriers.
- iv. Affordability: In rural areas, water is considerably affordable to most women; not that affordable in peri-urban areas.

b) Law, policy, and reforms on access to water:

- i. Towards formal recognition and adoption of right to water approaches of water provision in the laws from predominantly market based approaches.
- ii. Disconnected perceptions of water as a right – between right from above (in texts) and right from below (people's perceptions).

Research Findings & Analysis

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- c) Governance structures:
 - i. An elaborate regulatory structure is in place.
 - ii. State and non-state actors at various levels – at national and subsidiary levels.
 - iii. State governance structures are invisible at grass root level
- d) Duty bearers and facilitation of water provision and participation of women.
 - i. Limited facilitation of water provision and participation of women.
 - ii. Little indication that they have assumed that responsibility; limited connection with water users (limited communication with them), somewhat meet demands of the water users, and somewhat accountable to the water users.
- e) Women as rights holders: Perception and practice of active citizenship
 - i. Limited knowledge of water rights to demand improved access to water, for themselves and for others.
 - ii. Most of them do not see themselves as rights holders who should articulate the right and engage with political leaders etc to demand their right to water.

Research Findings & Analysis

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iii. Most women do not see themselves as rights holders who should promote grass roots advocacy and collective action to lobby political leaders, government or any other water service providers to improve access to safe water in their areas.

iv. Very few women consider taking any collective action to leaders in governance structures to improve access to safe water in their areas.

e) Women's participation & Impact:

i. Women as decision makers under differing political/ governance structures and regulatory contexts:

Minimal at national level due to lack of expertise/lack of consultation; high at local level but different between (Water Users Associations)WUA and non –WUA.

ii. Active citizenship and increased access to water:

Active citizenship leads to improved access to water and resource management for women and the various actors in water governance, examples from Luno Njowe 1 and Luno Njowe 2 Villages, Mpemba.

10. Tentative Overall Conclusions

- Limited consultation/women's participation in law reform – disconnection in perceptions of rights, affecting demands and implementation of rights.

Law reform should widely seek the voice of the grassroots, and the law should widely consider and address their concerns and interests

- Limited facilitation, inclusion and protection of women's water rights/right to participation by decentralized water governance systems.

Need to balance market based and rights based approaches to water provision; and to reorient water providers and water users to a rights based approach.

- Perception and practice of active citizenship among women is very low; indications are that determining variables are education and access to information.

As such, there is need for targeted literacy/education of women, and increased provision of information in active citizenship and rights.

- Women's interaction with water governance structures is limited, which limits the realisation of the right to water.

There is need to engage women beyond numbers, beyond being agents; encourage active participation; encourage more initiatives from below.