

Forum: Special Committee on Gender Equality and Women Empowerment

Issue: Improving Women's Access to Ownership and Control of Land and Other Property

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Introduction

Land is considered as one of the most valuable assets to mankind. Not only for its materialistic benefits such as food, income and employment, but also because it represents fortune, security, social status and overall recognition. Today, it has become crucial to own properties and estates in order to have social prestige and access to political power. As there is no denying that many territories such as forests, farms, pastures, fisheries, rangelands, wetlands, and even wastelands are being owned by very powerful men in each society; with emphasis on the word 'men' because many developing countries are still driven by the male dominance and gender inequality.

Whether it being for historical, cultural, or patriarchal reasons, most of the developing countries grant men the right to own, access, use, control and inherit lands. This includes making decisions regarding the outcome of any products or resources coming from these lands. Consequently, women suffer a great deal of discrimination. In postcolonial Africa, women are not permitted to exercise the simple right to land and property, without requiring consultation and approval from male family members first. This means that there is serious lack of attention to gender equality in this part of the world and many others. Therefore, this paper aims to highlight the importance of improving women's access to ownership and control of land and other property in relation to social, economic and environmental development within a country.

Definition of Key Terms

Gender Inequality

A social process that promotes the impression or idea that men and women are not equal even when they are faced with similar circumstances.

Male Supremacy

A state or situation where men have supreme authority and power over women which makes them feel superior to the other sex.

Women Empowerment

Giving women the power and support to be able to participate actively within a community, and achieve international acknowledgement across all sectors of development possible.

Sustainable Development

Economic improvement that is carried out without the exhaustion of natural resources in order to meet the needs of the present without jeopardizing the resources of future generations.

UN Human Rights Council

An intergovernmental organization between United Nations made out of 47 States that is responsible for the promotion, protection and encouragement of all human rights around the world despite diversity of gender and ethnicity.

Convention/ Protocol

A way in which things are done, such as an agreement between countries about particular matters. Protocol is a formal agreement that is less formal than a treaty. Conventions, however, are carried out in a place where a number of people meet for several days to share thoughts and interests about certain matters, in order to make a decision that is widely accepted by the seated group of people.

Background Information

It is important to focus on women's ownership of land as it does not only enhance women's sources of revenue and other livelihood options, but also increases their socio economic stability, as well as their families, children and societies. Agarwal stated that women make up 43% of the agriculture labor around the world, however, they spend most of incomes from farming on family, children and household needs (2). Meaning that women are able to help their societies achieve sustainable development in all fields possible if their countries promote gender equality and support women's economic empowerment.

However, it is not possible for developing countries to rise socially, economically and environmentally without including women's right to land and property. But Land law is a complicated system, filled with codified rules that protects its tenure. For this reason, many studies recommended for states that are interested in improving women's access to land rights to incorporate strategies that implement land laws, policies and programs in accordance to their domestic laws, within whichever framework that suits their context best.

Furthermore, the violation of certain human rights, such as the right to freedom from violence, education, association, and participation ultimately prevents women from accessing land and other productive resources. For this reason, it is important for those states to follow regional and international legal that are protected by the human rights instruments. Following this introduction will be an analysis of women's right to land, and an overview of major countries and organizations of both international dimensions and regional legal and policy instruments involved, in relation to human rights.

Analysis of women's right to land and property in relation to human rights

Many communities around consider men to be the only gender that can be active within a society. There is no questioning that men have always had rights to own, control and manage a land. On the other hand, the idea of linking such rights to women seems horrendous to male-dominant communities, and that is because they tend to think that women are incapable of managing lands and other productive resources. This made women lose rights over lands that rightfully belong to them to males, whether men in their families, or husbands in the course of marriage and divorce (Dan 3). However, with the increasing recognition of women empowerment and its positive correlation with the UN Human Rights Council in recent years, communities became well-aware of the productive role of women within a society.

The conceptual framework based on the approach of human rights mainly reflects the International Human Rights standards which enables women to know and claim their rights, as well as provide accountability to solutions in cases where women rights are being violated. According to UN Women, at least 115 countries recognize women's property rights on equal terms with men. Such progress indicates the relevance of human rights principles to women's access to, use of and control over land and other property through promoting equality and interdependence, as well as eliminating discrimination and

divisibility within communities. Today, many developing states patronize an investment in women and in these rights in hopes to witness its impact on their country's sustainable development.

Major Countries and Organizations Involved

There are several rural countries and organizations that are concerned with women's rights to land and property. However, countries that have approved of women's right to land such as Brazil, Burkina Faso, Fiji, Italy, Kenya, Mexico, Philippines, South Africa, and Tunisia consider themselves as non-discriminatory towards gender when it comes to women's right to land and other property. However, even though supported by domestic law, it is important to note that laws alone are not enough to secure women's access to land in those countries. For this reason, it is important for cultures to have an effective role in raising awareness and extending it to new generations instead of relying on the formal laws only.

Timeline of Events

Date	Description of Events
1922	UK allows equal right to inheritance
1923	First Equal Right Amendment introduced
1963	Equal pay act for men and women becomes federal law
1965	Supreme Court issues landmark ruling on contraceptives
1967	Civil Rights Protections extended to women
1976	Irish women are able to own their own homes
1978	Employment discrimination against women banned
2009	Federal law expands worker's right to fair pay
2009	Obama allows women to sue companies for pay discrimination

Relevant UN Treaties and Events

There is no doubt that property rights are an important part of the wider institutional matrix governing any society. For this reason, institutions are formed at a national level to watch over individuals' land tenure arrangements in order to help women claim rights over land and other related property. There are two main forms of institutions: formal and informal. Formal institutions provide legal enforceable framework for the

economic and social activities of a society in written instruments that determine important elements of land governance such as the rights to access, management, withdrawal, exclusion and alienation. Informal institutions, on the other hand, are the unwritten rules that dictate the everyday human life on the level of economic and social exchanges.

In other areas of the world, men retain such rights naturally, but women may only gain access to it via marriage or inheritance. In Africa, for example, women and men have the right to inherit properties and its productive resources such as clean water and nutritious food if their spouses are deceased at any point. However, I believe that men and women shall have equal rights to sharing joint property, including access to and control over productive resources such as land, in case of separation or divorce. For this reason, there are several regional provisions such as the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa address the rights of women to land and property.

In addition to this protocol, there is the Framework and Guidelines on Land Policy in Africa adopted by the African Union in 2009, the African Union's Declaration on Land Issues and Challenges in Africa, the Nairobi Action Plan on Large Scale Land-based Investments in Africa, and the Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights also recognizes and supports equality via strengthening the rights to land for women in Africa. The following tables display a percentage of how lands are distributed to men and women according to gender.

Table 1: Percentage distribution of landowners by gender in South America

Country	Women	Men	Couple	Total
Brazil	11.0	89.0	0	100
Mexico	22.4	77.6	0	100
Nicaragua	15.5	80.9	3.6	100
Paraguay	27.0	69.6	3.2	100
Peru	12.7	74.4	12.8	100

Source: (Deere and Leon 928).

Table 2: Forms of acquisition of land ownership by gender percentage

Country	Inheritance	State	Market	Other	Total	
Brazil	Women	54.2	0.6	37.4	7.8	100
	Men	22.0	1.0	73.1	3.9	100
Chile	Women	84.1	1.9	8.1	5.9	100
	Men	65.4	2.7	25.1	6.8	100
Ecuador	Women	42.5	5.0	44.9	7.6	100
	Men	34.5	6.5	43.3	15.6	100
Mexico	Women	81.1	5.3	8.1	3.7	100
	Men	44.7	19.6	12.0	8.9	100

Source: (Doss et al. 8)

International legal, policy framework, and relevant treaties

In article 2, the Universal Declaration of Human Rights sets the principle of non-discrimination, including those based on gender. Among many other rights this declaration also recognizes the rights to property, food, housing and education. Also, in article 3, the International Covenant on Civil and Political Rights grants equality between the two sexes and prohibits discrimination based on gender difference. Among other rights, the convention also recognizes the right to life, liberty and security of person, private and family life, equality before the courts, freedom from torture, and inhuman or degrading treatment. And in article 3, the International Covenant on Economic, Social and Cultural Rights states that parties are to “undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in present Covenant” and also prohibits discrimination based on the sex of the person. Lastly, In the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms Racial Discrimination, the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, there are numerous articles that guarantee rights that are related to access, use and control over land and other productive resources.

According to Women UN, those treaties are supervised by bodies that monitor the implementation of the international human rights treaties, including: the Committee on the Elimination of Discrimination against

Women, and the Committee of Economic, Social and Cultural Rights, in order to ensure that women's human rights are relating access, use, and control over land and other productive resources. Generally, the treaties mentioned above agree on the protection of the family, right to marriage, and equality of spouses in the eyes of the court. Such equality should extend to all matters, including residence, as well as the enjoyment of all economic, cultural and social rights. This means that "women have a right to own, use or otherwise control housing, land and property on an equal basis with men, and to access necessary resources to do so". However, the Committee on Elimination of Discrimination against Women still found that there are some forced evictions documented against women over the past decade. The committee reported those cases as violence against women on the United Nations Special Rapporteur.

Previous Attempts to solve this Issue

Some emerging approaches in addressing women's land rights

There are many efforts done by governments to strengthen and support the innovation of women right to land for women and tenure security in rural areas such as:

Joint Land Titling

Titling is one of the most common approaches advocated by communities because it secures women's right to land and boosts the recognition of those rights by the state in some cases. The theories consider land titling an essentiality for the efficiency of markets and argue that such efficiency will enable land to be transferred to those who can use it most productively and thereby contribute to the economic growth of the state. Many reforms have undertaken to jointly title land in the name of husband and wife due to the benefits of joint titling, including guarding against suspicious action by one spouse.

Land Redistribution and Resettlement Programs

Land redistribution is a popular way to either reduce inequalities that happen due to unfair distribution, or grant fertile productive lands to farmers. According to Mennen, this method is widely implemented in the Republic of Korea, Japan, Ethiopia, Algeria, Guinea-Bissau, Libya, South Africa, Taiwan, Zimbabwe and much of Latin America. At some point in the past, land reforms involving resettlement and land redistribution generally were gender blind.

Self-help Groups

Those groups mostly concentrate on empowering women and raising their awareness to help them understand their land rights, and other rights. Some of these self-help groups are initiated in villages. The self-help groups are forums for creating awareness among women regarding health, education, and legal rights, among other topics.

Promote Women's Role in Land Governance

Currently, women lack voice in government matters in a lot of countries. So, ensuring that women have an adequate voice in land management and policy processes is important. A few women serve as governance authorities, and even fewer participate in land governance. This means that women's power is often shortened by male supremacy when women are in positions of authority. Therefore, there can be a better foundation for strengthening laws to protect women's rights via opening channels for more women to provide genuine input into land policy and governance issues.

Possible Solutions

In hopes to help the cause, the following list of suggestions or recommendations to the governments of developing countries to help improve women's access to ownership and control over land and other property one of them could be, increase the speed of implementations of new land rights in domestic laws and include women in those new laws. A second solution could be, clear presumptions of equal ownership to land or property between couples. A third solution could be to eliminate gender-biased land laws and reject any bills or this sort. A fourth solution could be to collect positive feedback from women who own lands and provisions in other countries in order to encourage other women to enjoy the right to land. A fifth solution is to ensure that women actively participate in the titling process themselves and not through sending a guardian. Another one is by Providing legal support to women who finally gain the right to land and other property. Finally, Ensure fair accessing and entitlement to their lands and other productive resources they may own.

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