

Gender and land compendium of country studies



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► Foreword

In 1995, the Fourth World Conference on Women, held in Beijing, concluded with the endorsement of a comprehensive Platform for Action that sought international commitments to improve the condition and rights of women and their communities worldwide. Many of the declarations made in the Beijing Plan of Action are in line with existing commitments made by States at other UN world conferences² including the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination against Women.

In September 2000, the UN Member States adopted the Millennium Declaration, whereby they determined to strengthen human rights, peace and development, to and improve the UN's competence to act on behalf of humanity's priorities. The Millennium Development Goals (MDGs) were developed as a framework for implementing the Millennium Declaration and, with their related time-bound targets and indicators, represent a focused commitment on the part of the international community to a broad definition of development.

While the Beijing Conference had an impact on policy and legislation in many countries, there is still a long way to go in terms of translating policy and legislation into action. Since 1995, a number of resolutions have been approved by the UN General Assembly in support of rural women. In 2002, the resolution on improving the situation of rural women was adopted; this called upon Member States and UN bodies to continue their efforts to ensure an integrated follow-up to UN conferences and summits, and give greater importance to the advancement of rural women in their national, regional and global development strategies.

Within this framework, FAO's Gender and Development Plan of Action (2002–2007) states that “sustainable agriculture and rural development and food security cannot be achieved by efforts that exclude more than half of the rural population.” Women's contribution to agriculture and food security is widely recognized across all regions. Despite the above-mentioned international commitments, women, in particular in rural areas, have not significantly improved their economic position and social situation, and basic prerogatives related to human and social reproduction continue to be

² Strategies for Gender Equality: FAO's Implementation and Follow-up of the Beijing Declaration and Platform for Action

subordinated to productive and commercial goals.

Hunger and poverty are, in general, consequences of inadequate and restricted access to land and other resources, such as capital, inputs and technology; being women among those with less access to land, while accounting for a large share in small-scale food production.

Over the past few decades, governments and civil society have been attempting to implement land regulations that seek to improve women's land rights. Nevertheless, most initiatives developed to promote land reform programmes continue to underestimate the implications that gender-asymmetric land policies entail for agriculture and food security. Most modern institutional arrangements for land tenure tend to maintain existing gender and social inequities. Political changes are required to revisit existing institutional mechanisms to ensure that rights to land are acknowledged as basic human rights and that women's equal rights are effectively incorporated into land policy and tenure programmes. This compendium has been put together to provide an improved understanding of the complex issues concerning gender and land. It draws on research commissioned by FAO, and has been compiled by the Gender and Development Service in collaboration with the Land Tenure Service.

► Introduction: gender equity and land rights

Zoraida García Frías

Humankind has been witness to and a partaker of the multiple changes that agriculture has gone through over centuries. Since the early days of this ancient practice, farming has been the backbone of the economic development of many societies and the main source for the preservation and evolution of life. Agriculture, in prehistoric and earliest agrarian civilizations, was not only a main source of food and raw materials, but it also represented a source of expression of the innate order of nature. Social scientists, anthropologists, and especially feminist researchers interested in women's social role in ancient societies, have found numerous traces of evidence demonstrating how earliest civilizations in different part of the world have associated farming with their broad cultural and social settings.

From the outset, the development of agriculture has been strongly associated with women's endeavour. In fact, women's contribution to agriculture goes back to the origins of farming and the domestication of animals when the first human settlements were established more than 6 000 years ago. The domestication of plant and animal species occurred partially in response to the need for families to ensure adequate access to sources of food during the process of settlement.³ As a consequence, the allocation and management of human and physical resources at both family and community levels were geared by the goals of adequate food supply and food security as a means for survival.

Over the years, the division of responsibilities and labour within households and communities tended to place farming and nutrition-related tasks under women's domain, since those activities were closely related to social and human reproduction goals, whereas men tended to become progressively involved in activities that required temporary migration such as hunting and fishing or other activities related to public and community organization and off-farm responsibilities. Nowadays, in many societies women continue to be mainly responsible for family food security and nutrition. Nevertheless, the institutional framework and policy environment have not necessarily evolved to respond to the goals of human and social reproduction; on the contrary, they have been subordinated to financial and profit-making goals.

During the course of social and technological evolution and the expansion of the market economy, agricultural developments began to be stimulated by profit-making goals. As the focus of agriculture moved away from the goals of human/social reproduction, so the rationale for the allocation and use of land

³ Jurgen Kuczynski. 1979. Breve historia de la economía. Bogotá, Ediciones Alcaraván.

and other associated resources, including knowledge and labour, also switched towards a more pecuniary focus. This transformation brought about a new social order that affected all aspects of living and thinking,⁴ giving rise to a different way of structuring human relations and leading to a system of hierarchies and control over resources.

Gender, together with other social and economic factors, determines the individual's and group's access to and control over resources. Cultural norms and social practices, as well as socio-economic factors, are among the main obstacles women face in this regard. In practice, although most national legal codes have explicitly incorporated legal provisions acknowledging gender equality in relation to access and ownership of land and other productive resources, it has been noted that women's rights to own resources on equal conditions to those of men are repeatedly disregarded or overlooked.

Moreover, the lack of access to land and its security of tenure constitutes one of the most serious obstacles to increasing agricultural production and farm income. The set of rights held by an individual or group enables the holder/s to make management decisions on how land-based resources will be used for immediate household needs and long-term sustainable investment. If women's role as food producers and natural resource managers is to be enhanced, they need access to land, management control of landed-based resources, and economic incentives that security of tenure provides.

Especially in agriculture-based economies, where a large part of the population depends on farming-related activities, land is not only a fundamental asset and a main source of food production and food security, but for many rural communities worldwide it also constitutes a secure place to live and a base for social and cultural identity and belonging.

Women's bargaining position in rural societies is largely influenced by their role in agriculture and food security. The contribution of women to food and agricultural production in agriculture-based economies is significant, given the high number of women employed as agricultural workers for agroprocessing industries and as food producers. "In sub-Saharan Africa and the Caribbean 80 percent of basic food is produced by women, while in Asia women's contribution also accounts for around 60 percent. In Latin America and the Caribbean the number of women working in agriculture has increased from 15.1 percent in 1990 to 20 percent in 1999, in both subsistence and commercial farming."⁵

Despite the continuous changes in agriculture over the past three decades

⁴ Riane Eisler. 1988. *The chalice and the blade: Our history, our future*, Chapter 8, *The other half of history: Part I*. San Francisco: Harper & Row.

⁵ UNCTAD. 2004. *Trade and gender: opportunities and challenges for developing countries*, Chapter 3, *Agriculture, trade and gender* (contributed by FAO). New York, USA and Geneva, Switzerland, United Nations.

and the subsequent diversification of rural income sources for most households, land tenure continues to be a central issue in terms of the standard of living of rural populations, especially in non-industrial economies. “FAO estimates that farming remains the only source of income for an estimated 70 percent of the world’s rural poor”,⁶ and agriculture continues to be an important component of the economy of many developing countries as it significantly contributes to domestic production and employment. In some countries, agriculture generates three-quarters of household income in rural areas, most of which comes from subsistence farming, in which women play a major role.

A number of countries over the past five decades have implemented land reform programmes, but no significant changes were introduced to the existing land tenure structure, and thus the social and power relations have remained very much the same in rural areas. Women’s rights to land tended to be left aside by many of the institutional arrangements put in place for land tenure in most countries, and the implications of how men and women are affected differently by the diverse land tenure arrangements continue to be overlooked in most of the emerging institutional reforms in the agriculture sector. As a consequence, no substantial progress has been achieved with regard to women’s position in relation to land access and control. As will be discussed in the various studies, land continues to be highly concentrated in very few hands – and particularly in men’s hands.

Most initiatives to enhance women’s land rights within the past three decades have mainly focused on legal reforms. The right-based approach to development adopted by different international fora for the advancement of women pays special attention to the importance of women’s rights to own land and other property. For instance, the Beijing Platform for Action⁷ itself indicates that governments should “undertake legislative and administrative reforms to give women full and equal access to economic resources, including the rights to inheritance and to ownership of land and other property, credit, natural resources and appropriate technologies”. As a result, legal reforms undertaken in this regard have increasingly strengthened the recognition of women’s equal rights through independent entitlements to natural resources; however, these reforms still need to be bound to more complex institutional and cultural issues that prevent the enforcement of those legal dispositions in many countries.

Countries such as Brazil, Honduras, Nicaragua, South Africa and Zimbabwe, among many others, have introduced within the past two decades new legal regulations that acknowledge women as landholders and beneficiaries of land

⁶ Ibid

⁷ Beijing Platform for Action, Art. 61 (b), 1995.

distribution programmes; however, the concrete impact of those programmes on women's control over land and agricultural produce is not yet clear. The lack of empirical information and quantitative data on how men and women have been affected by different land tenure programmes remains a constraint.

Another feature of most land reform programmes implemented over the past two decades is the emphasis given to land registration and titling, with very little attention being paid to the demand for land redistribution. Land titles and land regularization, in general, have been seen as a preamble to the development of land markets for agriculture. Although no specific data are available, it seems that land market operations in several countries have also tended to favour land concentration. Many small farmers (both men and women) have tended to sell or have been deprived of their land; in such cases it is generally women who tend to lose out, since most rural women did not hold title of the family land and could not therefore benefit from the sale of the family plots, or were left out of the titling process because they lacked documentation proving their ownership of the land they possessed.

Moreover, the introduction of new institutional arrangements for land has not guaranteed a better position for women in relation to land ownership, although legal regulations have been introduced that acknowledge their rights to own, lease or sell land properties. Existing historical disparities among different groups have not been sufficiently addressed within the new land market institutions, and those who were traditionally economically deprived had few opportunities to obtain land through market transactions, since no provisions were granted.

On the other hand, in countries with strong traditional community tenure systems, it is crucial that women's social security and bargaining power within the traditional institutions be preserved while introducing new institutional arrangements for land tenure. As various recent studies⁸ have demonstrated, women's control over land influences their bargaining power,⁹ at both the household and community levels, as it is women who own land who tend to play a more central role in decision-making.

The new National Land Policy (NLP) in the United Republic of Tanzania exemplifies a typical ambivalence concerning women's rights in newly introduced land tenure reforms. While the NLP acknowledges the rights of women to acquire land in their own right through both purchasing and allocation, the inheritance of clan or family land will continue to be governed by custom and tradition. Also, provisions to enforce the law can maintain

⁸ Shahrá Razavi. 2003. *Agrarian change, gender and land rights*. Oxford, UK, UNRISD and Blackwell Publishers; Carmen D. Deere and Magdalena León. 2001. *Empowering women*. Pittsburgh, USA, University of Pittsburgh Press.

⁹ J.F. Platteau – *Traditional marriage practices in Subsaharan Africa: Senegal and Burkina Faso*.

gender bias, for example the one relating to institutions set up to adjudicate land disputes. Again, in the United Republic of Tanzania, “the dispute settlement mechanism, known as Mbaraza Ya Wazee Ya Ardhi, is structured so that councils of village elders have primary jurisdiction in all land matters, including settling disputes over individualization of tenure. They determine their own procedures, subject to the obligation to follow the principles of natural justice; they are not bound by any civil or criminal procedure codes or the law of evidence.”¹⁰

In Uganda also, women hold rights to the property attached to their houses, and legal recourses exist to protect those rights. On this basis, once property had been assigned to a wife, it cannot be transferred to another beneficiary. In addition, customary laws acknowledge a widow’s inheritance rights regarding the ownership of matrimonial homes and land. However, women’s rights in these respects began to be eroded by various forms of land transfer, including the emergence of a market in land, and by increased land scarcity resulting from polygamy, which is widely practiced. By the late 1960s, newly constituted magistrates courts were supporting the subdivision of women’s plots of land to enable it to be shared among co-wives. This practice led to women’s traditional rights under customary law being undermined, and men’s decisions as heads of household determining women’s property rights.

As in many other countries, changes in statutory laws have not guaranteed Ugandan women’s rights over land. When conflicts exist between statutory regulations and customary laws, courts tend to refer to customary law in matters pertaining to women. For example, the Marriage Act of 1964 recognized only monogamous marriages, but in practice the courts usually ignore these provisions when conflicts arise regarding family land distribution.

Worldwide, as agriculture gradually becomes more focused on commercial and profit-making goals, and given the historical high level of dependency of agricultural production patterns in developing countries on markets in developed economies, the growing process of market liberalization for agriculture is likely to favour land reallocation towards cash crops and exports to the detriment of foodstuffs. This increased commercialization of agriculture also tends to expel women from the land held by the family and place at risk their possibilities of obtaining access to land within the new institutional arrangements for agriculture.¹¹ Challenged by global market operations, the role of women as food producers and processors in many rural areas is also gradually diminishing, as small farmers increasingly need to compete with other large food producers from abroad; as in developed countries, they will be forced to migrate to urban areas, but in this case they face a highly flexible and deteriorated labour market in non-

¹⁰ Zenebewoke Tadesse – Revisiting customary institutions and gender relations: a daunting challenge.

¹¹ Op. cit., see note 3.

farm sectors.

Land in most tenure systems is still very male dominated and it continues to be also highly concentrated in most countries, regardless of the economic system in place. Worldwide information on landownership and tenure is very limited. The incomplete cadastral information available and empirical evidence on land ownership reveal that the number of women registered as agricultural landowners in most countries is extremely low, in both developed and developing countries. In countries such as Denmark, Germany, the Netherlands and Spain, where agriculture is mainly based on capital-intensive technology with a high degree of mechanization, one would have expected that the modernization of agriculture would have been accompanied by improvements in land distribution and a significant increase in the number of women landholders; however, according to Eurostat data,¹² most land in the farming sector is owned by men, with less than 20 percent of agricultural land being held by women in most European countries. Likewise, agricultural land in countries such as Lesotho, Uganda, Zambia, Dominica and Brazil present a similar tenure structure, with women landholders ranging from 16 percent to 26 percent of the total number of holders (natural persons), during the 1990s¹³. In practice, the advancement of women's position in the various economic sectors other than agriculture, and their increased representation in social and political positions, has done little to modify women's position in agricultural land ownership and management in developed economies. This phenomenon poses questions regarding the institutional and economic environment in which agricultural production continues to be developed without recognizing and addressing the power relations and customary practices that tend to exclude small farmers and women in particular.

Traditional land concentration patterns and the social/gender disparities associated with them seem to be aggravated by the current process of economy globalization. Land policy and the institutional arrangements that have been set up over the last 20 years for land tenure reform in most countries have mainly focused on the expansion, formalization and regularization of land market transactions; nevertheless, in many cases market forces have tended to swap the achievements of the few attempts for land redistribution and land reform programs from the 1960s and 1970s. The current economic trends toward market liberalization may once more jeopardize the rights of small farmers and specially women to own the land they may require for agriculture and the sustainable livelihood of their family.

Ongoing discussions on the gender implications of the different land tenure arrangements tap on many structural factors. Traditional social inequities and strong asymmetric power relations existing in most countries, together with a

¹² Eurostat, 1997.

¹³ FAO, Waicent, agricultural census data period 1990–95.

system of beliefs and social practices that discriminate against non-economic profitable activities permeate the current debate on gender equity on rights to land. The purpose of this volume is to contribute to this debate, bringing together various papers, prepared with the contribution of different authors.

The present compendium is organized as follows: five articles, including a summary chapter, on different country experiences in relation to land rights and their gender equity considerations. The first two articles present a glance at customary institutions in South-Saharan Africa, Senegal and Burkina Faso, which, as one of the authors points out, represent a daunting challenge to augmenting effectively social recognition of women's land rights. The study on Brazil pays special attention to the evolution of legal regulations that historically prevented women from having equal access to land. Nicaragua's case study brings to the discussion the nature of the different state interventions to promote gender equal rights under the agrarian reform programmes from the 1990s and raises concerns on the effectiveness of joint titling mechanisms implemented during the last decade or longer. A more global discussion is presented in the last article, where the author has a closer and comparative look at the multiple lessons learned from various relevant country interventions over the last 20 years, building up some conclusions arising from the previous country studies. As a major conclusion, the different studies assert that despite the efforts made in most countries to promote women's equal rights to land, as part of the development agenda, many institutional, social, cultural and above all economic obstacles persist that prevent rural families, and women in particular, from having adequate access to and secure tenure of land.