

ADVANCING EQUALITY IN LAND RIGHTS FOR WOMEN



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The Science for Action Series is jointly coordinated by the International Land Coalition (ILC) and the Global Land Programme (GLP). It brings together key findings from research networks relevant to ILC's ten commitments to People-Centred Land Governance. The Series facilitates exchange of knowledge between scientists, civil society and grassroots organisations to strengthen efforts of land users, practitioners and policy-makers to bring about positive change in land governance.

This brief refers to Commitment Four: 'Ensure gender justice in relation to land, taking all necessary measures to pursue both de jure and de facto equality, enhancing the ability of women to defend their land rights and take equal part in decision-making, and ensuring that control over land and the benefits that are derived thereof are equal between women and men, including the right to inherit and bequeath tenure rights.'

It is based on the research of ILC members Nitlapan Research and Development Institute (Nitlapan) and Resource Equity.

Equality in land rights for women refers to parity between women and men with regard to tenure of, and usage rights to, land. Globally, across many different data sources, research shows that there is a strong bias favouring men in land relations.

DEFINING LAND RIGHTS FOR WOMEN

Gender equality refers to equal rights, equal enjoyment of rights, equal opportunities, equal access to resources, justice and other social assets, between men and women. In land rights this refers to equitable opportunities and security in the acquisition of rights by men and women, equal opportunities for both men and women to enjoy and exercise their land rights and equal opportunities for men and women to protect their land rights when they are threatened.^{1,2} For gender equality to be realised, women and men must have the opportunity to equally enjoy society's goods, opportunities, resources and rewards.³

Gender equity means the recognition of different needs and power, which must be addressed in a way that rectifies the unbalance of power, benefits and responsibilities. In fact the notion of equity entails the provision of fairness and justice, in terms of benefits, needs and responsibilities. However, in some cases 'gender equity' has been used to perpetuate stereotypes about women's

role in society; hence International Human Rights treaties refer to 'equality' rather than equity. On the other hand, some grassroots groups consider 'equity' as a better way to ensure fairness as it implies providing different (and adapted) responses to different needs, while equality would simply promote "equal" rights or provisions, and disregard the pre-condition of historical discrimination that affects women.

Gender justice can be defined as the situation where, in both practice and in law, being a woman or a man does not affect enjoyment of economic, social and cultural rights; where differential impact of policies and law is taken into account; balance and proportionality in participation and decision-making are in place. In the land sector a situation of gender justice would imply that land rights are not dependent on being a man or woman.³

GENDER JUSTICE AND THE GENDER GAP

Evidence demonstrates the important impacts of women's rights to land and resources on improving social and economic outcomes for

them, for their families and as driving economic growth globally. Yet there is still a significant gap between men and women in terms of bundle of rights.^{1,2,4} In fact, women experience substantial disadvantages in relation to men in management, control and opportunities for land rights, beyond owning a significantly smaller share of agricultural land worldwide.⁵

Inequality is intersectional; hence women's status, class and other individual circumstances, as well as specific tenure systems, have an impact on women's land rights. Inequalities in property and land rights obviously also exist between women, with women's land and property rights and tenure security depending on each of their specific circumstances.¹ For example, women's marital status, whether they have children, the gender of their children and their age can all disproportionately impact their land rights.^{1,2} Many women gain access to land through relationships with men and have few land rights of their own.¹ Patterns of gender inequality, however, are relevant to all women.¹

Effective policies for gender equity are context-specific, as any single country will have its own constellation of rights, interests and forms of tenure, and women's land claims are interdependent with these developing systems.⁶

FACING CHALLENGES

While steps have been taken to narrow the gender gap in land and property rights, challenges nonetheless remain. Research from Nicaragua, for example, has examined gender equality in perceptions and decision-making regarding communal forests in Atlantic coast indigenous communities, revealing that women face significant obstacles to effective participation in forest decision-making in the community. These obstacles include weak community organisation,



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pressure by spouses, difficulty in organising among themselves and informal sanctions.⁹

INEQUITABLE ABILITY TO ACQUIRE LAND RIGHTS

Collective rights are important for Indigenous peoples and local communities and there is evidence that they contribute to reducing land inequality. However, where land is held and managed collectively, the exclusion of women from land governance and decision-making can also take place. When the benefits of land are shared, as in a community tenure system, women often have no voice in the decisions made regarding the use or distribution of the land and resources.¹ The issue of gender justice in community land rights settings is complex and controversial.¹⁰ ►

UNDERSTANDING THE CONTEXT

Civil society organisations (CSOs) play an important role in supporting and fostering gender justice in relation to land and property rights. Key amongst effective actions taken by CSOs are:

- Improving women's knowledge of new and existing land rights⁷
- Mobilising support from women, women's associations and other stakeholders to advocate for improved women's land rights⁷
- Fostering the involvement of women in community decision-making⁷
- Encouraging behavioural changes, such as challenging the acceptability of gender-based violence or the notion that it is merely a 'women's issue,' through community discussion⁸

Generally speaking, women are less able to acquire land and property rights than their male counterparts through either customary or legal means. The Organisation for Economic Co-operation and Development (OECD) report from 2014 indicates that 55 out of a total of 160 countries have laws that actively discriminate against property inheritance by women.¹⁷ In many cases, this is a result of cultural, traditional or religious factors.

Some countries have attempted to address the gender inequality in land rights, which among other things can leave women destitute on the death or abandonment of their husband. Women's inheritance rights were recognised in the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), resulting in many countries passing legislation to redress this imbalance.⁵ For example, in 2005, the Hindu Succession Act (1956) was updated in India to ensure gender equality in inheritance.^{11,12} However, due to established laws or practices that favour male rights, these laws can have a limited effect in practice. Women's benefits from the new laws can be prevented by lack of awareness of their rights, lack of access to support and an unwillingness to alienate their natal families.^{1,11} Furthermore, land held in community or familial ownership is exempt from this legislation.¹

Despite legal provisions that protect women's right to equality, patriarchy impedes women's ownership of land. For example, Nicaraguan



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rural women are discriminated against in divorce or inheritance in predominantly patrilineal communities. Formalising inheritance processes, promoting usufructs and raising awareness on the importance of gender equality in inheritance can all help redress an inequality in land access.¹³

INADEQUATE LEGAL PROTECTION

Legal protections must be highly context-specific and sensitive to each area's precise interlinking. For instance, research from Sub-Saharan African rural areas shows that women's rights are often entangled with several overlapping tenure systems, which can be influenced by land use or migration patterns, local ancestral practices and newer statutory systems that are directed toward individualised tenure.⁶

DATA AND TOOLS TOWARDS MORE ACCURATE AND REPRODUCIBLE MEASUREMENT AND ACTION

Although there is growing attention to women's rights, mostly in terms of household and individual rights to private property, research has confirmed there is an important gap in conceptual tools, empirical understanding and policy recommendations on women's land rights within forms of collective tenure. This is largely due to the lack of gendered data and/or nationally representative data, and that much of available data does not measure the completeness, durability or robustness of women's land rights.¹⁴

Some examples of key gaps include measures that capture:

- Aspirations and self-efficacy
- Control over household spending
- Mobilising participation in politics at a local level⁸

Evidence of interventions on the gender gap is evolving, yet remains challenging to measure. Inconsistencies in definitions and reporting compromise the value of the reporting in itself, making it difficult to compare highly contextual land rights systems.^{1,5,15} Ensuring comparable and accurate data on gender equality in land rights is a vital step in recognising and addressing discrimination against women. Shared definitions would support more effective aggregation and enable key elements to be better discerned.



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Given the importance of sociocultural pressures, more data is also needed on women's expressions of agency, for instance measuring women's self-directed decision-making or ability to generate value from land.¹⁶

Finally, reporting sex-disaggregated progress on the ownership or rights acquisition of agricultural land under the Sustainable Development Goals contributes to a gender-responsive measurement of land rights.¹

FINDING SOLUTIONS

LEGAL REFORMATION

The reformation of formal, religious and customary legal frameworks and introduction of supportive regulations ensures fairer land rights for women.^{1,2,3} However, it is key that adequate consideration be given to women's rights and how new and existing frameworks will impact the implementation of the new reforms.

Strengthened women's property rights have been enacted in post-conflict Colombia, for instance, and the Victims' Law (Law 1448 of 2011) gives displaced female-headed households priority regarding restitution claims.² Research has provided considerations for actors involved in guiding actions for rural women interested in their own land and in production, including support for the approval of laws and budgets aimed at improving the living conditions of rural women; investment in training men and women to create awareness about equal rights before the law; and government support focused on the projects of the cooperatives through credits that can be paid in the long term.¹⁷

CHANGING BEHAVIOURS

CSOs can actively contribute to overcoming existing obstacles to gender justice in the land sector. These actions include:

- Supporting more accurate data
- Supporting reform of legal or customary frameworks
- Engaging in changing discriminatory behaviours and in promoting education about women's decision-making rights in a variety of settings, including within collective tenure situations
- Actively advocating for the enforcement of women's land rights

Changes in legal provisions also require changes in attitudes, cultural norms and any other discriminatory behaviours that exclude women from acquiring their land rights. The convergence of these different layers of intervention is an important step towards gender justice.^{1,2,3} If discrimination is intersectional, response to discrimination should be intersectional too.

Furthermore, often these obstacles are not related only to land but act in a broader context of gender-based discrimination. Gender-based violence, lack of access to birth control, gendered norms or taboos around heavy physical labour, leadership roles, marriage and divorce all can serve as obstacles even if formal or customary rights are, in theory, available.¹⁴ Providing support to those who defend the rights of women is an important step in achieving gender equality and justice in land and property rights.¹ ►

Research shows that programs which include partners in family-planning programs, for instance, which train women and their husbands in joint decision-making, have a strong effect on women's uptake of family planning. A group of Burundian fathers against sexual violence, one of several organisations worldwide, travelled across all the nearby villages to educate other men about perceptions of gender-based violence, and encouraging them that "increasing women's agency...need not curtail men's agency."⁸ In addition, women must be part of efforts towards more inclusive representation in communal and individual decision-making on land management and use.¹ Lobbying for equal security in land and property rights for both women and men is another important way in which CSOs can help support gender justice.¹ Women's and men's interests in exercising and benefitting from land rights must be given equal weighting, and they must have equal opportunities to optimise the benefits from land and its impact on the society as a whole.^{1,2} Investigations in Kenya, for instance, found legal inheritance reforms benefitted women and delivered relative improvements in girls' education.⁷

Finally, protecting women's rights from internal or external threats is key. It is important that those charged with protecting land rights, for example village elders, are encouraged to support a gender justice approach.^{1,2}

SECURING WOMEN'S LAND RIGHTS UNDER COLLECTIVE TENURE

Discussing collective tenure from a gender perspective might be challenging because of the



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impact of customary and traditional norms; in fact it is often assumed that customary norms will automatically discriminate against women in a context of common land tenure. However, literature around the gender perspective on the commons is still limited.¹⁰ More consistent analyses of collective tenure systems could help to identify which actions and resources are important to the securing of rights to collective lands and to women advocating for their rights within the group.¹⁴

In fact, despite specific challenges and the increasing fragility of women's rights to common lands, there is also an opportunity to enhance women's land rights under communal tenure systems, and to amplify the capacity of women and their communities. Relevant best practices that contributed to advancing women's rights to the commons have focused on the importance of intersectional perspectives, since gender is too often considered independently of women's other social identities. Instead, research on community-based organisations in Uganda, Peru, Guatemala, Colombia and Argentina suggests that organisations should first establish and centre women's vision for their own participation on common lands. It is noted, for example, that "extracting a woman from her context, and to argue for her individual rights, shows a lack of understanding of this context, because not even men claim these individual (land) rights."¹⁸

Women's meaningful participation in and understanding of an intersectional approach is hence crucial in strengthening their own land rights as well as the security of community lands at-large. This is due to the strong connection between women's and community's rights: "When landholding is weak at the community level, women's land rights are weak, and where it is strong, women's rights can be made strong. What happens to the community and the women cannot be separate."¹⁴ In order to ensure that women have secure rights within collective land governance, it is crucial to increase women's presence and voice in collective governance structures. Closing the gap in conceptual tools, empirical understanding and policy recommendations on women's land rights within collective tenure will also assist in securing these rights.^{10,14} ●

LOOKING TO THE FUTURE

Ensuring gender justice in land rights requires an understanding of the interplay between interventions and the longstanding sociocultural norms in which they are embedded. Often, an intervention can have both positive and negative consequences, depending on people's ability to participate in and shape policy decisions and implementation.

Threats to gender justice must also be understood as opportunities, and vice-versa. Some examples include legal and policy reforms, development projects and interventions, civil wars and conflict, transformations of rural economies and large-scale land acquisitions.¹⁴

Research shows that better outcomes occur when women:

- have both legal rights and social acceptance of their land rights
- are able to create value from the land (through use, or rent, etc.) in a way that supports self-determination
- have the knowledge of how best to use the land to create this value
- are able to assert their interests as equal to the interests of men
- are able to enforce land rights if facing threats¹⁶

It is also important to challenge the global economic pressures that play an outsized role in localised efforts toward change. Corporate-driven growth and the push for ever great returns on agri-food investments require strategies that support democratised and more equitable food systems. For example, protection of national agricultural produce and food markets from international market pressure, and public investment in storage and processing.¹⁹ Gender justice occurs when women's land rights are complete, are durable and are robust.¹⁶

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For a full list of references please refer to the Annex - [End Notes](#)

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