

Insecure land rights for women threaten progress on gender equality and sustainable development

Working Group on the issue of discrimination against women in law and in practice¹

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Driven by the urgency of a global rush for land and extracted resources and unprecedented urbanization, hastened by the growing impact of climate change and frequency of natural disasters, women have been at the center of human rights violations worldwide regarding their rights and access to land.

From large-scale land acquisitions that displace communities without due compensation, to the encroachment of extractive industries on indigenous and communal lands, to the unplanned urbanization that forcibly evicts people living in informal settlements, to the impacts of climate change and natural disasters on land use and productivity, to land and property deprivation by kin or State, women are more harshly affected by land tenure insecurity due to direct and indirect discriminatory laws and practices at the national, community and family level. In this context, States should more than ever comply with their obligation to ensure that women have equal rights, including in access to land in law and practice. This would imply the adoption of measures to prevent private corporations and investors, powerful local elites, multilateral organizations, regional trade initiatives and family members from discriminating women in their rights to access, use, inherit, control, and own land.

Discriminatory laws and social norms undercut women's access to the transformative power of land

Globally women own less land and have less secure rights over land than men. Women make up on average less than 20 percent of the world's landholders, but make up an estimated 43 percent of the agricultural labor force². Globally, more than 400 million women work in agriculture. In sub-Saharan Africa and South Asia, 60 to 70 percent of employed women work in agriculture. Yet despite women's crucial role in agriculture, food production, and land-based livelihood, there is no consistent national or global data on the full scope of women's land rights or access to land to enable them to monitor and enforce their rights. Land and agrarian reform, allocation, and titling or registration programmes often target the household, or assign ownership to the "head of household" most frequently defined as a man. Because women are typically not considered as land-owners or farmers, they are usually excluded from extension and agricultural support programmes and financial credit and loans which are necessary for effective use of land.

In the absence of secure tenure rights, women may be ejected from their home upon the death of a husband, lack recourse when an abusive partner kicks them out, be excluded from decisions about

¹ Paper led by Alda Facio and drafted with the support of [Landesa](#)

² UN WOMEN, Facts & Figures, <http://www.unwomen.org/en/news/in-focus/commission-on-the-status-of-women-2012/facts-and-figures>.



the sale or lease of their land, have no claim to compensation when the land is taken by an investor, corporation, or the government, or lose access to firewood, fibers, food or medicine from forests which are designated as conservation areas. Because women lack control over the land they depend on, they are less likely to be included in decision-making about land and are more susceptible to displacement and exploitation. When crises or wars strike, women's already tenuous right to land is further weakened, extinguishing access to services and compensation tied to land ownership or use.

In contrast, when women do have secure rights to land, myriad benefits tend to follow. Stronger women's rights to land and productive assets are linked to enhanced status, improved living conditions, better nutrition and food sovereignty, improved health and education outcomes, higher earning and individual savings, and better access to credit, as well as better protection from gender violence³.

Gaining ground for women's land rights to leverage gender equality and progress

Women's equal rights to land and property are grounded in core human rights instruments, including the Universal Declaration on Human Rights, the International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and the Convention for the Elimination of All Forms of Discrimination Against Women. Furthermore, the United Nations Declaration on the Rights of Indigenous Peoples, the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, and the World Conference on Women's Beijing Declaration and Platform of Action all stress the need to achieve equality in the enjoyment of land and property rights. As established by international standards, women have the right to equality in the enjoyment of all their rights, including the right to access, use, inherit, control, and own land. To achieve gender equality, States shall fulfil their obligation to eliminate all forms of discrimination against women.

A groundswell of international recognition has conferred a key role to land rights for women in terms of sustainable development. Our Working Group has previously recognized the importance of women's land rights, and drew attention to the often silenced claims women have to land. In our 2014 [thematic report on discrimination against women in economic and social life](#), we highlighted how some laws still prevent women from owning and accessing land, and how private and public sector investment and development often disadvantage and displace women small-holder farmers with no compensation for their lost livelihood. Our other three thematic reports⁴ also demonstrate how land rights relate closely to the themes examined, i.e. discrimination against women in political and public life, in the area of health and safety and in family and cultural life.

In addition, in the context of several country visits, the Working Group has highlighted that women have very limited and unequal access to land (Senegal, 2015), are rendered landless more often than men because their names are frequently omitted from land registration documents (China,

³ See <https://www.landesia.org/resources/>

⁴ <http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/Annualreports.aspx>



2013), and that indigenous women have disproportionately suffered from extractive industries (Peru, 2014)⁵. Our joint [International Women's Day statement](#) this year also reiterated the need to repeal discriminatory laws that deprive women of property, land rights, succession, and inheritance and our [statement on International Women Human Defenders' Day](#) stressed the particular challenges faced by activists defending land rights⁶.

Other human rights mechanisms and UN entities have asserted that women's land rights are essential for achieving substantive equality and eradication of many forms of discrimination against women, and are a fundamental precondition to the realization of the rights to an adequate standard of living, including food and housing, health and life, work, cultural identity, and participation in civil and political life.

Last year, for example, the CEDAW Committee issued its General recommendation No. 34⁷ on the rights of rural women qualifying "rural women's rights to land, natural resources, including water, seeds, forestry, as well as fisheries, as fundamental human rights." General Comment No. 16 of the CESCR⁸ on the equal right of men and women to the enjoyment of all economic, social and cultural rights, requires 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. The Special Rapporteur on adequate housing and the Representative of the Secretary-General on the human rights of internally displaced persons, have highlighted the difficulties faced by women in accessing and controlling land and made recommendations to address those issues. In a key report⁹, OHCHR and UN Women have highlighted that women's access to, use of and control over land and other productive resources are essential to ensuring their right to equality and to an adequate standard of living, stressing also that throughout the world, gender inequality when it comes to land and other productive resources is intimately related to women's poverty and exclusion.

Furthermore, the global goals set by the 2030 Agenda for Sustainable Development recognize women's land rights as an explicit cross-cutting catalyst to ending poverty (Goal 1); seeking to achieve food security and improved nutrition (Goal 2) and achieving gender equality and women's empowerment (Goal 5). The New Urban Agenda (2016) sets a roadmap for sustainable urban development and guidance to fulfilling the Sustainable Development Goals (SDGs) also stressed security of land tenure for women as key to their empowerment.

Despite all these international support and commitments, women continue to be denied equal rights to access, use, inherit, control, and own land.

⁵ See country visits reports at <http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/CountryVisits.aspx>

⁶ See also https://www.awid.org/sites/default/files/atoms/files/whrds-confronting_extractive_industries_report-eng.pdf

⁷ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/34&Lang=en

⁸ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11

⁹ Realizing women's rights to land and other productive resources, OHCHR/UN Women, 2013

In order for women to be able to enjoy their land rights in practice, States must urgently change those laws and social norms which impose barriers to women's right to own and access to land in more than half the world. Practices must also be changed.

The 2030 Agenda, with land-specific SDG indicators 1.4.2, 5.a.1, and 5.a.2, provide global guidance to governments on tallying data on women's land rights in law and in practice, both documented and as perceived by their beneficiaries. With better sex-disaggregated data, States and global stakeholders hold the potential to revolutionize and improve realities for communities and individuals living in poverty and extreme poverty. Such processes will enable governments to empower communities, and women to monitor and enforce their land rights.

In elaborating policies which will change discriminatory practices, women's land rights must be recognized as going beyond simply women's right to "own" land. Across the globe, access to and use of land is subject to a broad range of legal and customary land tenure arrangements. To capture this broader and more accurate understanding of land rights, States should account for the *quality, legality and effective implementation, participation and enforceability* of land rights for women:

- *Quality* means that the scope of the land rights is clearly defined and must include all forms of tenure exercised by women and men, including ownership, access and use (e.g., right to use, lease, transfer, inherit, rent, occupation); the rights should be granted for a clear and ideally extended period of time. Land rights must not be terminated or limited due to gender-based legal, cultural or religious norms, or dynamics in a family or community that result from marriage, divorce, widowhood, migration, parenthood, domestic violence or any other change in a woman's social/marital status or a change in the leadership or structure of her community.
- *Legality and effective implementation* entails that equal land rights must be legally recognised. That means that women's land rights must be guaranteed by law whether or not they are recognized by customary or religious systems, by family members, by a woman's community and its leaders. Customary justice systems are also often dominated by men and therefore tend to perpetuate inequalities and patriarchal interpretations of culture, resulting in discrimination against women. Therefore, the State has an obligation to exercise due diligence to guarantee and protect women's right to equality in plural legal systems. The State must take all appropriate measures to eliminate discriminatory social, cultural or religious beliefs and practices that annul or diminish women's enjoyment of these rights. Affirming the primacy of international human rights law is a key step towards ensuring women's equality.
- *Participation* requires the inclusion of women in policy making bodies regarding land ownership and use.
- *Enforceability* requires that States must ensure that women be fully informed of their land rights and that they have access to justice to enforce them without discrimination, including in official bodies, courts, and other relevant dispute resolution bodies, such as customary



institutions. Access to dispute resolution or enforcement mechanisms must not be subject to extra permissions that apply based on gender, social condition, or other status. Land rights enforcement and dispute resolution processes must be available, accessible, affordable and gender-responsive.

Women's land rights are critical to democracy, peace, justice, sustainable development and security for all. Secure land rights for women set off powerful, continued ripple effects that go a long way toward realizing gender equality and a range of critical SDGs and human rights.
