



**62nd Session of the Commission on the Status of Women
12-23 March 2018**

Challenges and opportunities in achieving gender equality and the empowerment of rural women and girls

SECURE LAND RIGHTS FOR THE ACHIEVEMENT OF GENDER EQUALITY AND THE EMPOWERMENT OF RURAL WOMEN AND GIRLS IN THE AGREED CONCLUSIONS

Recommendation for Member States

Globally, land is an enormously powerful asset, but it also has a vital social function. Both the economic and social aspects are central to advance gender equality and empower rural women and girls. It is widely recognized both that rural women and girls are sustained by agriculture and natural resources, and that the accumulation of assets provides a path out of poverty.¹ Legal control of land, and legal and social recognition of women's uses of and rights to land, can also have catalytic empowerment effects, increasing women's influence and status in their homes and communities.²

In Sub-Saharan Africa and Asia the majority of employed women work in the agriculture sector (60 and 70 percent, respectively). Yet women and girls constitute 60 percent of the world's chronically hungry people, according to UN Women. Rigid gender roles in many societies place rural women at the center of the family, responsible for securing household resources – food, water, and fuel for heating and cooking – and also serving as the primary caregivers, but they often lack control over these resources.³

Women bear a disproportionate burden of multi-dimensional poverty. It is fundamental to elevate the critical role and contribution of rural women– including indigenous women – in enhancing agricultural and rural development, improving food security for their families and communities, and eradicating rural poverty. Women's rights to land and productive resources are essential to their ability to realize a range of human rights and sustainable development goals. Research demonstrates the empowerment effect of women's land rights: these rights are often a prerequisite to improving food security, sustainable development, gender equality, and good health. Furthermore, secure access to land tenure and rights help to mitigate a woman's vulnerability to poverty, exploitation, HIV, and gender-based violence.

¹ Moser, C O N (editor) (2007), *Reducing Global Poverty: the case for Asset Accumulation*. Brooking Press, Washington, DC

² Landesa. (October 2012). Issue Brief: Women's Secure Rights to Land, available at: <https://www.landesa.org/wp-content/uploads/Landesa-Women-and-Land-Issue-Brief.pdf>

³ OECD, "Women's Economic Empowerment." Issues paper. 2011. Web. 1 Apr. 2016. <<https://www.oecd.org/dac/gender-development/47561694.pdf>>.

We also note that within rural populations, unique circumstances limit opportunity for other marginalised groups and suppress gender equality, including discrimination based on race, indigeneity, socioeconomics and physical ability.

The Commission on the Status of Women's past consensus-based Agreed Conclusions have recognized this reality, stressing that women's rights to land, property and inheritance are central to sustainable development, environmental management and mitigation of natural disasters, effective land reform and decentralization processes, life-cycle and economic empowerment of women, and to the reduction of violence against women (Agreed Conclusions, sessions 57, 2014; 41, 1997; 46, 2002; and 2013).

Again, Member States of the Commission on the Status of Women unanimously agreed in its last session (2016) that women must have equal rights to a range of land rights, from access and ownership to control over land. The Commission on the Status of Women's Agreed Conclusions — the consensus document that governments negotiated during the March 2016 session — responded to the 60th session's primary theme, linking sustainable development and women's empowerment. The Agreed Conclusions contain two explicit references to women's land rights, urging states to anchor women's land rights within a normative framework, which in turn would require states to enact strong, unequivocal laws, and to ensure equal rights are realized in practice.

This assertion by the Commission represents great advancement for women's land rights within normative frameworks, especially when coupled with land-related goals under the 2030 Agenda for Sustainable Development. Most recently, the United Nations Working Group on Discrimination against Women in Law and Practice recognized the critical importance of women's land rights, adopting an unprecedented position paper, stressing that “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.” This builds on prior statements by treaty-monitoring bodies⁴ and UN Special Rapporteurs,⁵ which have characterized women's land

⁴ For an overview of international bodies' statements establishing the links between land rights and human rights in the ICCPR, ICESCR, and CEDAW and other instruments, see HR/Pub/13/04 at 5-8 and HR/PUB/15/5/Add.1 at 11-14, and E/2014/86 at 4. See also, CESCR Committee, General Comment No. 4 on the right to adequate housing (art.11(1)), at para.8(e) recognizes “access to land as an entitlement.” General Comment No. 16 on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the covenant), at II(C)(28) “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.” See also the Committee's Concluding Observations on Tanzania (2012) urging equal participation of rural women in land reforms, and to Uganda (2015), Kyrgyzstan (2015), Madagascar (2009), Cameroon (2012), advocating for the elimination of barriers to rural women's ownership, control, and inheritance of land.

For an overview of the CESCR Committee's recognition of land as a human right, see Minority Rights Group International, *Moving towards a right to Land: The Committee on Economic, Social and Cultural Rights' Treatment of Land Rights as Human Rights*. (2015), at 3-4, available at: http://minorityrights.org/wp-content/uploads/2015/10/MRG_Rep_LandRights_Oct15.pdf See also CEDAW Committee, General Recommendation No. 21 (13th sess., 1994) Equality in marriage and family relations, para. 26 – calling for the equal ownership of property as crucial for women's equality and livelihoods, and para. 27 – calling on states to ensure that land allocation and reform programs redistribute land to women on an equal basis with men, regardless of marital status; see also, CEDAW Committee, General recommendation No. 27 (47th sess., 2010) Older women and protection of their human rights, para. 48 (“Laws and practices that negatively affect older women's rights to housing, land and property should be abolished. States parties should also protect older women against forced evictions and homelessness”); para. 52 (“States parties must repeal all legislation that discriminates against older widows in respect of property and inheritance, and protect them from land grabbing.”).

rights as essential for gender equality and non-discrimination, and as 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.⁶

The Working Group urges States to comply with their obligations to “account for the *quality, legality (legitimacy) and effective implementation, participation and enforceability* of land rights for women,” including through the adoption of measures to prevent discrimination against women “in their rights to access, use, inherit, control, and own land.” This discrimination is perpetrated by a variety of actors, including “private corporations and investors, powerful local elites, multilateral organizations, regional trade initiatives and family members.”⁷ A gender-responsive framework recognizes these realities and accounts for these key elements:

- *Quality* means that the scope of the land rights is clearly defined and includes all forms of tenure exercised by women and men, including ownership, access and use (e.g., right to use, lease, transfer, inherit, rent, occupy); the rights should be granted for a clear and ideally unlimited extended period of time.
- *Legality and effective implementation* means equal land rights must be legally recognized. Customary law must be acknowledged by formal laws and administrative structures. 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. Rights to land must be equitable, without regard to sex, age, ethnicity, religion, socioeconomic status, and other markers of diversity.
- *Participation* requires the inclusion of rural women and men, minority groups, and civil society in policy making bodies regarding land ownership and use.
- *Enforceability* requires that women and men 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.

⁵ See e.g., Office of the High Commissioner for Human Rights, *Land and Human Rights: Standards and Applications*, 2015, HR/PUB/15/5/Add.1, at 94-95, available at http://www.ohchr.org/Documents/Publications/Land_HRStandardsApplications.pdf. OHCHR & UN Women, *Realizing Women’s Rights to Land and Other Productive Resources*, 2013, HR/Pub/13/04, at 9, available at <http://www.ohchr.org/Documents/Publications/RealizingWomensRightstoLand.pdf> (“...the Special Rapporteurs 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.”)

⁶ “Land-related decisions can directly or indirectly affect a variety of civil and political rights. The right to life may be threatened when the pollution of land puts local communities at risk of ill health and higher rates of mortality.” Report of the United Nations High Commission for Human Rights, *A human rights analysis for land-related issues*, 2014, E/2014/86 at para. 8, available at <https://documents-ddsny.un.org/doc/UNDOC/GEN/G14/075/01/PDF/G1407501.pdf?OpenElement>

⁷ OHCHR(2017), UN Working Group on the issue of discrimination against women in law and practice, ‘Insecure land rights for women threaten progress on gender equality and sustainable development’, July 2017.

Recommendations

The millions of women who depend on land and farming for their income, employment, and social security stand to benefit immensely if laws, policies, and programs become better informed by the normative frameworks above, applied on local, national, and global levels.

The following recommendations link this Session's theme on the "challenges and opportunities on achieving gender equality and the empowerment of rural women and girls" with several existing United Nations human rights mandates, from the 2030 Agenda for Sustainable Development to the Commission on the Status of Women's 61st Session in 2017, and call for urgent and immediate steps toward realization of those commitments by improving the *quality, legality and effective implementation, participatory nature, and enforceability* of women's rights to land. States must:

- Build on international frameworks now in place in both human rights and sustainable development by incorporating principles and specific recommendations from those frameworks into national level legislation; laws should clearly define equal rights to land, harmonize plural legal systems, and include requirements for both implementation and enforceability.
- Undertake initiatives to allow lawmakers and other stakeholders to: become familiar with and educated about the practices of indigenous and rural communities, consult with indigenous and rural women to identify their needs, challenges and priorities; and identify rural and indigenous women advocates and leaders at a local level. Work with these constituencies to address gender-based discrimination within communities, to strengthen and enforce laws prohibiting direct and indirect gender-based discrimination, and to enhance gender-responsive rural development.
- Review and enforce laws, policies, regulations and practices, including by communities and officials, to identify and address direct and indirect gender-based discrimination against rural women and girls; align content of laws, policies, regulations and practices with principles and specific recommendations referred to above; identify and implement effective mechanisms for enforcement.
- Ensure gender-responsive legislative and administrative reforms, including harmonization of formal and customary frameworks to protect and promote the right of **all** rural women and girls to land and land tenure security and ensure their equal access to and control over productive resources and assets, other forms of property, inheritance, natural resources and financial services and technology.
- Prioritize participation of local communities as well as women's organizations in the design, drafting, adoption, and implementation of policies and legislation related to land. This commitment to participatory governance will support the development, adoption, and implementation of strategies for improving women's access to land security and natural resources that reflect local-level realities.
- Increase rural women and girls' meaningful participation in decision-making processes at all levels. Provide rural women with essential education and capacity building, building

knowledge and skills to improve agricultural production and quality. Ensure that they are fully aware of existing rights regarding land use and access to natural resources, and couple trainings and information campaigns with data gathering on women's interests and constraints.

- Ensure broad participation by establishing mechanisms involving all relevant stakeholders in decision making and management of the use of land and natural resources. Bridging differences between individual stakeholders through facilitated dialogue is essential for identifying and developing effective local policies.
- Link reporting to treaty monitoring bodies with reporting on sustainable development. Gather data that serves both purposes, and enshrine both in implementing regulations for national level legislation.
- To monitor quality, implementation, and enforceability, empower local-level women's groups (e.g., self-help groups or local civil society) to report on local-level realities at regional and national forums.