

**GENDERED TERRAIN: WOMEN'S ACCESS TO LAND IN AFRICA**

Nairobi, 14-16 September 2010

**L'ACCÈS À LA TERRE EN AFRIQUE :  
UN TERRAIN MINÉ POUR LES FEMMES**

à Nairobi le 14 – 16 septembre 2010

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**REPORT ON THE POLICY SYMPOSIUM**

**GENDERED TERRAIN:  
WOMEN'S RIGHTS AND ACCESS TO LAND IN AFRICA**  
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**Organized by the Women's Rights and Citizenship Program of the  
International Development Research Centre**

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## Background

Land is the most significant form of property, linking economic, cultural, political, and legal dimensions of social life. Land tenure regimes that incorporate the interests of all actors, and that promote women's rights to own and manage land, are critical in advancing women's social and economic citizenship. Yet discussions around women's land rights are often absent from discourses on land tenure. Public policy tends to ignore differences in men's and women's property rights, and the household is often considered as a single unit comprised of common interests where resources are pooled and shared.

Over the past seven years, IDRC's Women's Rights and Citizenship program and the former Rural Poverty and Environment program (now the Agriculture and Food Security program, as of April 2010) have supported over 20 research projects on gender and land in 14 African countries. These projects analyzed issues such as women's rights and access to land, the social, institutional, and legal structures that shape land tenure regimes, and the contextual specificities that mediate women's entitlements.

IDRC hosted an international policy symposium, "Gendered Terrain: Women's Rights and Access to Land in Africa" in Nairobi, Kenya from 14-16 September 2010. Researchers from across Africa shared their findings and policy recommendations, engaged with policy makers to facilitate policy influence, and promoted the development of sub-regional networks. Over 140 participants attended the event, representing 17 African countries as well as international and donor organizations.

The Symposium was organized in response to demand from IDRC-supported researchers for assistance with facilitating relationships and providing a platform for sharing findings. One of the main objectives of the event was to advance the discourse for policy and practice and develop specific strategies to support African women on land-related issues. As a result of the symposium, a set of recommendations for policy and action have been drafted and will be finalized for broad dissemination.

## Overview: Gender and Land Issues in Africa

Karuti Kanyinga of the University of Nairobi and Dzodzi Tsikata of the University of Ghana provided an overview of how issues of access to and control over land have been growing in prominence in Africa throughout the past two decades. These issues continue to stay at the centre of many political debates; however, many governments are also averse to facing land questions because of possible political consequences and the potential for instigating conflict. Land administration is situated primarily within the paradigm of neoliberal economic reductionism; often, addressing the social and political embeddedness of land issues is a secondary consideration when formulating policy. In many post-colonial African states, privilege and patronage continue to characterize land reform processes and the accumulation of land has served as a mechanism for elites to gain and consolidate power.

Women in Development (WID) and Gender and Development (GAD) policy agendas began to address land issues in the context of land reforms during the 1990s. Since then, gender policies have been piecemeal, circumscribed, and inappropriately homogeneous, often tied to the twelve priority areas of the Beijing Platform for Action and the Millennium Development Goals. There is now a growing consensus that solutions to women's land tenure problems must be grounded in local specificities.

Debates are ongoing as to how to reform customary law, either by statute or by evolution. Many gender activists do not have patience with an evolutionary approach, and some argue that this approach has opened up customary practices to privatization and foreign market control, resulting in the polarization of various land actors. Literature on land also contains competing views on legal pluralism; it is often seen as a hierarchy of laws that are conflicting and discriminatory. Nonetheless, research on legal pluralism and engagement on the ground suggests that customary laws can create spaces for women to use strategically to their advantage.

### **Keynote Presentation by Kenya's Minister of Lands, Hon. James Orengo**

Kenya's Minister of Lands, Hon. James Orengo, opened the symposium with a historical reflection on land administration in Kenya. Minister Orengo noted that land continues to be the primary source of basic livelihoods in Africa but population growth, climate change, conflict, and other factors complicate land administration systems. Issues of women's land rights remain one of the predominant challenges in Kenya, as women's land entitlements are frequently determined by inheritance practices and there is still a pressing need for reforms.

The Minister stressed the importance of statutory frameworks in making land tenure systems functional, reaffirming that land policy documents are important tools for recognizing the equal rights of men and women to hold and use land and for fostering gender equality. Comprehensive land policy must be informed by expert research and recommendations, and must secure the rights of land users while also solving goals of poverty reduction, growth, economic efficiency, equality, and sustainable development. In Kenya, legal frameworks have historically failed to address the duality of land tenure systems, and a poorly enforced system of contradictory land laws has served to marginalize and disinherit women.

The new Constitution of Kenya (2010) devotes a chapter to Land and the Environment in the context of the nation's broader development agenda. The Kenyan Bill of Rights also emphasizes human rights and reinforces land rights. The current Constitution is considered a notable achievement due to the active involvement of women in its development.

### **Dimensions of Women's Rights and Access to Land in Africa**

#### **Access to Resources**

Land distribution is highly skewed in Africa, where women's ownership of land is but a small percentage compared to that owned of men. Women frequently lack the resources to acquire land in their own right and are further disadvantaged by discriminatory inheritance and customary practices and market structures.

Research conducted by the Université Gaston Berger de Saint-Louis presented at the symposium demonstrated that access to land in Senegal is determined by interconnected economic, social, and political factors that occur at 3 levels:

**Access for families** – Primary access to land is obtained by an intermediary for the family

**Indirect access**- Rural women access land through an intermediary women's organization. Problems have been identified with the lack of transmission of knowledge from the leaders of these groups to their members.

**Individual access**- Access is acquired either through formal assignment or purchase. This is the most secure form of tenure, but is practically non-existent for women.

Researcher Fatou Diop confirmed that in each of the 6 sites studied in Senegal, men were found to have greater access to land than women. Customary practice consistently takes precedence over other laws or religious practices that guarantee women's land inheritance. However, practices also vary depending upon a woman's social status. The study also found examples of positive customary practices that promote women's access to land. For example, Diola women can own land and then choose to transfer it to a daughter-in-law. For most women though, collective forms of land appropriation are the most common mechanisms for gaining access to land.

In countries such as Malawi, a landlocked nation where 80% of the population is engaged in subsistence farming, Maggie Banda of the Women's Legal Resources Centre (WOLREC) noted that access to land is dependent upon marital status. Widows and divorced women have no control and cannot plant perennial crops because of insecure land tenure. Even where women have control over land, this does not automatically translate into increased decision-making autonomy and their husbands or uncles still make many critical decisions. While some women try to assert their rights and put forward land claims, the majority live in fear of the unknown due to a lack of knowledge of the law.

#### **Constraints to women's access to land in Africa:**

- Gender-discriminatory customs and family traditions
- Limited accessibility of infrastructure and services such as water, education, and credit
- Insecurity of land tenure reduces incentives to invest in land and enhance productivity
- Women are less informed than men about national laws regarding land tenure
- Limited civil society mobilization around women's land rights
- Perception of land titling and registration as "men's" issues

#### **Land Administration**

Land administration matters are complex and difficult to resolve, involving a myriad of government institutions at multiple levels. Even sound land policies will be rendered ineffective if the corresponding land management system is unresponsive. Joan Kagwanja of the Alliance for a Green Revolution in Africa (AGRA) detailed how factors such as colonial legacy, discriminatory cultural practices, and poor governance negatively influence the accessibility and equity of land administration. The impact of these

factors is further exacerbated by insufficient financial resources, low human resource capacity, and weak land information systems (LIS).

Often when women can (in theory) seek redress for land claims, the institutions with which they have to engage are deficient and lack the necessary resources to adjudicate land matters effectively. While laws that guarantee access to land and land-based resources may exist, women may not use them because they either do not know the laws, they lack the information they need, or the process of making claims is too expensive. Local land structures are often disadvantageous for women due to a lack of clear systems on the ground and to disparities in the social networks that men and women access.

A session on decentralized land administration began with a presentation by Josephine Ahikire of the Centre for Basic Research (CBR) in Uganda. Along with research partners at the University of Nairobi and in Tanzania, CBR examined the impact of decentralization on women's land rights and on the construction of citizenship in Kenya, Tanzania, and Uganda. This study identified a number of characteristics common to land administration systems in all three countries:

<b>Institutional issues</b>	Land services or are provided by multiple government ministries, creating loopholes for abuse and serving to disadvantage the poor, women, and other marginalized groups.
<b>Weak presence of women in land governance structures</b>	Uganda and Tanzania have legislated quotas for women's representation in local land governance structures, signifying women's legitimacy in terms of having land rights and having a relationship with the state. However, women continue to occupy small percentages of elected representative positions on local land structures.
<b>Matrimonial property protection</b>	The Uganda Land Act protects matrimonial property but there is no legal framework to operationalize provisions of the Act; without accountability mechanisms this is a half-hearted provision that does not impact significantly upon women's lives.
<b>Unfamiliarity with land adjudication bodies</b>	Women tend not to register or become familiar with local land structures, although decentralization has made these processes easier, particularly for urban women. Often, women do not know what to do or who to approach in times of conflict. In Uganda, however, it was found that local councils and courts sometimes worked to the advantage of women because they did not require elaborate documentation or legal representation.
<b>Women's limited collective agency</b>	Women have exercised minimal collective agency around land entitlements, often pursuing individualized claim processes instead.

**Evolving political culture**

Women's presence as leaders has changed the political culture in decentralized governments, although research findings indicate that this has not led to significant emancipatory processes.

In 2005, the Government of Madagascar implemented land reform processes according to the Land Policy Letter, based on the modernization of land services and decentralization of land administration. Under the new system, commune and inter-commune land offices were responsible for non-titled private property, and traditional rights were upheld and translated into land certificates. Danièle Ramiamanana of the National Center of Applied Research and Rural Development (FOFIFA) described how currently in Madagascar, only 312 local land offices are in operation for 1,410 municipalities. As of 2008, 33,962 land certificates had been delivered throughout the country, 8,275 of these to women. IDRC-supported research by FOFIFA shows that women in different regions of Madagascar felt that the procedures for obtaining land certificates were too long and expensive, and titling and registration were perceived as men's concerns. Similar to East Africa, there is generally very weak participation of women in local land committees in Madagascar. While decentralization has transferred greater competencies to local land bodies, laws are not applied in an effective manner.

**Legal Pluralism**

The duality of state law versus traditional or customary law adds another layer of complexity for women. Women live in fear of their male relations and of being disinherited in widowhood. For self-preservation, they commonly opt to register land under their sons' names, thereby facilitating men's acquisition of land. Even where laws provide for non-discriminatory ownership of land, there is a tension between statutory legal arrangements and the customs and traditions that tend to supersede these laws. Another challenge is the implementation of constitutional provisions that support women's access to land, forcing women's organizations to consider what strategies are needed to navigate multiple legal systems with conflicting principles and objectives.

The Government of Rwanda has put in place progressive laws and policies to support women's rights and access to land, but these efforts are undermined by a lack of implementation. Odeth Kantengwa of the Rwanda Women's Network related how disputes over women's land inheritance often reflect societal resistance to women having the same ability to exercise their rights as their male counterparts. Women face the fear of both stigma and societal repercussions stemming from dominant cultural practices that prohibit women from enjoying their legally granted land rights. Similarly in Senegal, there are legal texts that formally guarantee women's access to land, but resources are still largely controlled by patriarchal social systems.

**Women's Rights and Food Security**

Although rural women are participating more than previously as development actors, gender roles remain the same, with women mainly responsible for social reproduction. Research findings from Senegal and Zimbabwe identified constraints to the application of legislation and regulations that impact upon

women's access to land and food security, including customary aspects of land control and use. Researcher Fatou Sow Ndiaye of Development Action in the Third World (ENDA Tiers-Monde) in Senegal found that unbridled commercialization of land and growing land speculation were rendering certain groups, notably women, more vulnerable and food insecure. The phenomenon of land grabbing has intensified since 2006 with the implementation of state programs focusing on meeting export demands and cultivating cash crops. Land is designated to nationals and foreigners but rural women and family farms are generally excluded, putting families in a precarious position and threatening long-term food security.

Research results from the Vallée du Fleuve site demonstrated that strategic partnerships and advocacy efforts have enabled women's organizations to receive parcels of land from the local rural council. These parcels have been used for subsistence rice cultivation and for improving local food security. Improving women's access to revenues, financial capacity, training, and information can contribute greatly to improving the security of their land tenure.

Jeannette Manjengwa of the Centre for Applied Social Sciences in Zimbabwe discussed impacts of the Fast Track Land Reform Program (FTLRP) in Goromonzi and Vungu Districts, Zimbabwe. The FTLRP has sought to formalize the *jambanja*, spontaneous land invasions of 1999-2000, into a more systematic process of resettlement that incorporates a conservation plan. The research found that some very good and progressive policies exist in Zimbabwe but implementation is weak and influenced by cultural gender biases against women. The research team also found suboptimal utilization of land by women farmers; only one woman involved in the study had a commercially viable farm. Nonetheless, other women farmers had greatly improved their food security and were making progress in increasing their production over the years.

Coping strategies that have developed include cohesiveness and new social networks among A1 settlements (smallholder production settlements) that sometimes cuts across ethnic groups; and women helping other women. In general, good production records tend to indicate an increase the security of land tenure.

### **Land Access and Rights in Urban Areas**

The urban poor are commonly edged out of land markets by those with greater resources to acquire land. Speaking on a panel organized by UN Habitat, Britta Uhlig identified multiple problems that poor women in urban areas face in accessing and using productive land:

- Laws that are biased towards male authority due to the influence of discriminatory beliefs and practices and the lack of women's representation in land institutions;
- Land scarcity resulting from urban land being earmarked for non-residential use;
- Rising rates of unemployment and rural-to-urban migration exacerbate high levels of urban poverty and cost of living, making housing unattainable for most of the urban poor.

Not-for-profit organisations such as the Women's Land Trusts and the Slum Women's Initiative for Development act as financial intermediaries to facilitate access to land and target low income groups. Their mandate includes empowering poor urban dwellers to acquire improved housing and mobilise funds, as well as mediating on their behalf. However, Fati Al Hassan of the Ghana Sisterhood Foundation described how there is a lack of understanding of how customary law functions in urban settings in Ghana and if this impacts upon women's livelihood opportunities.

### **Perspectives of Grassroots Women**

Supported through the Huairou Commission, organisations including the Maasai Women Development Organisation (Kenya), Uganda Community Based Association for Child Welfare, and the Land Access Movement of South Africa presented key issues confronting grassroots women and the strategies and remedies that they have found useful in empowering themselves to protect their livelihoods. Grassroots women face multiple obstacles in regards to women's property and women's rights, including discriminatory cultural norms and traditional beliefs, high illiteracy rates, and ignorance of the law.

It has proven to be imperative for grassroots women to find innovative methods to protect themselves and their families. To do so, they have mobilised community feedback and sensitisation sessions through open forums and local dialogues, shared findings with stakeholders and local administrators and civil society, formed watchdog groups to solve cases of property disinheritance, and trained paralegals to represent women who do not have the ability to effectively access justice mechanisms. Such efforts have had some success in terms of empowering grassroots women to engage in land administrative structures at local levels, transforming governance structures within their communities and strengthening checks and balances, and complementing government efforts at community level in conducting land surveys and facilitating women's ownership of family land.

Over time, grassroots organizations have learned that long-term collaboration with local government is necessary to secure their land rights. Grassroots women as a collective are potentially powerful and there is need for continued support to strengthen community initiatives that incorporate Indigenous and traditional knowledge in achieving sustainable livelihoods. Furthermore, it is important to build the capacity of women in agriculture through means such as promoting women's vegetable gardens to feed families, generate income, and secure alternative land in order to conserve livelihoods.

### **Strategies to Strengthen Women's Land Rights**

Strategies to redress land injustices require multiple and varied approaches that streamline and consolidate the numerous land laws in a given country. In addition, links between research, policy, and practice and people are vital and can help build baseline indicators that explain the expected end result for women's land rights and the markers for success. Following below are some strategies put forward by conference participants, which can be used to acquire and preserve women's rights to land.



## **Strong Governance Structures and Legal Reform**

*Lobby policy makers to streamline land administration bodies at local and national levels.*

The existence of too many institutions makes the process bureaucratic, expensive and unnecessarily lengthy, to the detriment of women and the poor, who have fewer resources to pursue land adjudication processes.

*Sensitize men and involve them as advocates for women's land rights and greater social equality.*

*Document diverse cultural practices to help in formulating effective laws and policies and ensuring that there is inclusion of all stakeholders.*

*Strengthen environmental governance structures and ensure gender equity in these structures.*

Women rely heavily on village administration which is dominated by men to the exclusion of women. Therefore, it is important to sensitise and educate women to engage more in these institutions and to lobby to involve more women in these bodies.

## **Gendering land tools**

In 2006, UN Habitat established the Global Land Tool Network (<http://www.glttn.net>) in conjunction with key international actors, universities, professional bodies, civil society organizations, and donors working on land issues. The main motivations for creating the land tool network was to eliminate discrimination and other obstacles to access to land and security of tenure, as well as to provide redress for the differing impact of access to land on men and women, recognising that women are a diverse group. The GLTN describes land tool development as the creation of resources which allow for implementation of large scale changes in the land arena. The evaluation process for this is important to ascertain the usefulness of resources for both men and women, to improve existing tools and those under construction, and to identify gaps and learn from past tools of evaluating gender and land.

## **Women's Collective Agency**

Conference participants agreed that there is minimal or no support for women to take charge of their demands for land rights, and efforts to address land and property issues are isolated and disjointed. As an organized collective, however, women present a significant political and economic force. Building alliances and partnerships and stronger women's movements would provide a more effective platform to advocate and lobby for women's access to land. It would also build the capacity of women by relaying information on land administration systems and practicalities that impact upon women's land rights.

## **Capacity Building**

Legal processes are time consuming and often require significant resources to engage the system. There is an evident need to train and support paralegals to better understand land matters and to effectively interpret and represent women's needs. Women also need sensitization and training in order to understand land laws and policies so that they can recognize when their rights are being violated and the

possibilities for redress. It would advance women's cause to have well-trained journalists who understand land from a woman's perspective and who can advocate for change in the media. Knowledge exchange among developing countries and within regions is also an empowering tool for women to share their experiences and strategies for securing land entitlements.

### **Resources**

Traditional lenders of credit such as banks require more security than most women have in their possession. Introducing innovative and non-traditional mechanisms that support less expensive and less arduous processes of obtaining credit are strategies that would put more resources in the hands of women and allow them to be landowners. Such mechanisms include micro-credit facilities, revolving loans, and collective land purchases.

### **Conclusions**

An emerging area for advocacy is women's representation in land adjudication and administrative bodies, in accordance with arguments for subsidiarity (for example, devolution of decision-making to local levels where possible). However, the presence of women does not necessarily lead to changes in culture or perspective; bodies and actors that are closer to the grassroots may still have strong interests in protecting discriminatory customary and non-customary practices. Women's land rights are still positioned in relation to male relatives such as a husband or father, and there is a need to look at women as independent citizens in order to have a holistic view of their land rights.

Moving forward, conference participants have produced a collaborative document of recommendations for policy and practice, to be an additional resource for women's movements, civil society organizations, policymakers, and local governments.

IDRC wishes to thank all of the participants for their active engagement in the symposium. IDRC also wishes to acknowledge the specific contributions of UN Habitat, the Huairou Commission, the Ford Foundation, the Norwegian People's Aid, and the Canadian International Development Agency for leading specific sessions during the symposium and/or for providing financial support to assist with participants' travel.

### Areas for Further Research Noted at Symposium

How to use land as a bargaining tool to improve women's social status and increase their intra and inter household negotiating power?

How can customary structures be exploited to advance women's land rights?

What is the relationship between micro and macro governance levels and strategies to coordinate these two levels?

What are the complementarities and gaps between customary practices and statutory laws for better security of women?

How can women's land rights be strengthened through customary practices and law?

What is the impact of improving women's access and control over land on women's welfare?

What is the impact of different titling types (joint, individual, collective) on women's access to land?

New developments that complicate issues but also bring renewed attention to women and land transformation include: HIV/AIDS, food and fuel crises, transnational and foreign government land grabs, and large-scale infrastructure projects. Future research should examine the nexus between these issues and land administration, to identify commonalities of experiences across countries and regions.

What is the relationship between the gendered division of labour and the use of land and other resources on the security of women's land tenure?