

“Women’s access to productive resources” – UN Women Emerging Issues Panel
3-6 pm on Thursday, 13 March 2014
Conference Room 2 at the United Nations Headquarters,

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Mobilizing progress in women's access to land and productive resources through a human rights approach

- Just 1% of the world’s women own land.
- Improving women’s access to, use of and control over land and productive resources (LPR) is essential for ensuring women’s equality and rights enjoyment – especially their rights to an adequate standard of living, food, housing, political participation and decent work.
- This effort is also key to tackling poverty, improving global food security and sustainable development – and therefore will have beneficial impacts for all.

- ‘Land’ includes farmland, wetland, pasture, rangeland, forest, fishery, harvesting & hunting territories
- Inextricably linked to productive resources such as property, fisheries, livestock and game
- ‘Access to’ LPR should also imply an ability to use and control these resources

- Women’s inequality in access to LPR is intimately related to gender inequality in other spheres. Therefore, boosting women’s access to, use of and control over LPR is key to improving gender equality generally, improving women’s social, economic and political power.
- However, this inter-relationship also means that in order to successfully and sustainably improve women’s access to LPR, it is necessary to take a holistic approach, looking at this issue not merely from the economic point of view, but also tackling legislative, social and cultural barriers to equal access, use and control.
- Human rights play an important role in highlighting the structural and systemic changes needed for women’s economic empowerment and improved access to LPR. These changes and reforms will need to be in a variety of channels:

Legislation

To tackle this issue, legislative action is absolutely crucial. There are a variety of legislative areas that affect women’s rights to LPR, including:

- Land law
- Anti-discrimination law
- Marriage and family law – including marital property rights, which should recognize the equal rights of both parties to use, obtain benefits from and manage joint property. Clear consent requirements for transfer or sale should be enforced, as well as equal land and property rights for men and women in the event of divorce. Provisions that grant marital power to one spouse/the ‘head of household’ must be abolished.
- Prohibition of forced eviction
- Prohibition of gender-based violence, including domestic violence and rape
- Prohibition of early marriage

- Inheritance laws – ensure equality between men and women, ensure that the surviving spouse has at a minimum continued occupancy and use rights with respect to the marital home and land.
- Property rights
- Security of tenure guarantees, in particular for women smallholder farmers

All such laws should be reviewed and amended as needed to ensure the greatest protection for women's access to LPR. Unfortunately, the progress is far from linear in this respect. For example, myself and a group of colleagues recently issued a call to the Kenyan government¹ to repeal provisions of the new Marriage and Property Act which effectively deny women the right to marital property upon divorce or death of their spouse, unless they can prove they made a contribution to the acquisition of the property during their marriage.

Access to justice

In order to effect change, it is necessary that these laws and legal frameworks are implemented and enforced. Women need to be able to claim and enforce their rights, often against powerful elites in their community or men in their family. They must also be supported in challenging discriminatory aspects of formal, religious and customary law (while in the long term these systems should be brought into compliance with human rights norms).

Therefore, it is crucial to improve women's access to justice, with a particular focus on women living in poverty.² This will include making judicial systems more accessible and responsive to them (for example by waiving fees and actively providing legal information and education), and providing legal aid for land rights and inheritance disputes.

Participation

Strengthening women's participation in decision-making at all levels – household, community, local and national government – is necessary to effect meaningful and sustained progress in women's access to LPR. This will require free and full access to informative about decision-making processes relevant to land and agriculture, and building women's capacity to participate in an informed and active way.³

Gender-based violence

Prevalence of and impunity for gender-based violence is driven by the same cultural norms and taboos that restrict women's access to land. GBV, or the threat of violence, also often prevents women from asserting their rights or claiming land that should be rightfully theirs.

Female victims of domestic violence should enjoy access to justice and legal protection, including security of tenure that gives them 'right to reside' in their marital homes.

Sexual and reproductive rights

Restrictions on women's ability to control and manage their own fertility and exert power and choice in sexual relationships directly affect their access to LPR, including by creating and

¹ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14254&LangID=E>

² For detailed recommendations see my 2012 report to the General Assembly on access to justice for people living in poverty, available at <http://www.ohchr.org/EN/Issues/Poverty/Pages/AnnualReports.aspx>

³ For detailed recommendations see my 2013 report to the Human Rights Council on participation on people living in poverty in decisions that affect their lives, available at <http://www.ohchr.org/EN/Issues/Poverty/Pages/AnnualReports.aspx>

perpetuating damaging gender power dynamics. In particular, early marriage and early pregnancies have a huge impact on women's ability to control and use land, as well as violating many of their other rights. 40% of the women of reproductive age in the world live in countries where abortion is prohibited, very restricted or inaccessible, while more than 14 million adolescents give birth every year due to rape or unwanted pregnancies. These young women and girls will face particularly severe difficulties in gaining access to LPR throughout their life.

Therefore, measures to uphold women and girls' sexual and reproductive rights will be necessary in order to ensure their equality as land users and owners.

Economic empowerment

Women's equal access to loans, credits, insurance and other financial services is an important channel for access to land, housing and property.

Unpaid care work

Women undertake the bulk of unpaid care work - cooking, cleaning, fetching water and fuel, and direct care of persons - in every country in the world. When this work is taken into account, they work more hours than men, for less money and recognition. This division of labour places huge constraints on women's time and opportunities, perpetuating their political, social and economic inequality and blocking their enjoyment of many human rights, including to paid work, education and participation in public life. Progress towards women's equal access to LPR will necessitate greater sharing of unpaid care work by men, and greater support for this work by the State, including by improved public service provision and infrastructure in rural areas.⁴

Social protection

A large proportion of the world's food insecure people earn their living from agriculture, mainly but not only as smallholder farmers, many of whom are women. Social protection should therefore support agricultural livelihoods directly, to improve food security. Such social protection must be gender-sensitive and human rights-based, to ensure it does not unfairly exclude rural women or perpetuate gender stereotypes (for example about men as head of households or women as primary carers).

Fiscal and macroeconomic policies

Fiscal and macroeconomic policies are directly related to women's access to LPR. In this area, there are a number of measures that States can take, including:

- Prioritizing investment in women and in their rights to LPR, both in national expenditure and in international assistance and cooperation.
 - Public investments both on the production side, for example, in water management facilities and soil conservation, and on the consumption side, in health services, education, water and sanitation, and social protection.
 - Stable and sustainable long-term investment in agriculture in order to address challenges in food security
 - Investment in the physical infrastructure that allows food producers to be connected to markets

⁴ For detailed recommendations see my 2013 report to the General Assembly on unpaid care work, poverty and women's human rights, available at <http://www.ohchr.org/EN/Issues/Poverty/Pages/AnnualReports.aspx>

- Resist the view of land principally as a commodity; rather it should be viewed as a life-sustaining resource. Commodification of land rarely benefits women's rights, rather leading to land concentration and land-grabbing.
- Home countries of business enterprises and investing nations or nations supporting agricultural investments in other nations must ensure that their actions respect and protect human, according to applicable international and regional human rights norms and standards.
- Land concessions should not be made without an evaluation of the impacts on women's land and livelihoods, and on water resources.

Promoting and protecting the rights of the most disadvantaged and those that suffer from multiple forms of discrimination

A human rights approach requires that the situation of these individuals and groups is tackled as a matter of priority. Thus, particular attention must be paid to women who experience particular difficulty in exercising their rights to LPR, for example women living with HIV/AIDS, widows, displaced women, indigenous women, ethnic minority women and women with disabilities. This will require specialized programming and outreach, and temporary special measures, according to international human rights law.