



Recommendations for Policy and Action

Preamble

1. We, the 140 participants made up of NGO leaders, researchers, policy makers, grassroots women leaders, and champions of gender equality, representing 17 countries and approximately 70 organizations at the African Policy Symposium on Women's Rights and Access to Land, organized by the International Development Research Centre (IDRC), in collaboration with the United Nations Human Settlements Programme (UN-HABITAT), the United Nations Development Programme (UNDP), the Huairou Commission, the Norwegian People's Aid, and the International Land Coalition, held in Nairobi on 14-16 September 2010, after deliberating for three days on the findings of a decade of research and initiatives across Africa;
2. Noting that Africa continues to be largely agrarian and that land is important as a right of citizenship and for fostering a sense of belonging and ensuring sustainable livelihoods;
3. Affirming that women's right to ownership, access, and control of land is recognized in the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, and elaborated as follows by the UN Committee on Economic, Social and Cultural Rights' General Comment on The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights: '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;
4. Concerned that the major land tenure problems in Africa – land concentration and the dispossession of small farmers, widespread and growing insecurity of tenure, inequalities in access to land, and unresponsive and inefficient land tenure institutions – continue to be unresolved in spite of decades of research and far-reaching land tenure reforms taking place in various African countries;
5. Concerned that twenty five (25) years after the adoption of the Nairobi Forward Looking Strategies for the Advancement of Women, gender inequalities in land tenure systems continue to have adverse impacts on women's citizenship, their social, economic, and political status, and their livelihood prospects in spite of women's remarkable agency in rural and urban areas to strengthen their tenure security;

6. Recognizing that women are not homogeneous, and groups with specific needs, such as survivors of conflict situations, and those affected by HIV/AIDS, must be considered through special measures when developing laws and policies;
7. Noting with satisfaction that the Framework and Guidelines on Land Policy in Africa produced jointly by the Africa Union (AU), the UN Economic Commission for Africa, and the African Development Bank recognize the importance of addressing gender inequalities in access to land, in keeping with AU Human Rights conventions;
8. Noting further that the Maputo Declaration on Agriculture and Food Security in Africa (2003) recognizes that agricultural development cannot be achieved without the involvement of key constituencies such as women's and youth associations;
9. Appreciating that some Sub-Saharan African countries have, in the last decade and a half, undertaken reforms to their land laws and policies, some of which pay particular attention to addressing patterns of gender inequality;
10. Recalling that the Beijing Platform for Action attributes women's poverty largely to lack of access to economic resources, including credit, land ownership, inheritance, and technical assistance and training, and calls on governments to analyse, from a gender perspective, policies and programmes in all relevant sectors of the economy to assess their impact on poverty and inequality - particularly gender inequality - as well as their impact on family well-being, and adjust them as appropriate to promote more equitable distribution of productive assets, wealth, opportunities, income and services;
11. Dissatisfied with the lack of pro-activity on the part of many policy-makers to make use of the findings of decades of research on gender inequalities in land tenure systems to inform the design and review of laws and policies;
12. Recognizing the challenge that rapid urbanization in Africa and the formation of slums and informal settlements poses for security of tenure and access to land by the urban poor, especially poor women, and that insecurity of tenure and access is reinforced when legal and policy reforms place undue emphasis on the development of urban land markets;
13. Make the following recommendations for policy and action to be taken up by governments, civil society organizations at international, national and grassroots levels, research institutions, intergovernmental institutions, and donors in respecting, promoting and protecting secure land rights for women.

Land Laws, Policies and Reforms

14. Land policies and laws in most African countries are largely outdated. Reforms have been undertaken in some countries since the 1990s, some of which attempt to shed off the colonial legacy of patriarchy, to respond to the evolution and diversity of local economies, and to recognize diverse land use types, such as pastoralism, farming, eco-tourism, and informal industry. Lessons learnt from these reforms indicate that unless there is clear targeting of gender inequality in access to and ownership of land, reforms focused on achieving efficiency in general, or on the narrow objective of development of land markets will not result in enhanced security of tenure for women as they do nothing to tackle the deep-seated problem of gender inequality in land tenure systems. Further, in many reforms the land administration function is

spread over several institutions, thus making the process of accessing and securing interests in land and demanding institutional accountability difficult. Corruption has also been a key factor in frustrating reforms, not only in the area of land law and policy but in instituting the rule of law in general.

Recommendations for governments:

15. In conformity with the UN Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the African Union Framework and Guidelines on Land Policy in Africa, and the Beijing Platform for Action, governments broaden the remit of land tenure reforms and land policies to include as a goal gender equality in ownership, access to and control over land;
16. Governments rationalize reform of land laws, policies and land administration structures to make them more responsive to marginalized groups, including women. Where appropriate, affirmative action measures should be used in the sale and distribution of public lands;
17. Governments establish a coordinating mechanism with 'one-stop' shops for all information, for instance, concerning registration of interests in land, and dispute processing, which will bring together all agencies whose mandate relates to land and/or and gender relations so as to enhance responsiveness and promote accountability to women as a socially marginalized constituency;
18. Governments consider and adopt appropriate technologies that are aimed at improving efficiency and equity in land administration, such as the use of Geographical Information Systems (GIS) for purposes of mapping the whole range of land uses for accuracy in granting user certificates and titles. This will minimize the discrimination that results from some land use types being rendered officially invisible;
19. Governments take an integrated approach to securing women's land rights, rather than treating it as a sectoral issue confined only to the institutions that deal with land. Reforms in land laws, policies and institutions should therefore go hand in hand with reforms in family laws, policies and institutions, for instance, through practical measures such as universal registration of marriages so as to enable acquisition of joint titles between spouses, or the enactment of laws to facilitate a variety of co-ownership and trusteeship arrangements inside and outside of the family;
20. Governments show commitment in fighting corruption in all sectors, and in the reform and implementation of land law and policy in particular. Penalties imposed on private individuals, government officials, corporations and institutions engaging in corrupt land deals reflect the seriousness of the offence, backed up with restitution of the property in question;
21. Governments take measures to create an environment conducive to women's collective organizing so as to raise community awareness on the problem of gender inequality in land and related resources and to ensure that issues of women's access to and control of land move from the realm of the private to the public domain to reduce vulnerability and build legitimacy and visibility.

Recommendations for intergovernmental organizations:

22. The African Union establish a coordinating mechanism for research on gender and land issues within its Economic, Social and Cultural Council, so as to minimize duplication of efforts as well as ensure that recommendations from research bodies such as IDRC are effectively brought to the attention of governments and followed up and implemented.

Recommendations for civil society organizations:

23. Organized civil society groups working at grassroots, national, and regional levels on a variety of issues that relate to land and gender relations facilitate and support women's collective organizing so as to raise community awareness on the problem of gender inequality in land and related resources and equip women and local champions of gender equality to challenge discriminatory patterns of distribution in both formal and informal institutions, and discrimination embedded in law and policy and in land administration;
24. Grassroots organizations that are engaged in innovative strategies for lobbying for reforms and for securing women's claims to land and land-related resources should partner with researchers so as to build a strong evidence base of quantitative and qualitative data to support reform efforts and scale up the innovations already present in isolated grassroots experiences;
25. National land alliances and other civil society groups organized around issues of land and land-related resources foreground gender equality in their engagement with legal and policy reform, working in partnership with civil society groups whose focus is on women's rights, at grassroots, national and regional levels.

Decentralization and Customary Law

26. Decentralized statutory land administration bodies and local customary land institutions are widely regarded as having the possibility of delivering efficient, less costly and sometimes gender equitable land tenure administration to local communities, as they have greater potential for sensitivity to context. Recent land tenure reforms have promoted the establishment of these structures and women's representation in them. In practice, however, women's representation has not been mandatory; the institutions are generally male- dominated in culture and orientation, and lack the financial and human resources to deliver tenure security to all members of their communities, and women in particular.
27. Institutions that apply customary law continue to be the predominant actors in mediating access to land and land-based resources in most of sub-Saharan Africa. Despite the recent enactment of constitutions that outlaw negative cultural practices, instances of exclusion or restriction of women's access to and control over land have often been defended as 'customary'. Elements of flexibility within customary land tenure systems have enabled some women to harness the positive potential of custom to secure their access to land and land-based resources. However, there is weak oversight over the exercise of customary authority to ensure its compliance with constitutional principles, in particular, the principle of gender equality.

Recommendations for governments:

28. Governments develop or facilitate the development of guidelines for decision makers in decentralized land administration structures and in customary forums which explain the key principles in documents such as the constitution, national land policies, and relevant statutory laws (such as laws on succession), making clear their binding nature on all exercise of public authority, including customary authority;
29. Governments ensure that land laws and policies stipulate gender-balanced representation in decentralized land administration structures and customary forums;
30. Governments provide decentralized structures and customary land forums with adequate human and material resources to ensure the full implementation of the guidelines. The resources should be sufficient to support accurate documentation of proceedings, efficient registries and land information systems, simplified processes of land registration and administration, and inclusive processes of adjudication which are accessible to persons without formal education;
31. Agencies within government working on land work in partnership with civil society groups to equip local women's groups and other community-based groups to deepen the awareness of communities about the handbooks of guidelines specifically, and about relevant land laws and policies generally, and to mobilize community members, particularly women and other marginalized constituencies, to demand accountability from the decentralized structures and customary land institutions;
32. Agencies within government working on land work in partnership with research institutions to support participatory action research that documents the positive micro-level experiences of using customary law to strengthen women's rights and access to land, as well as the negative micro-level experiences and cultural practices that need to be invalidated. Further, government and research institutions ensure that all research is done with grassroots women in the lead, in a manner that ensures that they are the collectors and custodians of the data, and that data is used to understand and address real priorities and strategies of communities;
33. The formal justice system and formal land administration institutions be genuinely decentralized and linked to customary land adjudication forums so as to promote mutual legitimacy and cross-learning, as well as present people, particularly those with less bargaining power in matters of land (such as women) with the possibility of choosing among multiple options for enforcing and securing their land rights.

Recommendations for civil society organizations:

34. Organized civil society groups must work with governments to develop or facilitate the development of handbooks of guidelines for decision makers in decentralized and customary forums dealing with land and related resources to ensure that their decisions are in conformity with constitutional principles such as gender equality, and that they are consistent with commitments that the government has made in international and regional treaties and declarations on human rights;
35. Organized civil society groups working on land and related resources mobilize community members, particularly women and other marginalized constituencies, and equip them to demand accountability from the decentralized structures and

- customary land institutions. These mobilization efforts could benefit from existing networks of trained community paralegal workers in some African countries;
36. Organized civil society groups working at various levels work in partnership with research institutions to carry out research that documents the positive micro-level experiences of using customary law to strengthen women's rights and access to land, as well as the negative cultural practices that need to be invalidated, so that these lessons are fed into the process of lobbying for reform in land laws and policies broadly, and the reform of decentralized and customary land administration structures specifically.

Women's Economic Empowerment, Food Security and the Environment

37. In Africa, the normalization of unequal land distribution has encouraged land concentration, speculative land holding, and grabbing of public lands. This has resulted in a legal and policy context that is hostile to regulation of land ownership for environmental sustainability and in the public interest, leading to insecure land and natural resource tenure for the majority of the population. It has contributed to degradation of natural resources, low levels of economic development, and high levels of poverty, leading to food insecurity. This is further exacerbated by the severity of the global food crisis as well as anthropogenic climate change, putting additional demands for, and pressures on, existing land and land-based resources. These factors, combined with unfavourable pricing of agricultural commodities between rural and urban areas and in international trade, have made women's rights and access to land and land-based resources even more precarious, contributing not only to widening inequalities, but also to the instability of households and communities.

Recommendations for Governments:

38. Governments that have not already done so adopt national land policies, spelling out the values and principles that undergird land relations, for instance, sustainability, equity and transparency, and a clear statement that private property interests will not override these values and principles;
39. Governments undertake serious measures to tackle corruption in land matters, particularly to deal with fraudulent dealings that lead to grabbing of public land, including land set aside for environmental conservation purposes;
40. Governments designate gender equality as one of the key pillars in developing policies for the agricultural sector, in line with the Maputo Declaration, and that a specific budgetary commitment be made - taking account of each country's specific circumstances - toward integrating gender equality with the goals of environmental sustainability and food security in all agricultural development programs;
41. Reform of land laws and policies is taken as part of a comprehensive programme of development, whether rural, peri-urban or urban. It must go beyond the issuance of titles to consideration of other inputs such as infrastructure and relevant information and support services and facilitation of expanded access to markets, in a manner that is sensitive to gender equality, environmental sustainability and the imperative of food security;
42. Government policies are re-examined for bias in favour of large-scale agriculture, in view of evidence of adverse impact on women small-scale farmers and on livelihoods derived from pastoralism, and the attendant negative implications for food security

and environmental sustainability;

43. Governments support smallholder farming and livestock development through enabling access to agricultural inputs, continuing education, appropriate technologies and markets, and encouraging diversification of crops and livestock breeds through agricultural research programmes so as to enhance food security and empower small-scale farmers, the majority [in most countries] of whom are women;
44. Governments at national and local levels ensure that the gender-differentiated impacts of climate change are fully taken into account in the analysis of environmental change, and ensure women's full participation in official processes of formulation of climate adaptation and mitigation strategies.

Recommendations for Civil Society Organizations:

45. Organized civil society groups work in partnership with government to support associations of women leaders in agriculture and environment, so as to facilitate learning from the experiences of women in small-scale farming and livestock development to come up with viable and informed solutions to local environmental and food security concerns;
46. Associations of farmers and livestock producers make special effort to include women farmers and ensure gender balance in their representative structures;
47. Organized civil society groups at all levels collaborate with research institutions to document the gender-differentiated impacts of climate change and climate change mitigation, as well as document local best practices adopted by women so as to sensitize different actors on women, land and climate change.

Conflict

48. In African countries, rights and access to land have historically been linked to political and economic power. Land reform in post-colonial states has been characterized by, among other features, patronage and privilege, elite capture and collusion in land grabs, and a failure to democratize land ownership through addressing ethnic, class, gender and other inequalities. Land has also been a source of structural conflict among states, between states and citizens, within extended families, and between individual men and women. Conflict linked to land is both a cause and result of migration, displacement, dispossession and human insecurity. Women and children are particularly affected.

Recommendations for Governments:

49. Governments take measures to reduce the potential for land conflict by embodying and implementing democratic principles of equitable distribution in national policies on land and related resources. Specifically, governments should outlaw discrimination on grounds of ethnicity, class and gender both in national constitutions and in laws and policies specific to land;
50. Governments exercise their regulatory powers to address skewed patterns of land distribution, and to redress the effects of land grabs that foster conflict. Governments could do this through stipulations as to maximum and minimum land sizes that may be purchased or held by private individuals or corporations, or through stipulations as to maximum duration of leases of public land, depending on type of land use;

51. Government policies and practices on land and related resources take particular care not to privilege certain types of land use while marginalizing land uses that are crucial to supporting certain livelihoods. The effects of prevalent biases in favour of sedentary farming and the subsequent marginalization of pastoral and forest-based livelihoods has been a source of conflict in some African countries, and require measures to redress the balance and ensure secure livelihoods for all;
52. Governments at all levels honour their obligations to respect their citizens' rights to land and related resources, by refraining from acting as agents of unlawful dispossession and displacement. Where displacement has been made necessary by the pursuit of lawful national commitments, for instance, to ensure environmental sustainability, governments take reasonable measures within the maximum of their available resources to provide dispossessed communities with legal support, resettlement, compensation, and basic services, taking into account the needs of the most vulnerable, such as women and children.

Recommendations for Civil Society:

53. Organized civil society groups working at grassroots, national and regional level act as agents of peace through working collectively to ensure that public processes for distribution of land and adjudication of land disputes are based on transparency, accountability, and equity, including gender equity, so as to avoid escalation of disputes into violent conflict;
54. Organized civil society groups working at the national level learn from and scale up grassroots initiatives for peaceful resolution of intra-family disputes over property, such as the Land and Property Watchdog Groups working together with local administrative officials against dispossession of widows.

Poor Women and Urban Land

55. Women migrate from rural to urban areas in search of employment opportunities and to escape from poverty, gender discrimination, gender-based violence, and disinheritance. Insecurity of access and ownership of land, as well as unstable rural livelihoods drive poor women's migration to cities, where the majority end up living and working in slums and informal settlements which lack the minimum of basic services and infrastructure. Urban slums and informal settlements are characterized by tenure insecurity, lack of affordable quality land and housing, exacerbated by poor land administration and management practices. Poor regulation of urban land markets, as well as inadequate response in policies and programmes to the disproportionate impacts of natural disasters, conflicts, forced evictions, breakdown in law and order, and HIV/AIDS on women further deepens women's insecurity in relation to land and access to housing in urban areas. This calls for urgent action in order to ensure improved security of tenure and the basic right to adequate shelter for poor women in cities and towns.

Recommendations for Governments:

56. Develop pro-poor and gender-responsive land policies and programmes which respond adequately to the challenges posed by rapid urbanisation and exponential growth of land markets;

57. Learn from initiatives such as UN-HABITAT's Global Land Tools program to undertake analysis of land markets from a gender perspective enabling the government and other stakeholders to identify investment needs in programmes that support women's collective organizing to access land and leverage opportunities provided by land markets;
58. Ensure state interventions acknowledge, build on and scale up existing best practices developed by non-governmental actors in facilitating women's access to financing for the acquisition of land and housing, such as the Women's Land Access Trusts (a UN-HABITAT initiative);
59. Ensure land registration systems build in flexibility and innovation so as to recognize multiple forms of tenure and multiple types of interests in property which enhance women's options for securing access to, control and ownership of land, tailored for rural and urban settings.

Recommendations for civil society:

60. Organized civil society groups make use of existing networks of paralegal expertise generated by years of investment in civic education in many African countries to deepen legal literacy and assistance among poor women in relation to securing rights to access and control land necessary for adequate shelter in urban contexts;
61. Land alliances and other organizations working on land rights work in partnership with organizations that provide services to women in slums and informal settlement to promote synergy in advocacy, to serve this constituency holistically and effectively, as well as avoid duplication of efforts.