

Post-ADF VI Consultation-Securing Women's Access to and Control Over Land in Africa through the African Union's Africa Land Policy Framework and Guidelines

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Introduction

The importance of agriculture to economic development in Africa and the critical role that rural women play within this sector cannot be overemphasised. Smallholder subsistence agriculture in ensuring the food security of the continent, as 73% of the rural population consists of smallholder farmers (IFAD, 1993:6). In Sub-Saharan Africa, agriculture accounts for approximately 21% of the continent's GDP and women contribute 60-80% of the labour used to produce food both for household consumption and for sale¹. Estimates of women's contribution to the production of food crops range from 30% in the Sudan to 80% in the Congo, while their proportion of the economically active labour force in agriculture ranges from 48% in Burkina Faso to 73% in the Congo and 80% in the traditional sector in Sudan².

Land is critical for improving women's, social security, livelihoods and their social status. Although women constitute the majority of the agricultural workforce (70-80 per cent in some regions) their access to and control over land is globally estimated at 5 per cent,³ although there are variations in regions. Most rural families in Sub-Saharan Africa live under customary regimes - access to land is determined by customary practices, with land use and the proceeds from land owned by male kin. Women's relationship with land is therefore through husbands, fathers, brothers or sons. Although land markets are growing, inheritance (or in some systems gifts/loans) is the main means by which rural households might acquire land. Women's inheritance rights are generally unequal to those of men, and in some cases nonexistent. Women mainly gain access to land through marriage, although they might be apportioned land as daughters or sisters.

Even in matrilineal societies, access to land is largely controlled by a women's male kin (uncles, fathers, brothers, etc). Women's access to and control over land is therefore dependent on negotiating these usually unequal power relationships, rather than as a general entitlement as would be the case for men. Women's previous entitlements to land under customary regimes (usually user rights) have continuously been weakened as a result of changes to land holding systems over periods of colonialism, post-independence land redistribution and, most recently, land privatisation processes. The problem has arisen from the fact that these exercises have been 'gender blind' and therefore have not taken account of women's interests in land or of their existing claims. Customary regimes become most insecure when changes to land administration are introduced and 'more powerful individuals - usually men - fare better when the content of custom is subject to new negotiation in new institutional arenas'⁴.

¹ <http://www.fao.org/docrep/X0250E/x0250e03.htm#TopOfPage>

² <http://www.fao.org/docrep/X0250E/x0250e03.htm#TopOfPage>

³ A Gender Perspective on Land Rights. FAO. www.fao.org

⁴ Yngstrom I. *Women, Wives and Land Rights in Africa: Situation Gender Beyond the Household in the Debate over Land Policy and Changing Tenure Systems*. Oxford Development Studies, Vol 30 No 1, 2002. Carfax Publishing.



In sub-Saharan Africa, women now account for 61 per cent of people living with HIV, up from 57 per cent in 2003⁵ and young women aged 15 to 24 are more than three times as likely to be infected than young men⁶. While hunger fuels the spread of HIV, the virus is equally a cause of hunger and poverty in households, with repercussions that are well documented. For women, the death of a spouse might mean outright dispossession and the loss of access to land and other property. If changes to land policy are to uphold women's tenure security, the social disruption caused by the HIV and AIDS pandemic must be taken into account⁷. As a result of the strain on society brought by HIV and AIDS, women will be further exposed to challenges to their land claims both in their marital and natal homes unless their rights to land are declared in law.

Securing land rights for women would dramatically alter the insecurity, disempowerment and abuse that are associated with poverty and inequality, and would create new fronts for rolling back HIV and AIDS. Thus, ensuring that women's access to and control of land is comprehensively addresses in the on-going *Africa Land Policy and Guidelines* discussed below is very critical.

African Land Policy Framework and Guidelines

Drawing on, and benefiting from the wealth of information and the impetus from the *International Conference on Agrarian Reform and Rural Development Declaration (ICARRD)* the African Union (AU), the African Development Bank (ADB) and United Nations Economic Commission for Africa (UNECA), launched an initiative aiming at the development of a *Land Policy Framework and Guidelines* for Africa in March, 2006. It is envisaged that the *Framework and Guidelines* will provide guidance to African countries to formulate and implement land policies that will secure land rights; increase productivity; improve livelihoods; enhance natural resource management and; contribute to a broad-based economic growth.

The Framework and Guidelines will also provide: a basis for commitment by governments at the continental level to develop common actions at regional and national levels; and establish guidelines and benchmarks of good practices to evaluate the performance of land policy land reforms and the land institutions. This includes making land policies and the performance of land institutions subject to the African Peer Review Mechanism. It would also serve as a platform for gaining commitment of partners to a sustainable funding framework and capacity building. Many countries in Africa are also currently undertaking land policy consultations and/or the elaboration of new land policy frameworks or land legislation⁸.

Governments have made numerous international commitments to promote and defend women's rights as well as recognising the importance of women's rights in combating HIV and AIDS. However, these commitments are far from reflected in the ways in which resources are allocated and programmes are prioritised. The Land Policy Framework and Guidelines provide an opportunity for implementing these commitments in a comprehensive way in Africa.

Governments and international institutions need to create open and inclusive policy making and dialogue spaces in which women and girls are able to formulate and articulate their own proposals to deal with land rights issues, while ensuring that they enjoy the support of public institutions and

⁵ UNAIDS, *AIDS Epidemic Update*, December 2007

⁶ UNAIDS/UNFPA/UNIFEM, *Women and HIV/AIDS: Confronting the Crisis*, 2004

⁷ Crowley E. *Land Rights*. 2020 Focus 6 (Empowering Women to Achieve Food Security), Brief 1, August 2001

⁸ These include Angola*, Burkina Faso (consultations for a new land policy in June 2006, and preparation of new land legislation), Cape Verde*, Guinea Bissau*, Mali (*Lettre d'Orientation Agricole*, which includes a strong land tenure component), Zambia, and other countries. Several countries have also recently established new systems for the registration of existing or currently undocumented customary land rights through innovative and decentralised systems for land registration (Ethiopia*, Madagascar*, Mozambique*, Niger*). Some of these provide for the registration of Community Land Rights, as well as decentralized rural institutional capacities. In some of these countries (Mozambique*, Niger*), and others, such as Ghana*, Rwanda and South Africa, new legislative frameworks involve local customary or elected officials in the registration and administration of land rights. See *FAO, Agrarian Reform and Rural Development Outcome and Follow-up* Twenty-fifth Regional Conference for Africa Nairobi, Kenya, 16 - 20 June 2008 ARC/08/INF/7 p.7

the financial resources to craft new solutions. This is imperative at this point in the *Africa Land Policy Framework and Guidelines* development process⁹.

Process so Far

To kick-start the process of developing of the *Africa Land Policy Framework and Guidelines*, the AU, ECA and ADB in collaboration with partners launched through a Regional Consultative Workshop held in Addis Ababa, 27-29 March 2006. Regional assessments and consultative workshops have been held¹⁰ allowing the critical challenges to be assessed and key issues to be addressed by national land policies and implementation process and also to provide valuable insights into commonality and diversity of situations among regions and countries.

The next steps suggested for this process are a continental meeting of African experts; a meeting of African Ministers responsible for land policy formulation and implementation in 2009; and an AU Heads of State and Government Summit July 2009. In terms of programme structure, Civil Society has been called upon to support advocacy, public debate and consultation in-country and regional networking and lesson learning, and build NGO and CSO capacity to assist governments in land policy implementation. Regional consultations have are almost finalised¹¹.

There is an urgent need for consultations with various experts and NGOs on women's land rights to be hosted by the three lead institutions (AU, ADB and UNECA) of the *Africa Land Policy Framework and Guidelines* development process in partnership with women's rights organisations in Africa. This will ensure more detail and precision on what the road map for the region should be in terms of achieving gender equality in land rights in a manner that properly identifies the obstacles and how to overcome them.

The objectives of the consultation include to:

- craft a collective set of indicators and benchmarks for the *Land Policy Framework and Guidelines* from a women's rights perspective;
- explore the inter-relationships between peace and security, trade and ecological justice, in particular agricultural aid, development financing and women's access to and control over land in Africa and make recommendations on how to safe guard them;
- integrate women's rights in the Draft *Land Policy and Guidelines*. Women's access, control and ownership over land/natural and productive resources need to be treated comprehensively in each of the aspects of the land question in the draft (state sovereignty over land, unequal distribution of land resources, duality of property systems, enhancing agricultural productivity, sustainable management of the environment, protecting the commons, impact of HIV/AIDS) in line with government commitments on women's rights;

Participants

Participants with expertise in women's rights, environment, trade, peace and security and agriculture will be invited from the five regions of Africa (Eastern, West, Central, Southern and North Africa). They will be drawn from government (from ministries of women/gender/land), women and land experts from civil society and academic institutions, the African Union, UNECA, UNIFEM (and other UN agencies), African Development Bank, the African Union and Regional Economic Communities.

⁹ See ActionAid International Briefing Paper, *Securing Women's Right to Land and Livelihoods: a key to Ending Hunger and Fighting AIDS* (2008)

¹⁰ Southern Africa (August 2007) Eastern Africa (January 2008), West Africa (April 2008) Central Africa (August 2008) and North Africa (will be held Mid-November 2008)

¹¹ See FAO, *Agrarian Reform and Rural Development Outcome and Follow-up* Twenty-fifth Regional Conference for Africa Nairobi, Kenya, 16 - 20 June 2008 ARC/08/INF/7