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Gender and Property Rights: A Critical Issue in Urban Economic Development

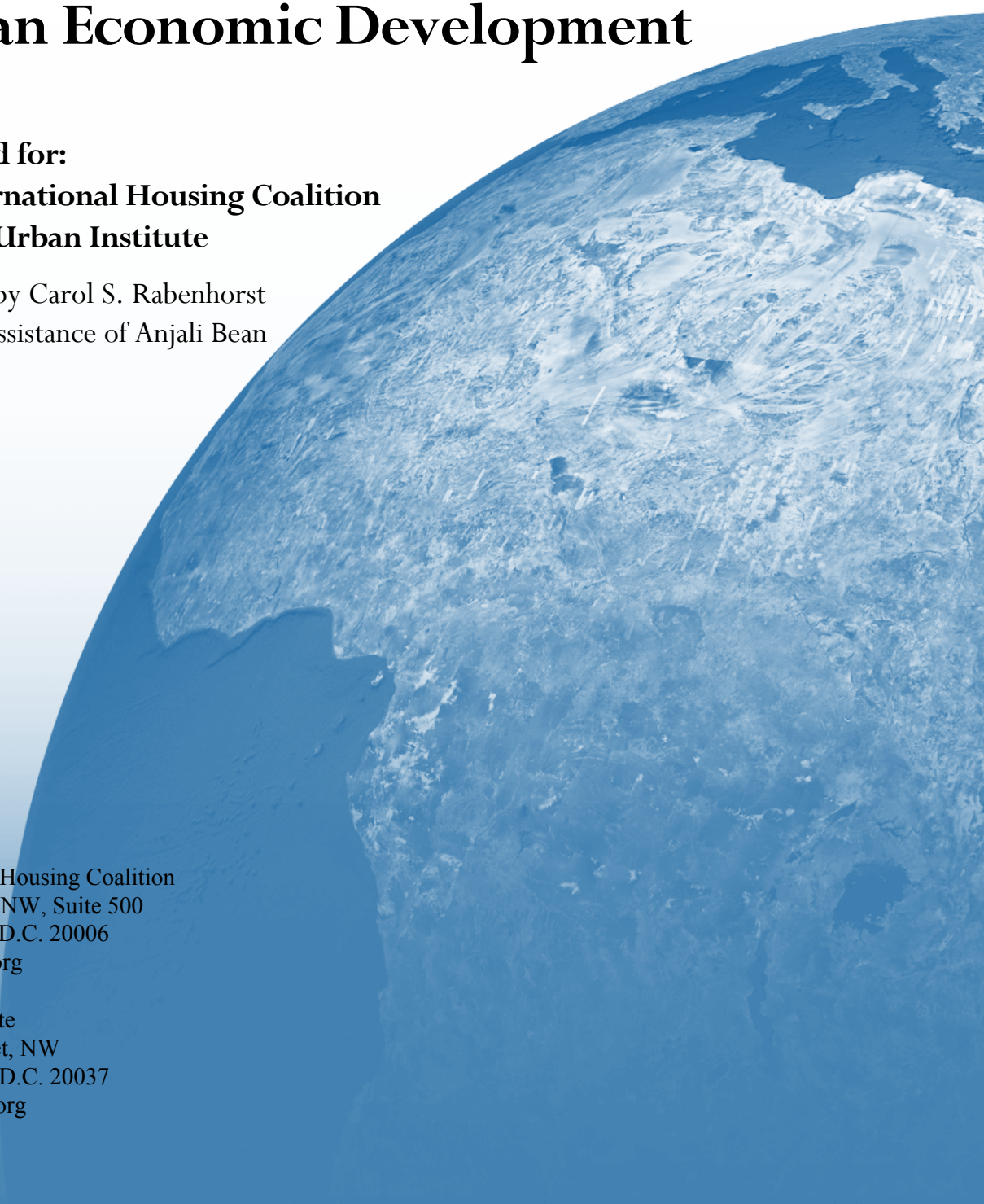
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The **International Housing Coalition (IHC)** is a nonprofit membership organization, headquartered in Washington, DC, which advocates for adequate housing conditions, slum improvement, and effective responses to rapid urban growth in developing nations. The IHC also raises awareness among global policy makers of housing and urban development issues. Habitat for Humanity International, the National Association of REALTORS, and the Canadian Real Estate Association came together to form the organization in 2005. Today, the Coalition includes private companies, nonprofit groups, professional associations, and research institutions.

Urban Institute (UI) is a nonprofit, nonpartisan economic and social policy research organization with headquarters in Washington, DC. UI was founded in 1968 to investigate social and economic problems confronting governmental entities and the policies and programs designed to alleviate them. Formed originally as a US domestic think tank, over the past 20 years UI has expanded its work to address analogous issues in developing countries and transition economies. UI's international work has focused on housing, urban development, access to mortgage and SMSE finance, urban infrastructure, and local governance.

Table of Contents

| | |
|---|----|
| EXECUTIVE SUMMARY..... | 2 |
| I. Introduction – Gender, Property Rights, and Economic Development..... | 5 |
| Why Urban?..... | 5 |
| II. Women’s Access to Land for Housing and Property for Entrepreneurial Activities..... | 6 |
| A. Inheritance and Marriage..... | 6 |
| B. Communal and Joint Ownership..... | 9 |
| C. Land Reform..... | 10 |
| D. Process of Titling..... | 10 |
| Illustrative Issues for Further Research:..... | 14 |
| III. Role of Housing in Economic Development..... | 14 |
| Tenure and Increased Investment in Homes and Businesses..... | 15 |
| Social Spillover – Education, Health, and Community Development..... | 16 |
| Illustrative Issues for Further Research..... | 16 |
| IV. Role of Women in Urban Economic Development..... | 17 |
| Illustrative Issues for Further Research..... | 20 |
| V. Conclusions and Recommendations for Development Programming..... | 20 |

Gender and Property Rights: A Critical Issue in Urban Economic Development

International Housing Coalition and Urban Institute

EXECUTIVE SUMMARY

Background. Any objective study of gender and property rights reflects the dismal record of developing countries in providing women with equal rights not only to land but to the basic necessities of life. Women have less access to shelter, income, water, food, education, and healthcare when compared to men, leading to what is often called the “feminization of poverty.” While women are increasingly heads of households, today women and girls make up 70 percent of the estimated 1.2 billion people living in absolute poverty, defined as living on less than \$1 a day. It is assumed that most women in poverty operate in the informal sector, particularly those who live in urban areas. In addition, women hold only an estimated 1-2 percent of all titled land in the developing world. The plight of women in poverty seems destined to continue unless there is significant reform and strengthening of laws, policies, and practices relating to ownership and control of property, and among approaches taken by donors and implementers supporting these reforms.

Approach. The fundamental premise of this paper is that gender equality in property rights is critical not only as a human rights issue but also as a key driver of overall economic development, particularly in urban settings. While women make up 66 percent of the labor force in urban areas of developing countries, they account for only 10 percent of income. Research clearly shows that when women’s incomes go up, the additional income goes directly to increasing household consumption and therefore into the overall economy, while increases in men’s income more often go into personal consumption. In addition, it is well established that the availability of secure property rights drives economic development through investment in property improvements, increased manufacturing and purchasing on wholesale and retail markets, access to better employment opportunities, and improved health and education.

The content of the paper was prepared using desktop research and the author’s own experience. Additional ideas and examples were provided by experts in relevant fields who reviewed and commented on the paper in draft form. Their names are included in the acknowledgments.

Purposes. Almost no donor-funded programs on property, urban planning, and economic growth and development take effective account of women's roles or interactions with the proposed reforms and how they relate to property rights. Many programs targeting women aim at more immediate issues, such as health care, schooling for children, or microfinance, which will alter outcomes in the immediate or near term. But a cloud on the success of all these efforts is the distressingly durable set of institutions and norms that constitute property rights and markets, the current effect of which is to preclude or at least severely restrict the economic advancement of women.

With this in mind, the paper has three primary purposes : (1) to increase awareness and maximize the impact of the critical role that women could play in economic development with improved property rights, among policy makers and funders of international development agencies; (2) to inform donors and development agencies that in turn provide funding for relevant economic development and gender-targeted programs and the organizations that implement these programs; and (3) to recommend some targeted short-term research in areas where information is not sufficiently developed and some longer-term steps that donors and others can take to address these deficiencies. As the recommendations in the last section reflect, programs that integrate gender and property issues from the beginning phases of design and implementation are far more likely to be successful in reaching sustainable goals.

Principal Issues. The paper explores the nexus of three issues that individually are touchstones of international donor efforts to reduce poverty in developing countries, but are not usually considered together or in terms of how they relate to each other. These issues are: (1) gender equality in property rights, i.e., the rights of women to participate in property use and ownership with full legal and societal protection; (2) the importance to economic development of residential and commercial property rights in urban areas; and (3) the role of women in economic development.

Recommendations. Each issue is discussed with illustrative examples of problems and, where available, how they have been addressed. Each issue concludes with a few illustrative examples of what targeted additional research would be beneficial. The final section of the paper offers recommendations for more effective development programming and implementation through connecting the issues in an integrated manner.

I. Introduction – Gender, Property Rights, and Economic Development

Much has been written about gender and property rights, most of it reflecting the dismal record of developing countries in providing women with equal rights not only to land but to the basic necessities of life. Women have less access to shelter, income, water, food, education, and healthcare when compared to men, leading to what is often called the “feminization of poverty.” While women are increasingly heads of households, today’s women and girls in developing countries make up 70 percent of the estimated 1.2 billion people living in absolute poverty, defined as living on less than \$1 a day. No doubt one cause in the overrepresentation of women in poverty is the fact that land and other real property are generally considered to represent about 75 percent of a nation’s overall wealth, and women own only an estimated 1-2 percent of all titled land worldwide. While there is a dearth of reliable and comprehensive data on the extent of inequality between males and females with regard to access to and control over land and real property, particularly in urban areas, available surveys and studies indicate that the disparity is substantial.¹ The plight of women in poverty seems destined to continue unless there is significant reform and strengthening of laws, policies, and practices relating to ownership and control of property throughout the developing world, and among approaches taken by donors supporting these reforms.

Improving the property rights of women is a matter not only of human rights and gender equality; it is a fundamental principle that underlies economic development for all people. There is an abundance of research showing that when women’s incomes go up, the additional income goes directly to increasing household consumption and therefore into the overall economy; men on the other hand spend much of their income on personal items.² In addition, women’s lack of property rights has been increasingly linked to other development-related problems, including low levels of education, hunger, and poor health.³ For women, there is a linkage between rural and urban poverty. Rural women’s incomes could increase if they own or control land, individually or jointly, and have the benefit of legally recognized use and inheritance rights. Ongoing exclusion of women from rural land rights pushes them toward the cities, where they often join the increasing ranks of women-headed or women-only households in slum areas where inadequate housing is the norm and homelessness is all too common. While women make up 66 percent of the labor force in urban areas of developing countries, they account for only 10 percent of income. With urbanization of poverty as well as feminization of poverty on the increase, it is critical for women living in peri-urban or urban

¹ Grown, Caren, et al., “Taking Action: Achieving Gender Equality and Empowering Women,” 2005.

² Steinzor, Nadia. “Women’s Property and Inheritance Rights: Improving Lives in a Changing Time,” 2003.

³ Steinzor, 2003.

settings to have clear rights and independent access, use, and control of property and housing for their own economic benefit and empowerment, and for them to reach their potential in contributing to their countries' overall economies.

The purpose of this paper is to explore the nexus of three issues that individually are touchstones of international donor efforts to improve conditions and reduce poverty in developing countries, but are not usually considered together or in terms of how they relate to each other. These issues are: (1) gender equality in property rights, i.e., the rights of women to participate in property use and ownership with full legal and societal protection; (2) the importance to economic development of residential and commercial property rights in urban areas; and (3) the role of women in economic development.

There is widely available literature about each of these individual issues, but little has been written about how they intersect, and why more emphasis on programs that view them in a holistic manner would make development efforts more efficient and beneficial. In Sections II, III, and IV, this paper sets out the individual issues and some of the better and worse practices that have been used in addressing them in international development programs. These sections emphasize factors that are then drawn together in Section V, which provides recommendations for addressing all three in a coordinated and more effective way.

Why Urban?

Cognizant of growing urbanization and its key role in economic development, as well as the particular problems that beset poor women in urban settings, we emphasize the urban context in dealing with the issues addressed rather than access to land in rural, agricultural settings. Nowhere are the inequalities facing urban women clearer than in urban slums and informal settlements. Throughout the world, these are the settings where women experience the highest levels of poverty, reproductive health risk, sexual threat, and violence, as well as the worst barriers to education, employment, housing, and basic services like water and sanitation.⁴

For the first time in history more people live in cities than the countryside. A vast amount of world population growth for the next 50 years will be in cities, and the cities of the developing world will absorb most of this increase. A consequence of urbanization is the increasingly concentrated poverty in urban slums. One billion people now live in slums, most under terrible conditions. UN HABITAT estimates that the urban population in developing countries will increase from 1.9 billion in 2000 to more than 3.9 billion in 2030, equivalent to 70 million

⁴ See UN Habitat web page "*Making Urbanisation Work Equally for Women and Men.*" <http://www.unhabitat.org>.

people per year. On balance, there is general agreement that urbanization should be viewed positively because it is fundamental to sustained national economic growth – indeed no country has achieved higher income status without greater urbanization. Nevertheless, while women have more opportunities for work in urban areas, they still typically earn far less than men, partly because they are concentrated in low-paying jobs and sometimes because they are paid less for the same work.

II. Women’s Access to Land for Housing and Property for Entrepreneurial Activities

Numerous international legal instruments and declarations have recognized the importance of equal access to property rights, such as the UN General Assembly’s Universal Declaration of Human Rights, passed in 1948, the Platform of Action adopted at the Beijing World Conference on Women in 1995, and the Millennium Development Goals, established in 2000.⁵ Nevertheless, females continue to own only about 1-2 percent of land and other real property throughout the world.⁶ How has this gross disparity come to be, and what perpetuates it?

Throughout history, numerous cultural, legal, political, and social factors have systematically impeded or barred access to property rights among women. As background, it is useful to look briefly at the most common methods by which real property rights are acquired in developing countries. As with distribution of all resources, the rules, norms, and customs for land allocation are developed through various institutions in society – families, communities, states, the legal system, and economic markets. Gender inequality in access to property continues largely because of discriminatory inheritance and marital laws and practices, women’s unequal access to land markets because of income limitations and inability to obtain conventional financing, and gender-biased or even gender-neutral land reform programs.

The following are common methods of gaining property rights, with illustrations of impediments to gender equality embedded in how these methods are practiced:

A. Inheritance and Marriage

Inheritance and marital laws vary considerably from place to place, and differ in the extent to which they recognize women’s rights to property. In both Africa and Asia, the most widely

⁵ The Millennium Development Goals (MDGs) reflect the multiple dimensions of poverty. In establishing these goals, the development community also recognized the link between poverty and the situation of women by making the promotion of gender equality and empowerment of women one of the primary goals.

⁶ Food and Agriculture Organization of the United Nations (FAO). *“Women’s Right to Land: A Human Right,”* 2002.

practiced form of customary inheritance is patrilineal – through the male line only. Such systems can relegate women to the status of unpaid labor on family farms or in family businesses while they are married, and to extreme poverty and even homelessness in cases of widowhood, desertion, singlehood, or divorce.

Women’s rights may be particularly tenuous in cultures where polygamy is the norm, as in much of Africa and in Muslim cultures in the Middle East-North Africa region and Asia. In Latin America, by contrast, it is more common for women’s contributions to the family’s assets to be at least partially recognized in the event of marital breakup. Even in countries where women are afforded legal inheritance rights, upon the husband’s death polygamy may result in a number of women each inheriting a tiny plot of land, too small to yield enough food for family subsistence let alone for economic gain.

In many countries, statutory laws or even constitutional provisions have been adopted to improve the property rights of women. Unfortunately, experience clearly shows that legislative change does not necessarily translate into real rights, given the resilience of custom and social norms that favor men’s rights to land. There is often lax enforcement of the new laws because longstanding social, cultural, and religious biases against women remain firmly entrenched. Moreover, there

Polygamy and Welfare

Banning polygamy has been shown to positively affect development in numerous ways that may be indirectly tied to its impact on women’s rights and welfare. One careful study found, for example, that following a ban on polygamy, fertility decreased by 40 percent, family savings increased by 70 percent, and output per capita increased by 70 percent. These are clear representations of how benefits to women improve the overall economy.

Tanzanian Law

In Tanzania, women are entitled by law to inherit and own land, but courts often use a “mode of life” test when faced with conflicts between customary and statutory laws. This means that customary law may be applied when the parties are members of a community where traditional laws are accepted, again providing an almost unlimited loophole for a judge to favor male property holders.⁷

are many legal exceptions remaining in “personal laws” that apply to marriage and family matters and make the more general rules on gender equality difficult to enforce or subject to evasion.

In Kenya, for example, the constitution states that any Kenyan of sound mind over the age of 18 may own property. However, in another section the constitution instructs that “...courts shall be guided by African customary law in civil

⁷Steinzor, Nadia, 2003.

cases...so far as it is applicable and not repugnant to justice or morality.”⁸ Even assuming a woman is aware of her property rights under the constitution and has the time and resources to take her case to court – themselves daunting obstacles to overcome – the latter provision provides judges with enormous discretion to apply customary rules regarding marriage and patrilineal inheritance rather than the letter of the law when they are adjudicating conflicts over rights to land. Since women are rarely in top-level judiciary or enforcement positions, gender-equality perspectives are unlikely to be considered in forming policies or implementing newer laws that are intended to mitigate gender bias.

Bangladesh and Islamic Law

In Bangladesh, there is a constitutional provision guaranteeing gender equality and equal protection. However, with a Muslim population of 80 percent, courts often follow Islamic law, which stipulates that daughters and wives inherit half as much as sons and husbands. Similarly, Hindu family law denies full inheritance rights to women; moreover, there are no provisions for divorce.⁹

In countries or communities within countries where the Hindu or Muslim religion is widely practiced, courts may be inclined to defer to prevailing religious customs and norms of behavior regarding marital and inheritance rights. In some places, members of religious groups are explicitly exempted from laws barring

discriminatory practices.

Needless to say, property rights are particularly critical as a resource for women when the household breaks down – through male migration, abandonment, divorce, polygamy, death, or natural disaster. Particularly in urban settings, where women may be less likely to have access to the support of their family of origin, independent real property rights can mean the difference between a life of poverty and the ability to form a viable, self-reliant female-headed household and to participate meaningfully in communal, civic, and entrepreneurial activities.

Many development programs have been successful in mitigating the spread and the effects of HIV/AIDs, which kills more men than women and leaves thousands of women in charge of their households. Integrating advancement in tenure rights for women in HIV/AIDs programs might

⁸ Section 3(2) of the Judicature Act. (Cap. 8 Laws of Kenya).

⁹ Even within a single country, there may be nuances in customs depending on tribes or sects. In Sri Lanka, for example, under Kandyan law practiced by the Sinhalese people, women’s rights are generally not recognized in matters of marriage, divorce, property, and inheritance. Tamils in Sri Lanka, on the other hand, follow Thesavalamai law, under which the property rights of women are partially recognized, but even so married women cannot sell, transfer, or gift their property without the written consent of their husbands.

increase these programs' overall effectiveness and sustainability of results. Similarly, civil war or other major conflict usually results in the creation of more female-headed households. Programs to bolster economic development in post-conflict programs should take into account women's property rights. When men die in natural disasters, their families are often literally left without a roof over their heads. When property rights are unclear or do not afford the widow protection, she may be unable to rebuild her family's shelter or engage in economic activity on her late husband's property.

B. Communal and Joint Ownership

Communal ownership of land and property exists in some parts of the world, particularly sub-Saharan Africa, where customary land systems exist side by side with more formal titling systems. Under customary law, communal ownership and use rights are usually vested in lineages or clans. While rights to use the land may be conferred upon both males and females, through custom senior males hold control of the land. Subplots are usually allocated to male members of a family or tribe when they marry and pass to the husband's family upon his death.

While most countries have adopted laws that prohibit gender bias in communal land assignment under both formal and customary systems, women's rights to communally owned land are often not honored on the community level or even through the judicial system. *See Section A, above.*

The exact type of rights that would improve women's access to property and economic productivity has been intensely debated over the past several decades. It is often believed that individual rights may be crucial for women's bargaining power, control over their economic output, and ability to retain their rights in the event of divorce, desertion, or widowhood. However, joint rights or titles may be easier to achieve in the near-term, given the complexity and cost of revising formal tenure systems, and the resistance to female ownership that continues even after passage of gender-equality laws. In light of the importance of household relationships in the lives of poor women, their interests may better be served by mechanisms that secure and extend their rights to the collective resources of the household. In any case, decisions on how to approach titling reform are context-specific, so a careful examination of local laws and customs must be conducted before deciding on a tailored approach.¹⁰

¹⁰ For example, in the Millennium Challenge Corporation (MCC) land tenure program in Mali, experts determined that joint titling would be far more difficult to achieve than allocating separate market garden plots to women, even though the program promotes joint titling for commercial property. Women receive tenure rights to the garden plots through membership in a small association of women rather than directly since inheritance norms would have meant that the plots would revert to sons or husbands in the event of the woman's death.

In other contexts, women’s interests may best be served if they hold group rights in land constituting a land trust in which they are named as co-holders of rights. Similarly, women often join cooperative groups to receive access to microfinance to acquire property and build houses. *See Section E, below.*

C. Land Reform

Land reform¹² efforts, even when well intentioned, have not always resulted in greater equality by gender of beneficiaries. Most early efforts, particularly those in Latin America and South Asia, targeted male household heads, following the prevailing customs and norms. In Africa, land titling efforts have often focused on individualization of rights to former customary or communally held land, which favored the male head of household, sometimes even excluding women who formerly had at least customary rights. More recently, innovative practices have been adopted to facilitate gender-sensitive policies and outcomes. In Guatemala, for example, the state-sponsored land redistribution program requires that the names of both spouses appear on documents establishing property rights when married couples are involved.

Reform Experiences in Africa and Asia

In a land reform program in Bangladesh, mobilization by civil society groups to encourage redistribution of unused government-owned land to landless groups resulted in land being initially issued only to male heads of households. After women’s groups undertook coordinated and well-publicized action in opposition, the policy was changed to issue title jointly to male and female household members. Women’s land access trusts in Kenya, Tanzania, and Uganda have acquired land from local authorities, using the savings from women’s groups and household cooperatives. Such land access trusts then serve as intermediaries between the low-income women and the government, finance institutions, the private sector, and other actors to ensure that women are not left out of the benefits of holding property.¹¹

D. Process of Titling

The process of creating a new or reformed land titling system is a massive undertaking, and international donors have spent many millions of dollars improving land administration systems in developing countries. The World Bank is the leading external funding source for comprehensive improvement of registration systems in developing countries. World Bank loans for registration projects over the past two decades have ranged in size from \$8 million in Armenia, a small country of fewer than 3 million persons, to \$195 million in Ukraine, with a

¹¹United Nations, “2009 World Survey on the Role of Women and Development,” 2009.

¹² Land reform is generally understood to mean the statutory division and re-allocation of large plots of land, usually owned by the government but sometimes by large private estates, to achieve more equitable distribution and greater productivity. While land reform is often thought of in a rural context, it could also take place in peri-urban or urban areas where large plots of land are often underutilized.

population of 49 million. Projects typically last from 5 to 10 years and cost on average \$15-20 million.¹³

Unfortunately, despite these huge investments, land titling and registration programs usually have not focused on gender issues and in many early cases have perpetuated and legalized existing gender-biased practices, such as registering ownership only in the name of the head of the family. As noted above, land titling projects in Africa have often focused on individualization of rights to the exclusion of women who previously had access at least through customary use rights, or have simply ignored women's subsidiary rights in the focus on achieving mass formalization of title. In Zimbabwe, for example, following titling efforts, 98 percent of title certificates for farming and grazing land were held by male heads of households.¹⁴

While gender issues have received increasing attention in more recent donor-supported land administration projects, change is incomplete and sometimes ineffective. In Viet Nam, for example, land use certificates in redistribution projects were initially registered only in men's names. In 2003, the new Law on Land was passed with donor assistance, requiring that documents registering family assets and land tenure rights include the names of both spouses, but the law did not require that the previously issued registrations be corrected. According to the 2004 Viet Nam Living Standards Measurement Survey, males continued to hold sole title to 60 percent of agricultural land and 66 percent of residential land in urban areas.

On the positive side, more focused practices have been adopted in recent years to correct past inequities. For example, Ethiopia's land certification scheme requires that land certificates issued after public registration must include maps and descriptions of the property and photographs of both the husband and wife as owners. Women with these joint certificates have reported that the proof of tenure rights immediately improved their socio-economic status.¹⁵

Delhi Land Registration

In the state of Delhi, India, ownership rights among women are encouraged by incentives such as reduction in stamp duties from 8 to 6 percent for property registered in women's names, and to 7 percent for property registered jointly in the names of males and females.

¹³ The host government must provide funding up to a designated level, and other donors may participate as well. For example, in Indonesia, the total cost of the land registration project was \$53.9 million, co-financed by loans from the World Bank (\$46.1 million, or 58%), counterpart funding by the government of Indonesia (\$15.8 million, or 20%), and a grant from AusAID (\$18.1 million, or 23%).

¹⁴ United Nations. "World Survey on the Role of Women in Development."

¹⁵ Deininger et al., "Legal Knowledge and Economic Development: The Case of Land Rights in Uganda," 2007[[2006 in reference list]].

While these examples are mostly from projects focused on rural or agricultural land, there is no apparent reason why similar principles in urban land projects cannot be as effective. At the present time, however, data are more commonly available from rural projects since so much land in urban areas is held informally or illegally. More recent efforts to improve security of title in urban areas are focusing on making sure that gender is considered in the planning and implementation of the project from the beginning. For example, MCC has urban land tenure efforts under way in Lesotho, Mozambique, and Mongolia with gender an important consideration.

Real Property Markets and Access to Finance

Land markets are a relatively ineffective method of transferring property rights to women because women are disadvantaged in their ability to participate. They are held back by their relative inability to accumulate wealth through employment or inheritance or through access to mortgages or small or medium enterprise loans for purchase of property. Thus there is a vicious cycle in effect: women cannot improve their economic position because they lack property rights, and they cannot acquire property through the real estate market because of their economic limitations.

On the other hand, the prevailing situation may be improving as women's work results in greater economic participation. Land markets that operate competitively and transparently may in fact be effective access points for women where the customary system might rule out their acquisition of rights. One remedial approach that should be considered is the removal of nonfinancial constraints on women's participation in the open market, such as publicizing property sales to women's organizations, holding property auctions in women-friendly locations, for example, where women can sit separately from men, and providing facilities for children during auction sales.

Some programs have focused on overcoming women's economic limitations through collective action. Groups of landless women in South India have joined together to access government grant and loan subsidy schemes to lease or purchase property. Working together, women have learned to survey land, rent equipment, travel to towns to meet government officials, obtain required inputs, and market the outputs.¹⁶

¹⁶ United Nations, 2009.

It is well known that women are the primary users and most reliable customers of microfinance for income development purposes, and microfinance for housing is fast taking hold in Africa and Asia. For example, in a project jointly sponsored by USAID and the Gates Foundation in Ghana, which provides microfinance loans and business services and training in urban settings, 98 percent of the borrowers are women. Women in the program have often migrated from rural to urban areas because climatic changes have brought drought; they use the loans to open businesses in small groups, and also live together for protection and camaraderie. Women would almost certainly use microloans to improve their access to or the quality of their housing as well as to improve their businesses, if such loans were available.

Tanzania Human Settlements Trust

In Tanzania, WAT (Human Settlements Trust, formerly Women's Advancement Trust) was formed as an NGO in 1989 to pursue gender equality and equal access to land. WAT mobilizes communities to form housing groups, provides public information and technical support, lobbies for gender sensitive laws and policies and the construction of affordable housing and housing upgrading, and assists members in acquiring land plots for building housing. In 1996, WAT started forming community-based SACCOs (Savings and Credit Cooperative Organizations) to facilitate provision of small loans to low- and moderate- income community members. The SACCOs in Tanzania have some 6,000 members, 60 percent of whom are women. When first formed, the SACCOs gave small loans for entrepreneurial activities but not housing. In 1998, a Canadian donor group (Rooftops) capitalized a revolving loan fund strictly for housing loans. The loans are used primarily to build incremental housing, with terms of 1-2 years for group lending and 1-5 years for individual lending, with borrowers contributing 25 percent of the cost from their own savings. About 75 percent of the borrowers have been women. One important requirement of the program is that male and female adult members of the household must be co-owners; the property may not be owned only by the male of the household.

Research has shown that access to mortgages or conventional credit among poor people has not substantially increased through mere acquisition of title, for males or females. Careful studies show that almost all loans made to property owners and secured by their new titles to property (i.e., mortgage loans) have come from the state, not private financial institutions, and that banks have not increased their rate of lending to households that obtain title through government programs. In Peru, the location of the early Hernando DeSoto experience with titling to "unlock dead capital in property," titling may have been counterproductive in terms of access to finance since some banks perceive that titling programs reduce their ability to seize the property in case of default.¹⁷ In addition, banks generally will not lend just on the basis of title if the property is located in an urban slum or has little or no market value. In such cases, since seizure of the property would be a lender's last resort, banks are more likely to make loans on the basis of the borrower's ability to meet income and other collateral requirements.

¹⁷ Erica Field and Maximo Torero, "Do Property Titles Increase Credit Access among the Urban Poor?" 2006.

Illustrative Issues for Further Research:

- How regularly are gender-neutral laws enforced when they conflict with religious norms and community customs?
- What programs to counteract gender-biased practices in property acquisition have been most successful, and why?
- What activities can be undertaken to sensitize the judiciary and other officials to the benefits of enforcing gender-neutral property laws?
- What approaches to titling and other documentation of rights have been most successful? (e.g., Land trusts or group titling? Joint titling? Individual titling? Documentation of use rights?)
- What are some specific examples of best practices with regard to gender in land titling and land administration projects?
- What percentage of conventional housing loans go to women? Microfinance loans?
- When women borrow using their property as collateral, what are the most common purposes for the loans?
- What percentage of land sold on open markets goes to women? What percentage goes for housing, what percentage for commercial activity?

III. Role of Housing in Economic Development

In any country and culture, land and the construction on it is the largest and most valuable single resource – usually accounting for about 75 per cent of a nation’s wealth. From an economic perspective, it is the foundation upon which all production and wealth are built. In most nations, at least 20 percent of GDP comes from land and construction. Sustainable economic growth and internal stability require land policies and practices that promote transparency, accountability, and confidence in the land administration and allocation system, and security of tenure and other rights and interests in land.

The link between vibrant housing markets and the overall health of a nation’s economy is well established in developed countries – jobs in construction and manufacturing, wholesale and retail sales, population mobility, and other factors are directly affected, giving housing expenditures a “multiplier effect” in the economy as a whole. In the United States, it is generally held that each dollar spent on residential construction generates about \$1.25 in

Housing Multiplier Effect

The National Economic and Development Authority of the Government of Philippines found that for every 1 peso spent on housing activities, an additional 16.61 pesos contributed to the gross domestic product. One commentator concluded: “More housing investments and construction mean increases in job generation and sales for allied industries of the shelter sector.”¹⁸

¹⁸ Uy, Willie J., “Medium Rise Housing: The Philippines Experience,” 2006.

additional economic activity. One source reports that the multiplier in Australia is 2.8. Little has been written about the effect in developing countries, but it seems likely that the multiplier effect is much larger because other investment opportunities are often lagging or lacking altogether.

In many countries, housing data is used as an early economic indicator that changes before the economy starts to follow a particular pattern or trend, and predicts the health of a country's economy. In the United States, for example, a leading economic indicator is the *New Residential Construction Report*,¹⁹ known as "housing starts" on Wall Street, a monthly report issued jointly by the U.S. Census Bureau and the U.S. Department of Housing and Urban Development. A downward trend in housing data was an early harbinger of the current economic upheaval in the United States and in other countries with developed markets, and housing sales and construction data remain closely watched as harbingers of economic recovery.

Tenure and Increased Investment in Homes and Businesses. Persons who occupy property without secure tenure must face recurrent critical decisions about whether to invest in the property, either to improve the comfort of their family's living conditions or to increase the value of a small business operated from the property. They must also decide whether it is possible to sell or lease the property to others, whether it is safe to leave the property to work outside the home, and how much time and effort to expend to protect the property from other claimants or encroachers. These issues are particularly important to female-headed households, which often do not share burdens with another adult. In addition, women often work out of their homes

A well-functioning housing market can provide large external benefits to the overall economy, including the following:

- Better overall living conditions for families who can access and improve their shelter.
- Improved urban infrastructure, since housing demand stimulates upgrading of utilities, schools, transportation, and the like.
- Better community planning, which leads to environmental benefits such as conservation of land and improved quantity and quality of sanitation and water.
- Enhanced economic and social mobility within urban markets and regionally.
- Improved labor market mobility, diversity, and accessibility.
- Increased motivation to save.
- Increased consumer spending for household purposes.
- Increased investment by homeowners who borrow against the value of their homes.
- More capital for entrepreneurs.

¹⁹ See <http://www.census.gov/const/www/newresconstindex.html>. The data are derived from surveys of homebuilders nationwide, and three metrics are provided: housing starts, building permits, and housing completions. A housing start is defined as beginning the foundation of the home itself. Building permits are counted as of when they are granted.

operating businesses such as small grocery stores, fabrication workshops, and sewing shops.

Data also show that home investments are more likely to occur if the property is secure from seizure by local authorities or the landowner, and is able to be legally transferred. Land titles provide a savings instrument by allowing poor households to substitute present consumption into long-term savings in real property. In Peru, where a program to improve tenure for urban squatters on public land resulted in the issuance of 1.2 million property titles, the effect on investment was pronounced. An increase of 68 percent in renovation of newly titled properties occurred, with investments in home improvement and construction increasing by as much as 200 percent.²⁰

Social Spillover – Education, Health, and Community Development. In addition to increasing investments in homes and related property, urban land titling is associated with a greater number of both labor and leisure hours spent outside the home, apparently as a result of diminished fear of eviction or other causes for loss of property. A survey of newly titled households in Lima reported a 36 percent reduction in the number of families that keep an individual at home to protect the property.²¹

In the same vein, women's lack of property rights has been increasingly linked to other development-related problems, including low levels of education, hunger, fertility-related and general health problems, and increased vulnerability to gender-based violence and fewer options in the aftermath of such violence. For example, it has been reported that families without secure tenure sometimes produce children just to ensure there is a family member present to protect the home and related property from seizure, leading to increased health risks. The ability of family members to attend school, visit community health clinics, or participate in community development activities with other families is also adversely affected by the need to remain in the house.

Illustrative Issues for Further Research

- What is the multiplier effect of investment in the housing sector in various developing countries?
- How strong are property rights as an incentive to investment in the property? Is this different for women and men?
- Is it possible to monetize the various social benefits of secure tenure?

²⁰ Field, Erica, "Property Rights and Investment in Urban Slums," *Journal of the European Economic Association Papers and Proceedings*, 2006.

²¹ Field, Erica, "Entitled to Work: Urban Property Rights and Labor Supply in Peru," 2002.

IV. Role of Women in Urban Economic Development

Women and girls are migrating to urban areas across the developing world in greater numbers than ever before. By 2008, approximately half of migrants into cities were women, and that number continues to grow. While many women still migrate because of family responsibilities or work for their husbands, a growing number of women are entering cities, hoping to start a new life for themselves. Fleeing threats, discrimination, or simply lack of opportunity, women come to urban centers with little to no capital, believing that cities hold a chance for a better life and livelihood. Unfortunately, this traditional economic dream of success does not come true for poor urban dwellers, and particularly so for women. When competing with men for similar positions, women frequently lose out due to a combination of legal, social, and economic pressures.

In many developing nations female economic rights are limited, and women face legal, economic, and social constraints when attempting to find formal employment. Far too often women are not considered long-term or safe employees in the formal market; employers fear that marriage, pregnancy, or a husband's wishes might cause a female worker to quit. The potential loss in training time and investment makes hiring women appear to be a bad business decision.²² To make matters worse, the legal restrictions women face when accessing land and capital make it difficult for them to start a formal businesses themselves.

Urban Migration in Kenya

Women interviewed in Nairobi, Kenya, cited many reasons for leaving their rural homes and choosing to live in the many slums scattered throughout the city of 2.4 million people. Some women came in an effort to provide for their family; others brought their families when they were widowed and left without land; still others followed their husbands when money stopped coming home, only to find that their husbands had remarried in the city. Many referenced lack of education as a major barrier to formal income in a city, and nearly all women who had a steady income believed that they were receiving lower wages than a man in the same job. Other barriers they dealt with include gender-based violence and abuse (and as another consequence of that, fear of working at night or in the early morning), being forced to hand their earnings over to a husband or male authority figure, and having to care for their children while still working to provide for them.

A recent study by the World Bank's Women, Business, and the Law project showed that of 128 countries, ranging from OECD high-income nations to those struggling to develop, only 20 of

²² World Bank Group "Jordan NOW: Building Confidence, Creating Job Opportunities, Changing Lives," 2010.

the 128 had a legal system that treated men and women as equals.²³ These legal restrictions are varied, some more repressive and some less, but all contribute to a strangling of female economic power. Regardless of type and level, legal restrictions correlate with a decreased level of female business ownership or management. It is therefore unsurprising that while women make up more than 50 percent of the world population and do 66 percent of the labor, they only make 10 percent of world income and own an infinitesimal 1-2 percent of the land.²⁴

These collective disincentives are also seen when looking at the success of implementing the Millennium Development Goal of promoting gender equality and empowering women. While some significant progress has been made in decreasing the gender disparity in primary school education, for example, the transition between school and the workforce is still difficult for women, especially in the nonagricultural sector. Progress in this area is also difficult to assess due to the high occurrence of informal employment and the resulting poor wage reporting. This lack of progress can be seen in the disproportionate poverty rates for women and women-headed households in urban areas. In Nairobi, for example, poverty incidence in female-headed households was 48 percent in 2001, compared to 31 percent in male-headed households.²⁷

Because of these barriers, many of the women working in developing countries are stuck working in the informal sector. This sector is characterized by small enterprises, generally unregistered, with work conducted by casual or intermittent laborers.²⁸ Such informality in the labor

Women in the Informal Sector

Peru, 80 percent of women working outside of the agricultural sector are working informally. In sub-Saharan Africa, less than 20 percent of women earn a formal wage of any kind.²⁵ In fact, in Benin, Chad and Mali, the informal sector accounts for over 95 percent of all women working outside of agriculture. A 2011 World Bank study showed that women in a number of African countries were twice as likely as men to be working in the informal sector, and were two times less likely to have formal employment.²⁶

market leads to a lack of worker rights and protections as well as lower incomes. Informal work has no minimum wage requirements, no mandatory break times, and no safety standards. Informal laborers are usually the first to be fired and the most vulnerable to economic shifts,

²³ The World Bank Group, "Women, Business and the Law 2010," 2010.

²⁴ UNICEF. "Gender Equality-the big picture," 2004.

²⁵ International Center for Research on Women. "One Woman = One Business: Why Business and Management Education for Women Is Essential to Economic Development," 2008.

²⁶ Chen, Martha Atler, 2001.

²⁷ Chen, Martha Atler. "Women and Informality: A Global Picture, the Global Movement."

²⁸ USAID. "Women in the Economy: A Review of Recent Literature," 2006.

such as the current global economic downturn.²⁹ In addition, women lacking land and capital ownership are far less likely to pay taxes on income, land, or capital, while simultaneously facing greater barriers to expanding work or branching into new markets.³⁰ This gap in taxation can be significant when a large percentage of a country's population works in the informal sector, and in turn leads to less public revenue and lower investment in infrastructure, schools, transportation, and healthcare.

For women, working in the informal sector most frequently means working as a street vendor or directly out of the home as a vendor or piecemeal worker. In many developing countries, 85 percent or more of home-based workers are women, with a similarly high percentage of women running street stands. Both categories of informal work are directly affected by a pervasive lack of tenure rights, especially in urban areas. As noted previously, home investments are more likely to occur if the property is secure from seizure by local authorities or land ownership can be legally transferred. Investing in a small business, be it a home or a stall, can greatly increase business productivity and therefore the profits of many female-owned businesses. When estimates in some African countries show that informal wages and profits account from anywhere between 45 and 60 percent of the nonagricultural GDP, increasing productivity could notably improve a country's economic development.

Specifically targeting female economic development can also amplify the social spillover from increased economic productivity. The connection between female-controlled finances and family well-being has been thoroughly documented. Numerous studies by the International

Responsible Female Spending

According to the World Bank, when resources are controlled by the mother, children in Brazil have a 20 percent greater chance of surviving and in Kenya will grow to be an average of 17 inches taller.³¹ Another study done in Mexico similarly found that while men spend only approximately 50 percent of their income on their family, women spend close to 100 percent. In the Philippines, increased calorie consumption is positively correlated with the proportion of income that is earned or controlled directly by women.

Center for Research on Women indicate that women are far more likely to spend their own money on food and other family necessities than personal luxury goods such as cigarettes or alcohol. They found that "in order to achieve the benefits to children's nutrition and health of a \$10 per month increase in women's income, men would have to increase their per month income by \$110."³²

²⁹ World Bank Group, "Why is women's economic empowerment important for development?" Available at http://siteresources.worldbank.org/INTGENDER/Resources/womens_economic_empowerment.pdf (undated).

³⁰ USAID. "Enhancing Women's Access to Markets: An Overview of Donor Programs and Best Practices," 2007.

³¹ World Bank Group, "Why is women's economic empowerment important for development?"

³² USAID. 2006.

The magnitude of this data makes clear that greater female employment and improved rights to control their own finances has a significant effect on human capital accumulation and family well-being.

Women contribute significant economic entrepreneurial power at all levels and in all markets. They produce and consume goods, earn income, borrow and save, and manage households, businesses and employees. In Africa, Asia, and Latin America, women account for at least half of the informal workforce. More important, women-run businesses are more and more common in the developing world and, according to USAID, women entrepreneurs “are likely to prove fundamental as developing economies transition from primarily agricultural to industrial production and become urbanized.”³³ It is therefore essential that expanding women’s ability to access markets and property ownership be a facet of pro-poor economic development plans.

Illustrative Issues for Further Research

- What are the causes of rural-to-urban migration patterns in developing countries? Are they different for women and men?
- What percentage of women-owned businesses in urban areas operates in the formal sector vs. the informal sector?
- What are specific constraints on women’s entrepreneurial activities in various locations? Are they legal or societal?
- What factors result in higher levels of poverty among female-headed households?

V. Conclusions and Recommendations for Development Programming

Throughout the developing world, women are severely disadvantaged in access to secure property rights for housing and entrepreneurial business purposes. This is true whether property is acquired through family relationships or inheritance, or through purchase on the formal or informal real estate market. Improving the property rights of women is a matter not only of human rights and gender equality; it is a fundamental principle that underlies economic development for all people.

Donors and development agencies have addressed property rights for many decades, usually through projects aimed at reforming policies and laws relating to allocation of land, and at improving the legal and administrative framework for managing land rights and data. Secure property rights as a cornerstone of economic development has been a fundamental principle underlying these projects. A focus on property rights for women has developed more recently –

³³ USAID. 2005.

largely since the beginning of the 21st century – led by highly visible policy initiatives such as the adoption of gender equality as one of the major Millennium Development Goals in 2000 and, probably to a lesser extent, by growing recognition of the role women play in economic development.

In recent years, several important studies have been published that evaluate the effectiveness of programs that consider gender issues in the context of land and property rights projects and how greater success might be achieved.³⁴ Key findings of such studies have been recognition of the complexity and difficulty of land and property rights projects as a whole, and the particular problems that arise with gender issues because of long-standing cultural and social norms. These norms create and perpetuate deeply entrenched acceptance of gender inequality among political leaders and decision makers as well as the general population. The pace of major reform can be excruciatingly slow and expensive, often taking far longer than the length of the typical donor-funded project and far exceeding its budget. Another key finding is that there is no one-size-fits-all approach to promoting gender equality in property rights; any given country's context must be carefully considered and local solutions must be found.

It is important to note that these recommendations are particularly directed at donors and international agencies that design and provide funding for projects to increase tenure security and improve property rights, enhance prospects for sustainable urban economic development, and empower women to better their financial and family well-being. International NGOs and other organizations with a focus on gender should keep them in mind as well. If they maintain awareness that unbiased property rights are critical to sustainable empowerment of women and improvement of family life, they can be key players in helping to ensure that design and implementation of such projects are gender-sensitive.

Given the constraints discussed above, what can help to improve property rights for women? The following recommendations have been culled from a review of individual project descriptions and “best practices” publications:

- 1. Assess political, legal, and social-cultural factors relating to gender before designing a property rights or economic development project**

³⁴ See, e.g., USAID, Study on Women and Property Rights: Project Best Practices, 2006[[not in the reference list]], and World Bank, Gender Issues and Best Practices in Land Administration Projects: A Synthesis Report, 2005.

A careful gender-disaggregated field assessment must be made of the context in which a project will be carried out before the project is designed. This is the framework within which the project will succeed or fail, so components of the project must be tailored to address the current situation and be geared toward bringing about reform that may conflict with entrenched practices and norms. There may be a need for legal reform to equalize property and entrepreneurial rights by gender, because laws and regulations related to property – particularly marital, communal, or commonly-owned property – have a great impact on women’s rights, so legal deficiencies may be among the first items to be addressed. But even the best laws are not self-executing. Custom and tradition may be strong impediments to enforcement, nullifying even formal requirements of gender-neutral property allocation and registration systems through oversight or bias. The most daunting impediment may be that even formal adjudication by courts or other tribunals of intrafamilial or co-ownership rights often results in contravention of women’s legal rights.

Here are some illustrative questions to be answered during a predesign assessment:

- What are the marital, informal union, and inheritance laws and customs relating to real property? Is polygamy widely practiced, and how does it affect women’s property rights? How do intra-household transfers of property ordinarily take place?
- What are the formal laws and regulations regarding who may own property and enjoy full property rights?
- Who has communal or joint ownership rights and who has individual rights?
- How are disputes regarding these issues resolved?
- Do legal and customary authorities follow the law or defer to social and cultural norms?
- Are women generally aware of their rights?
- What is the profile of urban property holders, i.e., how many are women? How many properties are for entrepreneurial vs. residential vs. joint use?
- How is property titled now, i.e., in whose name? Are there programs to increase security of tenure without full title, and, if so, how have they worked in general and for women in particular? How are shared ownership interests determined and enforced?
- How much property is held informally or illegally? What are the uses of such property? Who if anyone is recognized as having possessory or tenure rights short of title?
- What efforts have been made in the past to reform property rights, particularly for women, and to what extent did they succeed or fail and why?
- How effective is property holding in gaining access to credit or microcredit? Are there special impediments facing women in acquiring loans collateralized by property?
- What special constraints and barriers face women as entrepreneurs or workers in the informal and formal sectors?
- Do local or regional efforts to increase economic development take into account the particular skills offered by women?

As discussed earlier in this paper, early land reform and administration projects focused on the individualization and formalization of rights, recognizing the rightful holder out of a community of customary or joint users. Under these programs, title or other recognition of tenure was usually granted only to the head of the household, almost always a male. Because of the complexity and expense of systematic or first registration programs, there has been reluctance to go back and correct records to include women's rights. This has been done in some places, such as Bangladesh (see above), but the better practice is to determine what rights women hold under customary, communal, or family-based usage and ensure that those rights are not lost through a newly created formal registration system.

For economic development projects, it is important to keep in mind the intersections between property rights and economic growth, and the role that women play in both. Programs to increase the growth of business in the formal sector or to ease restrictions on establishment and operation of businesses should not ignore the special constraints affecting women as potential entrepreneurs or workers.

2. Make gender an integral part of property rights and economic development programs, and ensure meaningful involvement by women in project work planning and implementation from the beginning and throughout all components.

Both World Bank and USAID studies have found this to be a critical component of project success, if not the most important component. Similarly, the MCC "Gender Integration Milestones" are intended to ensure that gender issues are included in all phases of project design and implementation.

The USAID Study on Women and Property Rights (2006) states that projects "*that consider and plan for gender differences in land projects from the beginning are better able to include women in the project and treat women equally.*" The USAID study emphasizes that gender experts should be part of the design, implementation, and monitoring components. USAID has recently demonstrated that it is taking this advice to heart. The published draft Request for Proposal for the upcoming STARR (Strengthening Tenure and Resource Rights) IQC (indefinite quantity contract) indicates that the program assessment and design have included gender as a key issue, and gender-related issues will be an important part of project implementation. In addition, USAID has recently brought on a senior gender advisor and is in the process of reorganizing its programs and policies with regard to gender. Meetings of a gender strategy development team are under way. The agency's Women in Development Office has been

reinvigorated to become the new Office for Gender Equality and Women's Empowerment. This office is expected to issue an IQC focused on gender and property rights in the near future.

The World Bank recently demonstrated its awareness that gender equality should be seen as an economic development issue as well as a human rights issue by launching a new department on gender and development, with an action plan titled "Gender Equality as Smart Economics." See www.worldbank.org/gender. However, it is not yet clear how fully integrated these principles have become in project planning. At the 2011 World Bank Annual Conference on Land and Property, gender was included as a topic in the program. A presentation on the topic suggested that the Bank has traditionally taken a neutral approach in gender issues in land projects, with the idea that women will benefit without any special consideration, and that this approach has not proven to be effective. Where gender issues and involvement by women was planned for from the beginning, such as in Lao and Indonesia, the projects were more successful from a gender standpoint.³⁵

The purpose of involving women from the beginning is not to relegate gender issues to local women and gender-focused NGOs, but to mainstream the ideas and priorities of these groups into the reform process. These participants can also be the best sources for project staff to understand how the current system really works – how local and intrafamily practices and customs can exist in parallel with and even take precedence over formal property laws and regulations, and how barriers to women's work and entrepreneurship can impede the success of the project as a whole.

The USAID study also recommends training and educating both beneficiaries and staff on the importance and meaning of gender differentiation. Methods for ensuring effective participation by women as project beneficiaries can also best be provided by women in the role of project implementers. For example, ideas for overcoming the difficulties women face in obtaining documentation to assert property and entrepreneurial rights are most likely to come from persons with success in having done so. Input from women should be sought for legislative changes, and women should serve on legislative working groups.

3. Emphasize education, training, and communication as key components of project success.

³⁵ Bell, Keith Clifford, "Integrating Gender Issues into Bank Land Projects," Presentation at World Bank Annual Conference on Land and Property (2011).

While efforts to adopt reform-oriented laws and administrative procedures are essential to property rights reform, they are not sufficient. This paper provides numerous examples of places where changes in the law have not resulted in meaningful changes in practice, largely because of the force of customs and societal norms. Both men and women need to learn more about gender issues relating to land, and males should be included in training to avoid marginalizing the gender issues as concerning only women. Furthermore, it is necessary to change attitudes among both men and women as to the value of gender equality in access to property rights, and how these changes can improve the economic and social well-being of populations as a whole.

Training for and communication with members of the community who are beneficiaries of the project can help ensure that women make informed decisions and can help enforce accountability and transparency. Both males and females should serve as mentors and role models for all training and communication programs.

The World Bank recommends the following content for community training and participation at a minimum:³⁶

- The legal rights of women specifically, including inheritance and divorce;
- Special problems encountered by women such as documentation, location of registration offices, access to credit;
- Involvement of both men and women in the adjudication process and in registration of rights; and
- Clear communication of the benefits of participation.

It is also important to note that many factors can adversely impact participation by women, and these factors should be considered by planners of training and education sessions. These include: the timing and location of sessions, whether participation should be for one gender or mixed, level of literacy of participants, cost of transportation, and the availability of childcare.

Aside from community or beneficiary training, specialized programs should be delivered for other stakeholders, such as judges, land tribunals and other adjudicative personnel; real estate agents; local and donor-sponsored providers of capacity building programs for small business owners; local and regional economic development authorities; housing and SMSE lenders and microlenders; and property registration personnel.

Public information campaigns should also be included: billboards, radio and television spots and call-in shows, posters, pamphlets, press releases, and press conferences can be effective not

³⁶ World Bank, 2003

only in spreading information but also in creating widespread understanding that change is under way and the benefits that such changes can bring.

4. Monitor and evaluate projects for gender impact and outcomes.

The collection of gender-disaggregated data is essential for evaluation of property rights and economic development. Data should be collected for a baseline during the field assessment or project startup phase and as the project progresses so that comparisons can be made and effectiveness evaluated. Interim surveys of various kinds should be conducted not only for comparison with the baseline but also so that adjustments can be made in program design as time goes on.

Gender-disaggregated data is more than the number of titles bearing women's names and businesses owned by women; it is necessary to capture actual situations within the household and the community. For the baseline and thereafter, social assessments or surveys should be conducted. This may be done through community-level male and female key informant interviews as well as focus groups of potential project beneficiaries. At a minimum, the information collected should allow for measurement of how property rights and entrepreneurial opportunities are distributed among different groups of men and women, and what effects differentiated land rights have on gender equity and on women's access to the economic and social benefits of property rights. At the baseline or project preparation stage, realistic and meaningful gender-specific indicators should be developed to measure the program's differential impact.

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