

GENDER LAND AND PROPERTY RIGHTS

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(Notes for presentation at the Sixth African Development Forum on “Gender Equality Empowerment and ending violence against women in Africa”, 19 – 21 November 2008, at the United Nations Conference Centre, Addis Ababa Ethiopia.)

1. Contextualizing the Forum Theme

The theme “Gender, Equality, Empowerment and Ending Violence Against Women” is central to Africa’s development agenda in at least three respects: -

- provides opportunity to assess progress made towards compliance with international and regional commitments on gender equality,
- underscores the need to address the persistent problem of gender discrimination in Africa, and
- enables participants to explore strategies for the full integration of women in the development process.

2. It is important to examine the forum theme in the light of a number of contexts: -

1 International conventions and declarations on gender equality including;

- ✓ the UN Convention for the Elimination of Discrimination Against Women (CEDAW)
- ✓ the Millennium Development Goals (MDG) and especially MDG 3
- ✓ the UNSC Resolution 1325 on women, peace and security.,

2 Regional instruments and declarations including:-

- ✓ the Constitutive Act of the AU,
- ✓ the African Charter for Human and Peoples’ Rights as reinforced by the 2003 Maputo Protocol,
- ✓ the AU Solemn Declaration on Gender Equality of 2004 as further elaborated in the Dakar Framework and Guidelines of 2005,
- ✓ the constitutive instruments and declarations of Regional Economic Communities (RECS)

1 National policies and laws of individual African countries including:-

- ✓ constitutional instruments,
- ✓ land policies and laws,
- ✓ other property related laws and practices

- 2 These various instruments provide a set of standards for:-
 - 3 determining the nature and extent of commitment to addressing gender disparities in economy and society,
 - 4 evaluating strategies put in place by states in their efforts to achieve that goal, and
 - 5 measuring the extent of progress that may have been achieved and what more requires to be done

II. Gender Issues in Land and Property Relations

3. In the context of land and property relations the forum theme:-
 - 1 sets the stage for reflection on the crucial role of women in the preservation, management and utilization of Africa's primary development resource,
 - 2 enables participants to identify impediments to secure access, effective control and sustainable stewardship of land by women and how these can be removed,
 - 3 provides opportunity to critique emerging best practices towards the removal of those impediments,
 - 4 identify gaps that still remain inspite of those practices and to chart the way towards full empowerment of women in the exercise of land and property rights.
4. Specifically, we need to examine how social and cultural construction of roles through sexual differentiation determines:-
 - 1 ultimate ownership and control over land resources
 - 2 the nature and extent of access to land as a factor of production
 - 3 livelihood opportunities especially for women, and
 - 4 economic and political power in society.

That perspective is important if we are to deconstruct, reconstruct and reorder gender relations in a manner that confers upon women full enjoyment of land and property rights.

III. Assessment of Progress and Identification of Gaps

5. Very broadly speaking, gender disparities persist in culture, law and practice throughout Africa as evidenced *inter alia, by*:-

- 1 the prevalence of systems of patriarchy which invariably exclude women from ownership or ultimate control of radical title to land,
- 2 indigenous customs and practices which determine access to land by women through a variety of mediating factors including class, marital status, age, gender of children, and residence,
- 3 statutory laws which re-affirm those systems, customs and practices especially in relation to the right to inherit land and property,
- 4 land governance systems (both indigenous and statutory) which exclude women from decision-making with respect to ownership and management of land resources, and
- 5 a policy environment generally dominated by men.

6. Nonetheless some progress has been made at several levels in reconstructing gender roles in the area of land and property relations:-

- 1 Virtually all African constitutions now recognize equal rights to acquire land through purchase and inheritance
- 2 In many countries attention is now being paid to the land and property rights of women through a variety of legal mechanisms including:
 - ✓ co-ownership arrangements
 - ✓ joint – proprietorships
 - ✓ protection of matrimonial property
 - ✓ requirement of spousal consent in land transactions
- 3 most African legal systems are characterized by gender neutral laws especially in respect of access to economic opportunity and the support services infrastructure required for that purpose
- 4 important strides are also being made by women in politics economy and access to systems of adjudication
- 5 gender equality in access to and control of land is now an important feature of

land policies that have been developed in the last two decades across Africa

7. A great deal however still needs to be done to achieve gender parity in the context of land and property and relations:-
 - 1 moving the discourse from the private sphere of family and marriage to the public domain of human rights
 - 2 capacity building to enable women gain full access to gender neutral laws
 - 3 affirmative action policies and practices at all levels of social, economic and political development
 - 4 rights-based advocacy to all levels of society.

IV. Issues for Further Reflection

8. This Forum can make substantial contribution towards these efforts by identifying: -
 - 1 other gaps that still remain at the level of policies and laws
 - 2 key strategies that are required to fill those gaps, and
 - 3 the steps which countries will need to take in the short, medium and long-term to ensure full empowerment of women

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NOVEMBER 17,2008