

## LEARNING HOW TO BETTER PROMOTE, PROTECT AND FULFILL

# Women's Property Rights

**I**t is widely recognized that securing women's ownership and control over economic assets, such as housing and land, must be part of any international development agenda. Moreover, most policy-makers and advocates for women's rights agree that countries have made great strides in the past several years to adopt more progressive laws that protect and ensure women's property rights.

Yet women's realities on the ground continue to tell a different story. In Pakistan, a household survey found that women owned less than 3 percent of the plots, though 67 percent of the villages reported that women had a right to own and inherit land. In Cameroon, women do 75 percent of the agricultural work, but own less than 10 percent of the land. And in sub-Saharan Africa, women are responsible for between 60 percent and 80 percent of the food production, yet own only 1 percent of the land.

Securing women's property rights is a complex task that involves multiple legal arenas, ranging from constitutional law to marital law. And while people most often associate property rights with formal legal rights, in fact many women realize their rights primarily through customary and religious laws, which often reinforce gender inequities. These multiple legal frameworks can create contradictions

and confusion about what women's rights are and which ones should be recognized.

No single global blueprint can address the intricate landscape of property and inheritance practices—practices that are country and culture specific. What steps then can the international community and individual countries take to push the agenda for securing women's property rights forward? Are there broad lessons to be learned and applied globally? Are there successful community programs that we can scale up and implement elsewhere?

The International Center for Research on Women (ICRW) and its partners recently completed several projects that aim to answer these and other questions. Through this research, a more realistic picture of the current landscape of women's property rights and protections emerges.

### **PROGRESS IS BEING MADE ... NEXT STEPS STILL NEEDED**

Legislative frameworks and community programs to promote and protect women's property rights are beginning to improve women's lives around the world by providing women the space to question entrenched gender norms and the tools to effectively demand their rights.



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ICRW recently undertook a global scan of current legal provisions to protect women's property rights in Africa, Asia and Latin America.<sup>1</sup> The findings are encouraging. Most countries have taken the crucial first step and provided a constitutional provision of equal protection for men and women when it comes to property.

### **NEXT STEP: Address Legal Gaps, Harmonize Legal Systems**

Next, countries need to build this equality provision into other legal provisions that govern women's realization of their rights, such as land titling and marital law, and ensure that the various provisions work together.

*What works?* Based on the scan, ICRW devised an analytical tool that can help assess specific legal contexts. The tool is a preliminary framework of core legal protections for women's property rights that includes five key legal provisions, ranging from a constitutional guarantee of equal protection between men and women, regardless of marital status, to divorce provisions that specify an equal division of joint marital property. Countries and communities can use this framework to assess their country's progress and develop strategies for moving forward.

Case studies detailed in the full report also suggest lessons learned on how to harmonize laws for specific contexts.

### **NEXT STEP: Mend Gaps between Women's Rights and Reality**

Two additional ICRW research projects<sup>2</sup> show that across the global context women face several common

barriers to fulfilling their rights. These barriers include:

- Lack of legal knowledge on statutory rights among women and communities,
- Women's limited resources and documentation (wills, birth certificates, death certificates, etc.),
- Crises, such as natural disasters and war or conflict, which can exacerbate women's insecure property rights,
- Varying interpretation of customary and religious laws, and
- Economic and demographic changes, which can change land tenure.

In the African context, women also reported fear of punishment and violence, and a mistrust of community institutions as barriers to seeking property protections.

*What works?* Successful approaches involve whole communities and build on communities' experiences around women's property rights. This integrative process allows communities to examine social norms and customs, and provides organizations with information to design programs based on the realities and needs of women and their communities.

Organizations also often engage with multiple stakeholders (women, local leaders, communities, local program administrators, judicial officials, policy-makers and media) through a range of approaches (awareness raising, capacity building, research and advocacy). Some approaches draw from a network model where member organizations collaboratively address specific aspects of property rights. This

<sup>1</sup> *Connecting Rights to Reality: A Progressive Framework of Core Legal Protections for Women's Property Rights.*

<sup>2</sup> *Mending the Gap between Law and Practice*, which looked at the global programs of community-based organizations, nongovernmental organizations and international organizations; and *Women's Property Rights as an AIDS Response: Lessons from Community Interventions in Africa*, which looked specifically at programs in sub-Saharan Africa.

network model engages in the widest set of activities with the widest reach.

ICRW also found that investing in practical tools—will-writing templates—and practical approaches—community-based paralegals—can lead to significant results in a relatively short time.

## EMERGING ISSUES: PROPERTY RIGHTS, HIV AND VIOLENCE

A lack of secure property rights exacerbates women's vulnerabilities to HIV and AIDS and may be a risk factor for gender-based violence. While there are a number of efforts to strengthen women's property rights in many parts of the world, few of these include consideration of the HIV/AIDS epidemic or gender-based violence.

ICRW and its partners examined the property rights and HIV context in parts of Africa as well as South Asia to gain a better understanding of how securing property rights for women might help mitigate the effects of HIV and AIDS. In Africa, the link with women's experience of violence also was explored.

In South Asia, where the epidemic is severe but remains fairly concentrated among specific populations, ICRW undertook one of the first explorations<sup>3</sup> of women's property rights and HIV. This snapshot of women's experiences with property dispossession and HIV in Bangladesh, India and Sri Lanka suggests that property rights hold potential as a strategy to protect women from HIV and its consequences.

In sub-Saharan Africa,<sup>4</sup> research findings suggest that secure property rights have the potential to help women mitigate the consequences of HIV and AIDS.

However, the ability of secure rights to reduce the risk of HIV infection or the experience of gender-based violence is not so clear.

*What works?* A complex, comprehensive strategy is needed to link women's property rights with HIV/AIDS prevention, treatment, counseling and care services. In South Asia, the findings suggest that successful interventions must be tailored to consider: (1) where a woman is in her life experience (newly married, mother, widow); (2) her household's HIV status; and (3) her perception and understanding of HIV.

## MOVING FORWARD

Promoting, protecting and fulfilling women's property rights is a complex task. Women's property rights are influenced by both legal and social structures, and these structures are open to interpretation and change that often is influenced by gender norms and various demographic, economic and social pressures. For example, in many countries as populations grow and markets integrate—sometimes at a rapid pace fueled by globalization—land becomes both scarce and expensive. Based on entrenched gender norms, women's property rights are given less priority than those of men. In countries experiencing social crises such as the HIV pandemic or conflict, many women have their property rights violated, and many are unable to negotiate protection through either legal or social mechanisms. The result is rising numbers of destitute widows and orphans, and further instability for those countries.

While many of these factors are beyond our control, addressing the gender inequities that aggravate these factors for women are not. Gender norms can

<sup>3</sup> *Women's Property Rights as an AIDS Response: Emerging Efforts in South Asia*

<sup>4</sup> *Women's Property Rights, HIV and AIDS, and Violence in South Africa and Uganda*

and do change. The legal progress is encouraging, but even more can be achieved to help women fulfill their property rights.

1. Governments should establish minimum core legal protections to protect women's rights.
2. Community and women's advocacy efforts need to continue to educate local and national authorities about women's rights and pressure them to enforce these rights.
3. Governments should harmonize legislative frameworks to ensure progressive provisions under marital and that succession laws are not undermined by other bodies of existing law. New policies and laws also need to be monitored so that they do not contradict the established guarantees of women's property rights.
4. Community-based organizations, nongovernmental organizations and other program implementers need to collaborate and consider network models in their approaches to minimize fragmented efforts and expand their scale and reach.

Ensuring women's property rights requires that the international community at all levels—community, national and international—weave together the various laws and interventions so that the tears in the current legal and social fabric that prevent women from realizing their property rights are mended, and the multiple strands become an indomitable whole.