Gender equality: a women’s rights approach to housing and land rights

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1. DISPOSSESSION: OF A COMMUNITY OR WOMEN IN A COMMUNITY?

- Habitat International Coalition (HIC) has historically addressed “forced mass evictions” that were a commonplace in the 1980s and 90s.
- After winning recognition of the Right to Adequate Housing in 1996, HIC continued this campaign especially for urban slum dwellers.
- HIC members including Mazingira Institute have extended this to rurally displaced communities (IDPs).
• Women form part of communities so it is easy to see them as equally affected as men in cases of community dispossession.

• The exception is that they are seen as more vulnerable because of their family responsibilities for children or the elderly.

• But they may also be vulnerable as women because their housing and land rights are not equal to men’s rights, so they lose out within family and community dynamics even in mass evictions.
• Women may also be dispossessed of land and home in situations unrelated to community eviction – sometimes BY their communities

• So issues of women’s dispossession of land and home are more complex than for men

• HIC-Housing and Land Rights Network (HLRN) works on these issues of women’s land and housing rights

• HIC Women and Shelter Network (HICWAS) campaigned on women’s inheritance rights – recognised as equal to those of men in the Beijing Platform For Action (1995)
This presentation is based on my own work on these issues, mostly contained in this book from 1997. I also campaigned for women’s equal rights to inherit land and housing in the 1990s. These rights are now enshrined in Kenya’s Constitution 2010 60 1(f).
2. PRINCIPLES OF GENDER EQUALITY

- Gender equality signifies equal status in law and society for men and women. It has been fought for over the last 100 years or longer.
- Due to historical injustices based on assumptions of male supremacy and patriarchy, measures to empower women have been taken.
- Emphasis on women’s rights address imbalances, such as those prevailing in Kenya.
DISCUSSION ON GENDER EQUALITY

• Why have most human societies been based on gender inequality?

• What does equality and non-discrimination mean? (Are men and women different?)

• The meaning of the word “gender” is the way societies ascribe roles and activities to men and women – it does not signify the sex difference between men and women, which is usually obvious, based on physical characteristics.
3. WOMEN’S ACCESS TO LAND AND HOME IN KENYA

• Mazingira Institute carried out research on women in different settings in Kenya to establish how they accessed and used land and home.

• This was carried further for the book “My House is My Husband” to analyse the social structures governing land and home in each situation. A PhD was awarded in 1997.
3.a PEASANT, PLANTATION AND URBAN LAND

• The 3 categories of accessing land in Kenya showed how women fared in each situation

• Peasant land is owned and controlled by the family, with inheritance passed from fathers to sons, girls and women do not own or control

• Plantation land is owned by the employer, neither men nor women having any control

• For the urban poor studied, men and women were mostly squatters or their tenants on government land
THE PEASANT SETTING: SAMIA IN BUSIA

Part of a large homestead in Samia; houses of two wives with grain stores.
Women outside the “line” housing in Voi.
THE URBAN SETTING: KOROGOCHO IN NAIROBI

Grogan village, Korogocho in 1992
• The peasant population was best off in land, 88% owning their own plots, 12% on relatives’ land, but none of the women owned land. Some widows or those with absent husbands felt insecure due to pressure from husbands’ relatives.

• A third of the plantation households were landless, but virtually all of the women.

• A third of the urban poor households were landless (over half having rural shambas) but three quarters of female headed households (none had shambas, 4 had informal urban plots).
Peasant, plantation and urban cont… women providing services

• Fetching water (taking 15 mins-1 hour) 94% peasant, 73% plantation and 83% urban women assigned this task

• Firewood (used as a cooking fuel by all the peasants, two-thirds on the plantation and 6% in urban) was fetched by women in 96% of peasant households, 88% of plantation households and none of the urban
Peasant, plantation and urban cont… women’s stories

• Some peasant women were satisfied with their subsistence life but others felt insecure and feared eviction by relatives. One married a muslim to inherit land. None owned land but could hold property for their sons.

• All plantation women felt insecure and some hoped to get urban informal plots

• All urban poor women felt insecure in relation to eviction by landlords or government
3.b. WOMEN LAND AND HOME IN RELATION TO THE LAW

• This study showed that women’s access to land and home is unequal to men’s. The statement “My House is my Husband” sums up women’s attitude – men as the only means to access a home; if I can get a house under the law, why should I need a husband?

• Before the 2010 Constitution, customary law tended to prevail over common law in judicial decisions on women’s rights to land and home: patrilineal rights prevailed and widows were routinely evicted from their homes, as were many wives at the whim of their in-laws, while daughters had to marry and move away.
Respondents in the study said they had a legal right to buy property, though none had the means. In some communities women buying property is frowned on even though legally OK. Some women doing this have had their cattle poisoned.

Laws entrenching the constitutional equal rights include National Land Commission Act 2012, Land Act 2012, Land Registration Act 2012, Community Land Act 2016. But magistrates and judges may revert to patriarchal attitudes in their interpretation, especially as some clauses are weak on gender. General public attitudes also make it difficult to attain the equality mandated.
3.b. WOMEN LAND AND HOME IN PRACTICE

• Despite the legal changes over the years, from colonial to post colonial eras and culminating in the 2010 Constitution, patriarchal social norms still prevail in practice

• Uganda has made more significant progress than Kenya in women’s ownership of land, thanks to para-legal training as well as active social movements*

• Activists on women, land and homes in Kenya are present in this workshop

• *15-20 percent of women own land in some districts (MISR 2000, Tripp 2001)
• In practice, widows are often dispossessed of their homes as male relatives take over their kinsman’s inheritance. This includes children of widows, especially girls

• Sometimes wives are dispossessed, along with their children, at the whim of the husband, or through conflict with in-laws

• Girl children usually have no inheritance rights

• Early marriage may be used as a device for managing land shortage, as the proper way of dealing with too many family members
3.d. CONCEPT OF THE GENDER CONTRACT

• There are implicit rules in every society about what men and women should and should not do. They can be checked by asking men and women

• Two gender contracts were found in Kenya, the “subsistence” and the “market” gender contracts

• Both constrain women from inheriting land and housing, and require women to ensure subsistence of the family. The “market” contract allows women to purchase land or housing, which men inherit free
Fig. 6.1 The two gender contracts in relation to the three settings studied.
• Gender contracts are mediated through culture, by institutions and interpersonally. They are constantly evolving and changing.

• Culture operates through stories, myths, religion, advertising and the media.

• Institutions include the law, customs and curriculum.

• Families and individuals operate interpersonally.

• Women either accept their gender contract (experiencing satisfaction or stress), adapt to it through changing their behaviour or the environment, or attempt to change it through negotiation or moving.
Figure 11.1  Model of micro level change through responses to the gender contract.
EXAMPLES

• Some peasant women are content especially where the husband provides the house and some material support, others feel insecure and fear for their daughters. Some change their environment through collective projects or themselves by becoming traders.

• Most plantation women were insecure, had already moved and were trying to change things by acquiring urban plots.

• A typical urban woman sells vegetables and keeps goats as well as renting out rooms on a plot she has acquired.
• The book, written in the 90s, suggests women’s and civil society organizations need to campaign and work for further change in the Kenyan gender contract, for an equal rights contract

• It is clear that men control women economically with existing gender rules and that women value “subsistence” and the care of their families and children above all; a change in power relations is needed so gender relations at the family level and in society are more balanced
CONCLUSION

• In taking a gender equality approach to dispossession from land and homes, the situation of women must be specifically assessed

• Cases of dispossession of women BY their communities and family relatives must be addressed as a category of dispossession from land and home

• In cases of communities being dispossessed, what happens to women – widows, married women and girls must be addressed specifically