

CONFERENCE REPORT ON LAND ADMINISTRATION AND GENDER EQUALITY HELD BY DIIS IN COPENHAGEN ON 04 MARCH 2014

On Tuesday, 4th March 2014, the Danish Institute for International Studies DIIS has organized a conference on land administration and gender equality. The conference was opened by Mr. Mikkel Funder from DISS. In his introductory word, he first gave the background of the conference by saying that the land has made it back to the headlines. It is not only international investors, ministers and members of the national economic elites who are concerned with land. Also rural women in the thousands of communities in Sub-Saharan Africa and in many other parts of the Developing World are concerned. Increasingly they experience that their rights to receive a piece of land from their parents, though their husbands or through their own means and efforts are being denied by the family members, by community leaders or by religious, political or legal authorities. Poverty, growing global demands for food, fodder and fuel, and radical religious and cultural public discourses on the role of women (and men) in the family, society and the economy contribute to these experiences.

During the past decades, governments, civil society organisations, and development agencies have made attempts to secure women's access to land and to promote gender equality in the land related legislation as well as in its application. Some of these efforts are documented in a recent DIIS Report, published as part of the Danida and Sida funded research and communication programme RecCom.

This seminar presents insights from research analysing efforts to promote gender equality in and access in Niger, Tanzania, Uganda and Zambia (forthcoming), and invites for a discussion of how such efforts may be further supported, supplemented and strengthened on order to ensure gender equality in land administration.

Having given this background, Mr. Mikkel Funder announced the agenda. The conference will be led by four speakers namely Mrs. Martha Diarra, of Nigerien nationality, Sociologist, international consultant and expert on gender equality, Mr. Rasmus Hundsbæk Pedersen, researcher at DIIS, Mrs. Helle Munk Ravnborg, Senior Researcher at DIIS and Ms. Rachel Spichiger, PhD student at DIIS and Roskilde University. Moderation will be provided by Mrs. Marianne Haahr who is the Advocacy Coordinator at Care Denmark.

[Welcome and introduction by Mrs. Marianne Haahr.](#)

Mr. Mikkel Funder gave the word to the moderator. Mrs. Marianne Haahr said that she will provide translation from French into English as Mrs. Martha Diarra will speak French. She talked a bit about her meeting with Mrs. Diarra for 10 years ago. She explained the proceedings of the conference. Mrs. Martha will talk about women's access to land in Niger in the context of poverty and new religious gender discourses. Mr. Rasmus will present the situation in East Africa talking of Tanzania, Mrs. Helle Munk Ravnborg will present in Uganda and finally Mrs. Rachel Spichiger will address the case of Zambia. Thus we have the picture of the whole of Africa, from Western Africa, to Southern Africa through the Eastern. The study also covers Francophone and Anglophone

countries. After speakers' presentations, the moderator will call the panel for open discussion during which questions will be asked.

[First Speaker: Madame Marthe Diarra.](#)

[Topic: Women's access to land in Niger in the context of poverty and new religious gender discourses.](#)

Maradi, a particular context.

Mrs. Diarra began her speech by greeting all participants. She said that this project is implemented in Maradi, in Niger over the last past 4 years. She presented the geographical situation and climatic in Niger. There is an agricultural area that includes 23% of arable land and 77% of land is desert. The region is the only part of the country where agriculture is possible and the pressure on land has become intense. Agriculture has become more male-dominated. According to the speaker, this could explain the main reason why men choose to exclude women from land.

Maradi is the most populated region of Niger sharing borders with Nigeria. Due to its border with Nigeria, there is a strong Islamization of this region. As consequences, Maradi has the lowest enrollment rate of girls in education institutions because there is a lot of koranic schools.

Access to land is governed by traditional laws but also religious. However, the traditional right of access to land in changing has finally excluded women's access to land.

Gap between men and women

The breakdown of traditional law resulted in inequitable access to land. Women's access to land goes through marital gift who gives her a piece of land. Women also access to land by inheritance to the death of parents, but the right of inheritance has been robbed.

Women's access to the land in Niger is guided by three sources of law: customary, religious and formal. Customary law stipulates that the male head of a household is the owner of the family field. In the event of marriage he has to grant a piece of this land to his wife, so she can cultivate it for her own needs. Religious law written in the Koran stipulates that women are entitled to inherit half that of men. So if a father dies and he has two children, the daughter will get one third while the son will get two thirds of the inheritance. More and more women are claiming their part of the inheritance by making reference to these religious rules. About the formal law, Niger has a liberal land market. According to the rural code, land can freely be bought and sold by all men and women.

Women defend the rights of women

In Maradi, women have created a social movement called in Hausa: Mata Masu Dubara that means "women on the move". The aim of this association is to empower women. MMD started as a savings and loans association. The association is the most reliable entry point for helping landless women. The association is fighting the phenomena of defeminisation of agriculture by defending women's land rights in a legitimate way.

Emancipatory role of Islam

The project works well because we get involved the religious leaders who are responsible for

performing inheritance in Niger. Religion is everywhere in the country. It structures people's lives with different rituals from when they get up in the morning until they go to bed at night. Social changes cannot be promoted effectively for the benefit of the poor without a dialogue with the religious leaders. Even if the Koran says that women can inherit half that of men, we think that is the place where we have to start, so the use of Koran can promote women's access to land. Collaborating with the Muslim leaders has been shown to be fruitful. They are starting to accept that they must share the inheritance with their sisters understanding that women should have the freedom to cultivate the soil.

Access to information to the claims of rights

The information we supply have been effective in the way that its provide women with the tools in order to claim their rights, including land rights. We mobilised women through the media, local and national radio, sketches and theaters. By the dissemination of information related to women's rights, they managed to retrieve portions of land inherited even 15 years later.

Through this project, 3325 women have retained the right to lands sold or inherited. They also had the opportunity to buy the land. Before, it was found that women got access to land through donations, but today women's land ownership through inheritance has been higher.

Evolutions and changes

Women in Niger have now access to land and religious leaders do not anymore make resistance.

[2nd Speaker: Rasmus Hundsbæk Pedersen.](#)

[Topic: Women, donors and and administration. The case of Tanzania.](#)

Le PhD Rasmus a abordé l'impact de l'aide internationale accordée dans le programme de la reforme agraire en Tanzanie. Tanzania land reform from 1999 has been evaluated as among the most gender-sensitive of its kind in Sub-Saharan Africa. However there is a gap between the legal framework and what is happening on the ground. Tanzanian women access land in different ways. In rural areas most women still access land through their male relatives, but to varying degrees depending on their ethnic group, family relations and socio-economic status. However, in case a women relationship with her relatives changes, for instance, if her husband or father dies or if she is divorcing, her access to land may be endangered. In addition, the competition for land caused by the populations growth, rising food prices ans biofuel production is also felt by the Tanzanian women.

The making of the reform

From the early 1980s onwards Tanzania witnessed a large increase in the number of land conflict. They were caused by diverse factors like Ujamaa villagisations in the 1970s and their reversal in the 1980s, the opening up for private land ownership with a new agricultural policy in 1982. The major shifts in policies led to overlapping claims to land, which had been acquired by different persons during different legal regimes. Tanzania's land reform, made up of the Land Act and the Village Act of 1999.

Women's influence on the Reform

The recommendations of the Presidential Commission of Inquiry into Land Matters to build on and reform customary laws and institutions steered up a debate about how to protect women's rights to land. A number of women groups mobilised. They feared that this would undermine women's rights to land. The women group proposed the abolition of customary law and joint spousal ownership rights over land as an alternative.

Provisions to protect women's rights to land.

Tanzania's land reform strikes a balance between recognising existing rights and institutions and protecting the rights of vulnerable groups. Through the Land Acts recognize customary land rights and institutions, they also prohibit discriminatory customary practices.

Women's representation in land administration.

Women have a significant representation in the villages' governance of village land. Villages must include at least one quarter of the female members under the local government law.

Customary laws and customary practices.

The land reform explicitly recognizes customary law and customary authorities, but it is ambiguous about their exact roles. Customary authorities are allowed to participate in the dispute settlement, the laws paradoxically lean towards homogeneity of customary laws. Customary law applies only in civil matters and is important for succession, inheritance and family matters.

Reform implementation.

From a legal point of view, the land Acts were applied from the day they came into force. From that day they were to be used by Courts to settle dispute. The implementation however in terms of establishment of institutions for land administration and land dispute settlement in rural areas has been much slower.

Conclusion.

His presentation analyses the challenges related to the protection of women's rights to land in rural areas. It provides detailed information on reform implementation experiences so far by analysing a number of government and NGO interventions. He shows also the ambiguous role of donors. He shows that the fight for women's rights has not been won just because the legal framework is right. Discriminatory practices persist at formal as well as at customary institutions, disadvantaging women's access to land. Women in rural Tanzania access land in different ways. The reform is a balancing Act between, on the one hand, recognizing existing rights to land, customary rights included, and, on the other, promoting women's rights to land. Whereas the former entails recognition of customary laws, institutions and practices, the latter prohibits gender-discriminatory, customary practices and seeks to extend women's rights to land through a number of gender-progressive elements. Donors can only push the agenda if their Tanzanian counterparts share the interest in women's rights, for instance as part of an overall agenda of improving tenure security. If land titling is a part of this, it should be an end stone, not the point of departure of activities. If gender is not an integrated component of activities, donors could consider supporting other activities.

[3rd Speaker: Rachel Spichiger.](#)

Topic: Women and land in southern Zambia: from laws to relations.

As in most countries in sub-Saharan Africa, land is a central means of production in Zambia, where agriculture remains a source of livelihood for most people in rural areas.

The brief historical of Zambian land reform.

Zambia undertook its first land reforms after independence in 1964. Under President Kaunda, land was declared to have no monetary value. Gradual changes in government policies and reforms were undertaken under structural adjustment programmes, but it was the change in government in 1991, when the movement for multiparty democracy came to power, which was instrumental in introducing a market-driven land reform aimed at encouraging investment. A land policy was initiated in 1993, but never passed, and a Lands Bill was initially withdrawn due to the heated debate surrounding it. Nevertheless, in 1995, land registration reform was introduced with the Lands Act, which repealed the Land Act of 1975.

Categories of land in Zambia.

Land in Zambia is divided into state land and customary land. The land state is land owned, bought, and sold by individuals who possess registered leasehold titles. Customary land is held by chiefs and headmen on behalf of the communities, and they are responsible for its allocation and administration. Chiefs grant occupancy and use rights to customary land and oversee its transfer between subjects.

Women and land in Zambia.

Even if Zambia's own statutory legislation upholds gender equality in matters related to land, as in many sub-Saharan African countries, relies upon customary and cultural practices, which may not be in agreement with other legislation.

Legislation related to marriage and inheritance.

Inheritance and marriage laws affect women's access to land and land-related assets: the Intestate Succession Act, which governs the administration of the estate of a person dying intestate, allows the surviving spouse to inherit 20% of the deceased's estate, and together with the children, the house.

Customary law and women's rights

Customary law in Zambia consists of different laws used by the 73 ethnic groups in Zambia, and is not codified. It is recognised by the Subordinate Courts Act 1998 and the Local Courts Act.

The lands act and its implementation

Since the passing of the Lands Act in 1995, the controversy surrounding it has made its implementation difficult: while the government recognised the need for widespread land reform, it faced strong resistance from traditional authorities and civil society. The Land Act was controversial, and so were the policy processes following the Act, which have been fraught with pitfalls.

The land reform and women's rights.

The general context of gender equality in Zambia has played a role in how the land reform has incorporated principles of gender equality. Zambia ranks 136 out of 148 countries on the Gender Inequality Index 2012 (UNDP 2013). Although it is on the way to reach gender parity in primary education, it lags behind on several other fronts: women's access to resources and services such as health and water is low.

The Gender and land Policies.

A turning point was the 2000 Gender Policy, followed by two Draft Land Policies, which brought gender concerns into the land debate by mentioning women's lack of access to land, especially in customary areas. The land policies mention that 30% of the land should be allocated to women and the rest competed for by men and women on an equal basis.

Support to land administration and to Gender issues.

No donor support is currently provided to the legal framework or to land administration. A large part of the focus on gender is located in the education and health sectors, which, as in other countries, reflects donor countries' stronger focus on gender equality in the social sectors rather than in the economic and productive sectors. Health and education are also the sectors in which the biggest progress has been made.

Conclusion.

Zambia's 1995 Lands Act, while recognising both customary and state land, opened the way to privatisation of land, under pressure from donors to create a land market that could attract foreign and national investors. The 1991 constitution forbids discrimination on the basis of sex, it excludes inheritance and customary law from this provision. Women are discriminated against on state land as well. The government, recognising that women's access to land was constrained in several ways, stipulated that 30% of the land should be allocated to women. Donors, whose involvement in Zambia has been fluctuating since the 1970s, have not given significant support to the land sector. Gender equality only came to the fore at a later stage, when donors, along with civil society, advocated the inclusion of gender issues in later processes.

[Fourth Speaker: Helle Munk Ravnborg](#)

[Topic: Land administration, gender equality and development cooperation. The case of Uganda and beyond.](#)

Land is an important asset for people's livelihoods and for economic development in Uganda, where the majority of people live in rural areas. Land is also, increasingly, being seen as a commodity and the demand for land is on the increase, not least because of the rising food prices, the potential for the production of biofuels and the recent discovery of oil in the western part of Uganda.

The land tenure and tenure security in Uganda: the legal framework.

Uganda reformed its land tenure systems with the 1998 Land Act, which spelled out the inherent principles enshrined in the new Constitution of 1995. The passing of the Act was highly politicised. The 1995 constitution reverses the nationalisation by stipulating that land belongs to the citizens of Uganda and shall be vested in them. The reform attempts to reconcile two objectives. On the one

hand, it recognizes existing rights to land. On the other hand, the reform provides the basis of formalising and individualising existing, customary rights to land and promoting the development of a land market.

The legal framework from a Gender Perspective.

Uganda's 1995 constitution has been hailed as being particularly gender sensitive and progressive and among the most female friendly in the world. It stipulates that women and men are equal and have equal rights and "specifically prohibits laws, cultures, customs, or traditions that violate the dignity, welfare, or interest of women. The Land Act also contains provisions reinforcing the land rights of women, children and orphans. The general recognition of customary land rights also applies to women's rights to land.

Land Administration and its implementation.

The 1998 Land Act also provides for establishment of District Land Boards, independent of the land commission. Its functions are: to hold an allocate land which is not owned by any person or authority, to facilitate land registration and transfers, to take over the role of urban land authorities. Customary and informal institutions and practices persist, partly because customary land makes up the bulk of land in Uganda and partly because customary authorities are granted some degree of authority over this land. The implementation of the Land Administration was not effective because the land offices are often not equipped to take on their roles and corruption is rife. The lack of implementation is also due to the high cost of setting up and equipping a large number of new offices. The lack of implementation means that implementation methodologies and administration procedures were invented and tested along the way.

Conclusion.

The legal and administrative framework as well as the coexistence of different tenure systems, present a more complex situation than that which is usually portrayed. Women seem to be particularly affected by this situation. Even though they seem to be represented in land administration and in parliament, their influence is still limited. Despite a gender-sensitive and progressive legal framework, women's rights are still hampered on the ground in several areas and women are discriminated against in both the customary and statutory settings. The social status of women has a significant bearing on Uganda women's rights to access, utilize and or own land. Marital status is an important factor that contributes to defining a woman's ability to protect her right. Despite the existing and persisting obstacles for women to land administration, we have to note that significant progresses have been reached such as women now inherit land after the death of their husbands, divorced or separated women can have now some land rights. They can buy it, and they can go to the courts. Orphans can also inherit the land.

[Debate: Mrs. Marianne Haar invites the pannel of speakers](#)

Mrs Marianne invites the panels of speakers to take place in order to answer to questions related to the conference's theme. After 45 minutes of a rich debate, the moderator concludes that the conference demonstrated us the status of women and their right to access to land in the whole of Africa. She says that there has been significant progress but there is still much to do. She thanks

again every participant for their time spent with conference's organizers as well as the conference's speakers. She declares the conference closed at 17h 00.