



Gender and Land

Extended synopsis

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Overview

Land governance reform initiatives often refer to gender equality, but some reforms can also entrench male privilege in access to land. Women’s control over land is shaped by culturally-specific inheritance practices, by their role in agricultural and other livelihood practices, and by legal systems of the countries where they live. Changing labour practices and engagement with capitalist property rights arrangements are having profound effects on gender relations in communities, reshaping hierarchies of power and influencing family and wider social relationships. Change can be both for the betterment and decline of rights for women. While typically depicted as household caregivers, women often take leading roles in economic production, use of and decisions about land and resources, and controlling household income. Enhancing gender equality has the potential to positively impact upon production systems, supporting food security and cementing a right for women to choose how they contribute to these systems. Gender is a significant dimension of how people react to conflict and livelihood traumas, such as through forced evictions and relocations. Women often take a leading role in protests against land-related violations.

Key Trends and Dynamics

In the context of agrarian transition, the security of smallholder livelihoods is a key priority. Within this context, the issue of gender has often been treated with minimal consideration, despite women themselves representing a marginalised group amongst those already suffering from poverty. The lack of attention is in part of those creating and implementing policies and projects relating to land and agriculture, and also of researchers scrutinising the state of land dynamics. It is perhaps unsurprising that after three decades of official commentary, the 2012 World Development Report was the first of its kind to focus on gender equality (Cambodia Development Resource Institute, 2013), the omission implying a sense of neglect up to this point.

Taking a gender perspective requires a consideration of both the position of men and women in relation to land. Yet it should not be glossed over that rights of women are violated more extensively than those of men. This suggests the need to take a close view of the specific roles, voices and dynamics either taken up by or imposed upon women in relation to issues such as insecure land tenure. While women are key actors in food production, both globally and around Southeast Asia, they may own as little as 2% of land, or in other cases lack any sort of access (Land Core Group & Food Security Working Group, 2009). Indeed, in the case of Cambodia, use of agricultural land has been highlighted as one of the highest areas of gender inequality, whether measured in terms of ownership rights, plot size, or cultivation levels (Food and Agriculture Organization of the United Nations et al., 2010). Where matrilineal systems may favour the inheritance of property, including land, through the female side, thereby defining and promoting a status of rights, formalised systems of tenure have witnessed land ending up in the control of household heads, who most frequently are men (United States Agency for International Development, 2011a). However, the provision of information and education is often lacking so that women remain unaware of their rights and where abuses are taking place are unable to access legal support.

Consideration of gender is vital in the creation of progressive policies for smallholders, since house, land and property rights affect men and women in different ways (Cambodian Center for Human Rights, 2016; Centre on Housing Rights and Evictions, 2011). For example, land confiscation in Myanmar has been seen to place a great strain on gender relations, with a large burden in both domestic and economic production falling on women, while also threatening the identity of the man as provider to the family (Pierce et al., 2018). A further case study looking at indigenous communities in Ratanakiri province, Cambodia, highlights how economic land concessions and market-based resource exploitation have resulted in significant repercussions not just on agrarian practices but also gender relations, with indigenous women and girls under threat of further marginalisation (Mi Young Park & Maffii, 2017). Of considerable concern, a direct threat of violence on women may emerge, as demonstrated through studies on forced evictions in Cambodia (Cambodian Center for Human Rights, 2016; Richardson, Nash, Tan, & MacDonald, 2014). These studies further highlight the knock-on effects of land conflict, with potential for an increase in domestic violence, a deterioration in women's mental health, and subsequent impacts on their children. Changing agricultural systems and rural livelihoods may indeed benefit some families, yet they arrive with new gender challenges that must be negotiated. The shift from subsistence to commercialised agriculture can have a profound effect upon established roles for men and women in farming, the speed of change serving as a source of discord within marital arrangements (Bonnin & Turner, 2013). This intersects with many other relations such as those of generation, where younger members of a family may resort to alternative livelihood strategies, or other impacts of

agricultural development such as stresses on food security. In this sense, gender becomes a cross-cutting issue, linking with land amongst a number of economic, social and environment factors.

One growing area of interest concerns a gendered awareness on the relation of migration to agricultural practices, access to land and its usage. At one level, the pressures on women may increase as diversified livelihood strategies see men migrate to work away from home, leaving the women to not only maintain household and childcare duties, but also increase their role in farming and other tasks of economic production. This is a legitimate concern, yet one must be careful not to ignore the movement of women as well as men around the region. The impacts of migration upon land may be multifarious, potentially decreasing tenure security or directly resulting in land loss, but also allowing for accumulation through remittances. In a study of Thai migrants, one article suggests that women and the poorer are more generous in remittances compared to men (Vanwey, 2004). Another study of Lao migrants into Thailand highlights generational divides as younger people cross the border, yet nevertheless there are important gendered distinctions in the make-up of this group and its developmental impacts (Barney, 2012). Regardless of who travels and who stays at home, migration can easily put stresses upon marital relations due to the time family members are separated by the changing production roles (Locke, Thi Thanh Tam Nguyen, & Thi Ngan Hoa Nguyen, 2014).

The relative lack of attention towards gender in land studies is also reflected in the absence of women's voices, a concern that can be placed upon development-related discourse around the region. Yet if women represent a subset of vulnerability against land grabbing and evictions then it is all the more important that such voices are heard. This situation is starting to improve in research pursuits, which highlight how women are excluded from public consultations and decision-making processes on land. A report by Amnesty International on civil society responses and resistance to housing evictions in Cambodia focuses upon the stories of five women (Amnesty International, 2011). There is growing awareness of the involvement of women in protests against land-based violations, and studies are increasingly attempting to account for this. This includes the recognition of a threat of violence against women involved in protests against land conflicts, as is the case with human rights defenders in Thailand (The Observatory, Protection International, & Asia Pacific Forum On Women Law And Development, 2017). Even where women and youth are highly represented in social movements against land conflicts, the leadership of such movements is generally maintained by men (Rose-Jensen, 2017).

Various studies look at the potential benefits from improving gender rights within systems of land tenure security, and there is a growing body of evidence to support such a move. For example, joint land titling can help bring better welfare for children, greater production efficiency, equality and empowerment (Land Core Group & Food Security Working Group, 2009). A study in Vietnam compares land-use rights under different genders, and finds that titles under a woman's name or jointly held by man and wife tend to result in benefits such as increased household expenditure, women's self-employment, and decreased household vulnerability to poverty (Menon, Rodgers, & Kennedy, 2013). There may also be an increase in the bargaining power for women at home. With the support of such evidence, there is a growing call for clear gendered land policies around the Mekong Region. For example, social land concessions in Cambodia for landless and land-poor households need to account for gender disparities and make sure that female-headed households gain sufficient support (Thiel, 2010). Meanwhile, it is claimed that legal services and practices in

Vietnam must improve to support the improvement of women's access to land (Hoang Cam et al., 2013). This includes the provision of joint land titles, which do not diminish farm productivity, and thereby represent a means to improve the bargaining power of women in the household without detracting from farm output (Newman, Tarp, & Broeck, 2015). Yet there is a risk that agrarian transitions may operate counter to such aims. A study looking at various indigenous groups in Cambodia suggests that the participation of women in community affairs is being undermined by the formalisation of legal, administrative, and market-based governance (FAO, 2019). On the whole, development agencies are failing to support these changes thoroughly with effective gender-sensitive projects.

Key actors and interests

Gender equality is something that both involves a multiplicity of stakeholder groups, but is also demanded within each group. It cannot be achieved without the effective representation of women throughout.

Smallholders: Women are key actors in food production, in 2009 seen to be involved in 60-80% of food production in developing countries, and 50-90% of rice cultivation in SE Asia (Land Core Group & Food Security Working Group, 2009). Yet even today many identify themselves as 'workers' or 'helpers'. A new breed of women view themselves as farmers, and have become involved in wider agricultural discussions such as for the National Land Use Policy in Myanmar (H. O. Faxon, 2017). They are also increasingly found at the forefront of protest movements in Cambodia (Cambodian Center for Human Rights, 2016). Nevertheless, there is evidence of tougher attitudes to women in community consultations over land conflicts (C. Pierce et al., 2018). The roles of female and male smallholders are further challenged by market-led shifts to the agricultural sector, which includes migratory practices for new employment opportunities.

State: Governments around the Mekong Region have helped install gender equality into statutory law and national-level policy. Yet when it comes to implementation, there may be a disconnect to achieving this equality at ground level. It may not help that decision-making processes are frequently dominated by men. Research in Cambodia has shown that working on gender relations after land grabbing and eviction at the community level simultaneously can help to rebuild community and state relations (Lamb, Schoenberger, Middleton, & Un, 2017). However, tensions may remain where policies on land acquisition may prove detrimental to civil society and women in particular (Bélanger & Li, 2009).

NGOs and CSOs: International mandates such as CEDAW (Convention on the Elimination of all forms of Discrimination Against Women) have been key mechanisms to legitimise local efforts to promote gender equality. NGOs and CSOs have further consolidated their position through the creation of networks, using such mandates as a unifying feature in gender-sensitive programmes of action. One study has looked at the experiences of the Gender Equality Network (GEN), a coalition of 100 organisations in Myanmar (Faxon, Furlong, & Phyu, 2015). The strength in solidarity for GEN allows for a voice in land-related policy consultations (with the example of the National Land Use Policy provided here). The network also offers a vital avenue to publicise information and improve public understanding on gender violations. Frequently, gender is organised around the wider topic of commercial pressures on land, such as with large-scale concessions for resource exploitation. This

creates a challenge to instigate activism on these broader terms but without losing the focus on gender rights within the multifarious issues (Daley, 2011).

Key Contestations and Debates

Many gender-based critiques of policy and programmes such as land titling point to the biases that arise, for example, by assumptions that men are heads-of-household. Implementers of such programmes emphasise legal and safeguard provisions, such as joint titling, promoting the notion that regulatory shifts may contribute towards equalising gender relations and practices both in the household and throughout society. However, the pathway is not always clear. There are policy mandates that claim to support gender equality in the development of land administration, management and distribution (Council for Land Policy Cambodia, 2012), and yet studies highlight a significant gap between policy and its implementation in practice (Thiel, 2010). This includes the availability of international legislation on both gender equality and land governance, with the challenge being to see them incorporated at both the level of national and sub-national governments, and in local communities.

Since traditional inheritance practices are culturally specific and vary both between and within countries in the Mekong Region, there is a tension between generalised discussion of the place of women in control over land, on the one hand, and context-specific analysis on the other. In particular, this tension acknowledges that there are both matrilineal and patrilineal systems within the region. Furthermore, gender-specific legal provisions and practices in formal land ownership within the family unit differ from one country to another. A basic question is the extent to which modern, formalized systems of property relations enhance or degrade the position of women with respect to land.

A further complication in this debate involves the provision of sufficient data to allow for informed policy strategies. Within larger debates such as land grabbing, large scale land investments and customary tenure, gender has only recently become more visible, and gender-disaggregated data is catching up to account for the gender relations within these topics. As well as greater understanding of the plight of women in poor rural households, it is also important to acknowledge the shifting roles for men in relation to land systems around the Mekong Region.

Key differences and commonalities among CLMV countries

There has been an attempt to enshrine gender equality into statutory law of the Mekong countries with different degrees of success. For example, the VFV and Farmland Laws in Myanmar are operationalised to focus on rights for the head of the household, most commonly the husband (USAID, 2010). There is also a lack of facilitation towards joint titling, which undermines Buddhist-based customary laws and their higher acknowledgement of women's rights. Similar to Burma, Thai law may have been detrimental to women's rights, enshrining notions of equality, but undermining traditional matrilineal systems that include inheritance of land on the female side (USAID, 2011b). It is a claim that is echoed in Lao PDR (USAID, 2011a). Even if the specific mechanisms of land titling may vary by country (for example, compare land-use certificates in Vietnam to a full bundle of property rights in Thailand), the consistent message is that improved access for women to these rights will not only be to their specific benefit, but also to households and communities. However, the way data is collected and represented by different countries often makes gender inequalities

invisible and needs to be improved (UNFAO, National Institute of Statistics, & Ministry of Planning, 2010).

There are several useful reports mapping out country specific rights and practices on gender and land (Ingalls et al., 2018; Neef, 2016; USAID, 2010, 2011a, 2011b, 2011c). As well as legal differences, the specific historical, cultural and legal developments of each individual country will inform the role of gender in land governance and how it plays out on the ground. For example, in Cambodia mass executions under the Khmer Rouge regime created many female-headed households in the 1970s and land allocations to women in the 1980s (USAID, 2011a).

The volume of gender-related research on land sourced for this online resource is geographically uneven, with a significant majority of studies focused in Cambodia, addressing issues such as the impact of evictions upon women. In Myanmar, much research has centred on the representation of women in consultations for and within the National Land Use Policy, which was published in 2016 (Faxon, 2017; Pierce & Nant Thi Thi Oo, 2016; TNI, 2015). In terms of quality sourced research, Thailand and Lao PDR lag behind other countries in the region.

Key links and interactions across borders and across scale

An important focal point for the promotion of gender rights has been a variety of international agreements. Most directly these include CEDAW (Convention on the Elimination of all forms of Discrimination Against Women) and provisions within the Sustainable Development Goals (SDGs). There are also elements within non-binding agreements such as the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) (Cambodian NGO Committee on CEDAW & Cambodian Committee for Women, 2013; STAR Kampuchea, 2013; The Rights And Resources Initiative, 2017). Such frameworks offer markers that stretch over boundaries within the region, providing legitimacy to the work of NGOs and CSOs operating at local levels. A further measure is the ability of women to give Free Prior and Informed Consent in the face of external development projects that involve large-scale land acquisitions.

There are other transboundary factors where gender closely interacts with land. Migration has specific gender outcomes, depending on who migrates and who stays at home (Barney, 2012). The different settings of land tenure are also important, whether on agricultural land or within community forests (The Rights And Resources Initiative, 2017). More commonly, the call for gender rights goes hand in hand with other forms of marginalisation, such as reaching the poorest or those in isolated rural areas (International Land Coalition, International Fund for Agricultural Development, & UNFAO, 2004; Jackson, 2003). However, in looking at greater security for women and men, one must be reminded that these do not represent singular groups and that much variety in status and land relations will be found (Scott, 2003).

Key reform issues and strategic openings

- Gender mainstreaming in proactive policy that gives women an equal chance of gaining secure land tenure rights
- Access to credit and land-related services, where women can also gain investment opportunities through their land and contribute to poverty reduction

- The provision of joint-titling options, improving women's bargaining power within the household
- Improved education to inform both women and men on gender opportunities within the land sector
- Inclusion of the voice of women in new land-related legislation, which tends to be drafted and approved by men

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