

The Most Affected in Land Issues – Women, Migrants, Urban Dwellers, Youth and PLWHAs

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ABSTRACT

This study looked at the issue of land and its effect on women, migrants, youth, the urban poor and PLWHAs. Through a literature based search and interview with civil society organisations engaged in land related activities it was emphasised that in addition to putting in systems to support the most affected in land issues adult education is crucial for improving the land situation of the marginalized in society.

INTRODUCTION

Issues about land affect all categories of people - male or female, indigene or migrant, rural or urban dweller, adult or youth, sick or healthy and leader or subordinate. However certain categories of people are most affected by the issues pertaining to access to and control over land which calls for the need to single them out for discussion. This group of people could include women, migrant farmers, the urban dweller, youth and People Living with HIV/AIDs (PLWHAs). Amezah, Asibey-Bonsu et al. (2004), Wily and Hammond (2001); and Hendrickson (1998) observe that insecurity of tenure affects a greater society than is generally recognized. It extends beyond the economic poor and those who assess land belonging to others: tenants, share croppers, youth and women. It is in view of this that this paper takes a critical look at these marginalized groups and the way forward.

Women

Women make up more than half (53%) of those with responsibility for agriculture in the rural coastal zone and slightly less than half (46%) in the forest zone, with about a third (36%) in the rural savannah zone in Ghana (GLSS 4 2000:82). Patriarchy has affected

their ownership, access to and control over land. The issue of land has always been seen as 'an all men's affair'. Whether women are located in patrilineal or

matrilineal cultures where they are able to inherit land from a wider range of relations, it is the men in their families who preside over land allocation. There is the fear that family lands may be lost to female inheritance, marriage and transfer through inheritance. In most cases women have to look to their husbands or families for farmlands. By granting men and boys primary rights of inheritance of land and property, and granting women and girls user rights mediated through their relationship to men, a situation of unequal power relations, drawn along gender lines, is entrenched in land tenure and production relations.

In case of contractual arrangements for land, share cropping has also been found to be challenging for women. There is arbitrariness of landlords in changing the terms of the tenancy at will. And this is very easy to do because most of such arrangements are verbal without any legal backing or evidence. In some cases the only evidence is the testimony of the witness. In most Ghanaian communities women are allocated secondary vegetations and marginal land for cropping.

During a workshop on land security for women in the Upper East Region the women listed these as the reasons why they do not own land:

- Women used not to be in full-time farming like they do today. They used be supportive to their

- husbands and therefore did not need land on their own.
- They are not permanent members of their father's homes.
 - They have come from a different place to be at their husbands' homes.
 - Their permanency cannot be guaranteed.
 - They are not good managers so if entrusted with a valuable commodity like land may misuse it.
 - Women cannot and do not sacrifice to the spirits of land hence they do not satisfy the ultimate qualifications to own land (Nzioki, n.d; CAREb 2004).

Much as these traditional factors inhibits women's access to land, they play an important and increasing role in agricultural production by helping their husbands in farming activities and/or cultivating their own fields to supplement the family's food production and consumption needs. Women, who are divorced, widowed, separated, or have no male children with their husbands appear the worst hit in terms of access to agricultural land resources.

Meanwhile Quisumbing, Payongayong et al. (2004) have observed that women's land rights have been strengthened rather than weakened over time. Despite limitations to women's land ownership, a few opportunities exist under customary land law for the ownership of land by women or to have control or access to but these avenues have not been fully utilised by them. Such opportunities include transfer of land as gifts from families or spouses to women, barter agreements and inheritance where a couple is without a male child (OXFAM 2004). These provide opportunity for women to access or own land, thus have rights of disposal of such lands as well, however there is no evidence on the extent to which families and the women themselves take advantage of this option to give women control (Runger 2006; CARE 2005; CARE 2004a; CARE 2004b; OXFAM 2004; Wily and Hammond 2001).

On the possibility of women owing or accessing lands through gifts, Quisumbing, Payongayong et al. (2004) emphasize that women's land rights have been strengthened rather than weakened over time. Gifts have recently emerged as an important way to transfer land from men to women, thereby reducing the social discrimination against women in land transfers. They explain that gifts are allowed by the extended family only if wives and children help the husband establish cocoa fields which require a lot of female labour for weeding. The increasing transfer of land to wives and daughters is consistent with the increasing demand for female labour as land use intensifies. Such long-term changes have been supported by the absence of strong parental discrimination against daughters. Inherent in individualization of tenure is a means of providing an incentive to invest in the land, particularly by women. But in cases where women's labour is less important for cash cropping, individualization might still decrease women's control over land (Quisumbing, Payongayong et al. 2004).

The Intestate Succession Law also seeks to offer more protection to women than customary law. Meanwhile ability of women to enforce their inheritance rights under the Intestate Succession Law has been hampered by factors such as high levels of illiteracy and ignorance of the law, high cost of enforcement of the law, interference by extended family, fear of extended family and limitations in respect of access to justice (Runger, 2006). Quisumbing and Otsuka (2001) therefore propose that efforts to strengthen women's land rights through legal reform must go hand in hand with education of women which will enable them to assert and defend their rights.

Women could also access or own land by purchasing. No law prevents them from doing that. But it is obvious that probably due to limited income levels they may not have adequate resources to purchase land. Runger (2006) remarks that women's weak

economic and social position tends to hinder their independent access to private freehold land. Borrás (200a) has identified 3 types of poverty: asset-based (ability to access and control productive assets), institutional-based (norms and law determining participation) and inherited poverty (born into poverty). He argues that institutional-based poverty is reinforced by asset-based poverty. Women may not have productive assets to produce for which reason they might be poor and the institutional arrangement may deny them the right and control on the basis of their gender. If Women are allocated marginal lands that are no longer required by men to produce cash crops and compound fertile farms are allocated to men (probably because they could till the thick virgin forest), then it could be inferred that low level of productivity of women is directly linked to an institutional land allocation system that is biased against women (DFID, 2000; Borrás, 2006a; CARE 2004c).

Ghana has launched a fifteen-year Land Administration Project (LAP) in October 2003 to provide high quality, reliable and efficient land information and management services through teamwork and modern technology to customers and stakeholders. Basically the underlying principle of the project is to establish a highly responsive Land Administration System which is fair, transparent, cost-effective, efficient, and client-centered. Among its activities include titling and registration of land which could result in the secondary rights of women being swallowed by the broader categories recognised by the law. Secondary rights of women include rights to collect fruits, fuel wood and other forest products which may be ignored in the process of establishing a system for registration. Thus all the multiple rights to the use of or access to land may not be recognised by formal legislation on registration. Customary land owners could therefore be assisted under LAP to develop acceptable forms of documentation for simple land transactions to ensure greater security of tenure for vulnerable groups in

the communities including women (Ghana 2004; Karikari 2006; Runger 2006).

Migrants/Settlers/Tenants

A migrant or settler is a non-subject of a clan, tribe, skin or stool. Statistics show that 52% of the adult population in Ghana are migrants. Across localities, the proportion of migrants in rural forest is slightly larger (60%) than in other urban and rural localities with the rates for males and females being almost identical. In a further break down, two-thirds (67%) of all migrants stay in rural areas, less than a tenth (7.8%) stay in Accra and the rest (about a quarter) stay in other urban areas (GLSS 4, 2000). Considering that this high percentage (52%) of Ghanaians are migrants in both urban and rural areas and agriculture is a predominant occupation, there will obviously be a high demand for land by the migrants. Looking at the land tenure system in the country it becomes very difficult for poor non-indigenes to access land for agricultural and even residential purposes. Such people who wish to acquire land must first seek the permission of a Chief to settle in his area. If permission is granted, the stranger may then contact any landholder, or most frequently the family he may be residing with for land on a contractual basis.

Generally, migrants access land either through hiring, share cropping or purchase which have implications for the poor. In areas where land is sold or leased, the ability to pay limits the entry by the poor migrant. This make some settler farmers go into share cropping contract where they use 1/3 of their produce to pay land rent. This share cropping system is a disincentive to farming. A system that allows the land owner to take 1/3 of the produce without making any other input into the production process can permanently render the share cropper poor. Again though non-community members or settler farmers have reasonably guaranteed access to land for agricultural use where land is reasonably available, they are subject to restrictions such as change of use, especially from farming to building, loans to third parties, exchanges involving

monetary rewards and bequests. In some cases, the longer a settler stays in the community, however, the more he or she is viewed as a community member and the less restrictions that may be imposed on his/her agricultural land use rights (Kasanga and Kotey 2001, Borras (2006a).

For an agrarian nation like Ghana, the interests and rights of small-scale farmers, vulnerable groups and settler farmers must be adequately addressed. Poverty reduction begins with giving voice to the poor, the vulnerable and ensuring that the powers recognize and address the needs of all stakeholders. The participation of all people in all dialogues on land should enable society to confront customary laws and take on board the needs of settler farmers to come out with strategies to make land allocation and control more equitable and easily accessible.

Youth

The Ghanaian population in general is quite young, about 5 out of every 10 persons are less than 20 years of age and about 69% of the population is under 30 years of age. Unemployment is very high among the youth (15-24). It is more than twice that of the 25-44 age group and more than three times that of the older age group, 45-64 (GLSS 4 2000:33). The youth in agriculture is a small percentage. Being an agrarian country with so much potential in agriculture, the youth need to be attracted to the farming enterprise. Meanwhile the way land is being managed does not give any future to the younger generation.

Land experts have observed that young men and women are finding customary rights to a share of the communal resource unrewarded or at least a good deal more costly to secure from their elders. Though customary land tenure arrangements are socially negotiated it is sometimes abused by the custodians. Either they exclude some members of their constituents from having access to the land most of whom include the youth or they may mortgage or sell the land

for individual gains. Chiefs are coming under pressure to sell 'communities land' without consulting the indigenes who own customary usufruct freehold. Even fathers may be unwilling to allocate a share of land to their sons where they may gain an income from leasing the land to tenants. This often results in tension and conflict between the elders/family heads/chiefs and the youth who attempt to prevent their elders/chiefs/family heads and other constituents who are custodians of the land from selling. In succession, nephews who in the past could expect land may now compete with their cousins. An option is for young men in particular to travel to find land to rent or for sharecropping but this presents costs implications which defeat those from poor families. Local communities will have to restructure their norms to ensure fair availability in land for new generations (Wily and Hammond, 2001; Toulmin and Pepper, 2000).

Feder (2000) argues that although land markets may allow those who are productive but have no land to have access to land, and facilitates the use of land as collateral in credit markets, renting of land will be in a better interest of the younger generation and the poor than outright sale (to the rich). If rented, at least the youth or children will grow to inherit the property. Land policies need to ensure that younger population gain new livelihood opportunities and that their rights are protected. Again policies on land need to be considered in the wider context of the younger generation's productivity and livelihood, provision of services (health, education, advice, technologies) and access to markets.

It could also be argued that a land administrative arrangement that allows investors to lease lands for production will ensure that communities and the next generations do not lose their lands for ever. This is in line with the fundamental value underlying land in all communities in Ghana, i.e. land belongs to the dead (ancestors), the living and the unborn.

People Living with HIV/AIDS (PLWHAs)

HIV/AIDS pandemic presents some land related challenges to both the infected and affected which will need consideration in land policies, administration and reforms. HIV/AIDS can directly hinder access to land and sideline already poor families. There is a tendency for those living with HIV/AIDS to be excluded from land programmes due to the effects of already existing illness, and/or for them to lose recently acquired land due to illness. Given that at least half of today's 15 year olds are likely to contract HIV, the future impacts are grim. For the infected people who do not yet have any land, a perceived lack of ability to use it properly could easily lead to exclusion of the worst affected families from land reform processes. Food security of the nation could also be at stake because it is not clear that households in which members suffer from debilitating diseases can make effective use of their land. Household members may well choose to take jobs for quick money instead. For those who do have access, declining skills and labour, along with depletion of financial and reproductive assets could undermine their ability to make use of natural resources. If a family lacks the labour to make use of its own land, and also lacks cash and other resources to hire skills and labour, it may resort to selling or renting out the land.

HIV/AIDS-infected and affected people are, and will increasingly be, a major part of society and the issues of concern to them are becoming ever more central to poverty reduction. Consideration of these issues must be built into land reform processes from the beginning. A family affected by HIV/AIDS is frequently impoverished. Once the skills base, financial and physical assets are depleted, it can be extraordinarily difficult to re-establish them. Even if the family retains its land, options for using it productively can be severely reduced (ECA 2004).

The debate on land reform for poverty reduction assumes that land is a scarce resource which can be put to productive uses. When HIV/AIDS interferes with a

family's ability to access and use land, this assumption is challenged and it becomes less likely that land reform processes will be as helpful in poverty reduction as has been envisaged. If a land reform process simply transfers access to families in which everyone is relatively healthy and includes no efforts to help people facing illness or help families of those who later become chronically ill to retain and make use of their land, then the process is not seriously contributing to long-term poverty alleviation hence the need to target PLWHAs and other people with critical health problems in all land-related interventions.

The Urban Poor

General demographic growth, increasing land prices, scarcity of land for urban agriculture and limited accommodation are some of the challenges that urbanization presents. Urbanisation has also brought about landlessness, homelessness and rising unemployment. Developments in the urban communities have created increased vulnerability for the inhabitants of such areas, especially the poor. In Accra, the capital city of Ghana, for instance the twin pressures of urbanisation and a fast growing population have wreaked havoc on land relations and land management. The population of Accra has risen from 517,415 in 1970 to 956,157 in 1984. It is now estimated at between 2,500,000 and 4,000,000 (2000). This has imposed a heavy burden on the land delivery system, bringing land disputes, multiple sales, uncertainty in land transactions, insecurity in land titles and a sprawling unplanned city (Kasanga and Kotey 2001). If the challenges that is being presented by urbanisation to the poor land users is not checked, urban agriculture and housing for the poor will become very critical. It is estimated that about 2,740,000 households in Ghana own or operate a farm or keep livestock. Thus around a third (32%) in urban areas has some involvement in agricultural activities (GLSS 4 2000).

The pressures arising from urbanisation have resulted in changes in land and

property relations in such areas, with communal heads, chiefs and family heads now tending to consider themselves more as landlords than trustees of land for the benefit of the entire community. Both the customary and state land tenure institutions operate mainly to benefit a minority, to the disadvantage of the poor majority. Poverty has resulted in distress sales of land in some communities, especially agricultural land, for purposes of residential development. This is a common phenomenon in all peri-urban and urban communities, and is creeping into some rural communities with negative consequences for agricultural land availability in the future. These lands are being bought by the rich at the expense of the poor. This puts peri-urban agriculture that provides livelihood for the urban poor under threat. In theory, anyone may buy a plot. However it has been ascertained that because indigenes could not be charged as much as strangers, Chiefs tend to be reluctant to sell to them. The picture which emerges is one of rapid loss of land from agriculture, mainly for housing and speculative purposes. This could be a recipe for food insecurity and ultimate disaster (Runger 2006; BBC 2006).

In their paper on *An Economic Assessment of the Institutions of Land Use Planning in the Cities of Sub-Saharan Africa*, Egbu, Antwi et al (2006) sought to examine the overall economic impact of government regulated land use planning in sub-Saharan Africa. The paper observes that though the poor are not represented on land negotiation tables, there are *direct* and *indirect* effects of regulations on the urban land market and the cost of development which affects them. Land use regulations affect the urban land market when the cost of development or construction in the cities of Africa is directly increased. This include increase in land costs, zoning, density controls, procedures for obtaining land development rights, plot preparation which bring about costs in sub-division requirements on water, waste water and sewage systems, administrative and delay costs.

The cost is then passed on to consumers in the form of higher prices for house renting and purchasing. The increased cost in land planning could also contribute to informal, illegal, unplanned and unauthorized developments found across the cities. It is stated in the study that the illegal sector is now the dominant sector of the urban land market in Africa. It is estimated that in Tanzania, 50 to 80% of the country's urban population live in informal settlements, and that in Dar es Salaam, over 70% of the estimated 2.4 million inhabitants live in such settlements. The paper recommends that it should be the role of government to protect the public from harm (Egbu, Antwi et al. 2006;).

Considering this effect of urbanisation on access to land by the poor, systems will have to be set up to provide affordable houses and agricultural estates for the poor. It is also a challenge for civil society organizations and development agencies that are involved in land reforms to go beyond the struggles for land access to incorporate other struggles to gain, and initiatives to build, the other capital assets important to the urban poor. Another challenge is to create the conditions necessary for progressive coalitions between reformers within governments and autonomous civil society organizations to emerge and expand. There should be initiatives for building autonomous spaces for civil society and progressive interface between the CSOs and (inter)governmental agencies.

Most urban poor households require new skills and technology to pursue livelihood diversification. CSOs could support by increasing their access to the desired variables of information, technology and technical skills.

Interview of Civil Society Organisations

In recognition of the effects of issues on land on the vulnerable in society, civil society organisations have been engaged in several activities to address such issues. An

interview was therefore conducted to find out their views on the situation and possible remedy. Civil society organisations are defined to include development workers engaged in land-related activities, religious bodies, researchers and other stakeholders/interest parties. Borras (2006a) explains that Civil Society Organisations (CSOs) can be highly heterogeneous, based on constituency, ideology, strategy and level of operation, and include poor people's organizations (POs), intermediary NGOs, and academic and research institutions. There were over 23 CSOs that had been identified to be interested in land. Generally their activities centered on research, advocacy, arbitration and capacity building.

In the interview, respondents highlighted some of the land related issues that affect the women, migrants, youth and the urban poor. In accessing land for farming, it was shared that at times conflicts emerge as to what to produce.

The issue of limited access to land for women was seen to be caused by societal norm. There are norms especially on Krobo land in the Eastern Region of Ghana that prevent women from engaging in farming and for that matter securing land. For instance it is a norm that a woman should not touch the land with a hoe which is the key tool used for farming in that area. It implies that it is a taboo for a woman to till the land. Being poor, the women do not have enough resources to hire labour either. Women therefore mainly engage in harvesting of the crops.

While large scale settler-farmers work hard to produce what is relevant to the economy, indigenes prefer to produce food crop for family consumption. This results in competition over land for cash or food cropping between indigenes and settlers farmers. Paying a third of farm products for sharecropping (*abusa* policy) was also found to be an unprogressive tax system. No such tax system can be found in any public sector in the country. Owners are just taking too much from the tenants. Considering the

resources that go into the cultivation of the land it becomes too expensive to pay a third of the proceeds as a land fee.

It came up that rapid urbanization has resulted in expansion of the cities without any plan for urban housing for the poor. Some of the people who have migrated to the cities sleep on the streets, in front of stores, and any available space in the night. The poor do not have enough money to hire a convenient place or build a house so they are forced to create shelters at illegal places and squat in it, stay in uncompleted houses or sleep at any available place. The situation is even worse when it comes to urban agriculture. Custodians for the customary lands find more incentive in selling land in urban and peri-urban communities than giving it out for share cropping. This is particularly so in Accra and neighboring communities.

Considering the situation of poor land users in the country, respondents made the following proposals to improve the existing land tenure and administration system:

- § Strategies be adopted to provide shelter for the poor in urban areas.
- § Land be allocated for productive purposes even in the urban areas to promote urban agriculture
- § Policies be developed for intensification of agriculture and increase the productivity of the land
- § Rethink and train the youth to equip them with the requisite skills and resources and to build in them the desire/urge to engage in agriculture. Preparation to generate the interest of the youth to engage in agriculture will help avoid a previous situation where some group of youth in the northern part of the country were provided tractors for farming but sold/hired it out and migrated to the cities to do petty trading.
- § Ensure availability of land by establishing land banks. The State to demarcate large portions of land for plantations or cash cropping and develop (plough) it and distribute

- among women, youth or migrants who show interest in the agricultural profession.
- § Develop agricultural estates close to urban communities to directly employ women and youth and also to promote urban agriculture. By this approach people who are attracted to the cities as a result of its infrastructural advantage could conveniently stay around the city and undertake their agricultural ventures. Kasoa/Weija planes and the Dodowa stretch were mentioned to be ideal for such purposes.
 - § Provide incentives (attractive packages and security measures) for owners to release land for agricultural estates.
 - § Create a forum for poor land users and other interest parties to meet and deliberate on issues by forming associations and networks.
 - § Check and address the concept of one person, the custodian (the chief/lineage/family head) having sole control over land. Risky when not used in communal interest.
 - § LAP to succeed if the owners of the land are part of the process
 - § LAP to ensure that poor people are not deprived of land. Put systems in place to ease access.
 - § Go for lessons from those (other countries) that have made it.

These are useful suggestions for improving the land situation for women, the youth, migrants and the urban poor.

CONCLUSION AND RECOMMENDATIONS

The study has revealed that issues of land have implications for women, migrants, youth, the urban poor and PLWHAs.

On the issue of *women* and land it was found that land allocation is a predominantly male affair. Women, who are divorced, widowed, separated, or have no male children with their husbands appear the worst hit in terms of access to

agricultural land resources. Family and marital relationships provides access to land to women. Gifts and inheritance (in the absence of a male heir) is also creating opportunities for women's ownership of land. Factors such as high levels of illiteracy and ignorance of the law, high cost of enforcement of the law, interference by extended family, fear of extended family and limitations in respect of access to justice still impedes women's control over land.

Compared to land title registration which gives complete ownership of land to an individual, customary land registration could hold promise for the poor if effectively implemented. Customary land owners could probably be assisted under LAP to develop acceptable forms of documentation for simple land transactions to ensure greater security of tenure for vulnerable groups in the communities including women. Efforts to strengthen women's land rights through legal reform must go hand in hand with education of women which will enable them to assert and defend their rights.

Migrants/settler farmers form a larger portion of the Ghanaian population. They become confronted with several restrictions when accessing land for agricultural purposes. Involving them in land reform consultations will help cater for their interest.

The *Youth* are finding customary rights to a share of the communal resource unrewarded or at least a good deal more costly to secure from their elders. Fathers may be unwilling to allocate a share of land to their sons where they may gain an income from leasing the land to tenants which often results in tension and conflict between the elders/family heads/chiefs and the youth who attempt to prevent their elders/chiefs/family heads and other constituents who are custodians of the land from selling. Local communities will have to restructure their norms to ensure fair availability in land for new generations. Though land markets may allow those who are productive but have no land to have access to land, and facilitates the use of land as collateral in credit markets, renting

of land has the potential of providing land for the poor than the outright purchase because of its low transaction cost. Land administrative arrangement that allows investors to lease lands for production will ensure that communities and the next generations do not lose their lands for ever.

HIV/AIDS could directly hinder access to land and sideline already poor families. It could also put the food security of the nation at risk. There is a tendency for those living with HIV/AIDS to be excluded from land reform programmes due to the effects of already existing illness, and/or for them to lose recently acquired land due to illness. Consideration of these issues must be built into land reform processes.

Urbanization with its related need for increased residential and infrastructural developments has invaded land used for urban agriculture. With the high demand for urban land and the high rate of exchange, Chiefs and family heads prefer to sell the land even to strangers than indigenes. This has brought about landlessness, homelessness and rising unemployment in urban and peri-urban communities. It will be necessary to demarcate some portions of land for urban agriculture. Setting up agricultural estates close to urban and peri-urban communities like the Weija Planes and Dodowa stretch will promote urban agriculture.

The role of Adult Education in this process cannot be overlooked either. Adult education could simply be explained as any form of education given to adults whether formal, informal or non-formal. Society is constantly transforming, new practices emerge that call for development of the human resource for nation building. Adult education has been seen as a way of building the capacity of the adult population by constantly providing increased access to information. Adult education also shares the philosophy of improving the situation of the marginalized in society. This could be through training, mass information sharing and provision of all forms support that will contribute to the enhancement or empowerment of the individual. The issues around land and the marginalized in society implies that the capacity of the adult population need to be built to be able to assess existing land systems and make inputs.

With the support of Adult Education agencies and institutions, the marginalized adult population could be empowered through mass education, provision of capital, agricultural incentives and other productive resources to effectively utilize their lands. They could also be informed about the existing land administration systems to be able to inform land policy reforms. The bottom line to widening effective access to land for the marginalized in society is keeping them informed of existing land policies, emerging policy reforms and land.

administration process. By so doing the adult population will be fully equipped to make the best of existing land systems.

REFERENCES