Women’s Participation in Land and Natural Resource Governance:

Key Debates

A number of scholars have noted that although the issue of gender equality in access to and control over land and other natural resources began to receive attention in the 1970s, it wasn’t until the 1990s that the issue began to receive sustained attention.¹ Bina Agarwal’s influential text, *A Field of One’s Own: Gender and Land Rights in South Asia*, was published in 1994, and was followed by the development of literature on gender and land rights in a number of geographic contexts, including Latin America and Africa.

Since that time, there has been a significant increase in both academic scholarship and advocacy around women’s rights to natural resources, and their participation in natural resource governance, in many parts of the world. However scholars of the Pacific have devoted relatively little attention to questions of gender and natural resource governance (particularly in relation to land). Numerous studies of natural resource tenure in Melanesia have focused on the ways in which transformations in customary tenure have been linked to processes of social differentiation, but the gendered aspects of these processes have received very little attention. The lack of scholarly work on gender and natural resource governance in the Pacific is somewhat surprising, since the 1986 publication, *Land Rights of Pacific Women*, written by Pacific Islander women, was one of the earliest volumes on the subject anywhere in the world. The lack of sustained and detailed research in this area means that policy, programming and advocacy is often based upon assumptions, rather than empirical evidence of gender differences.

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in access to and control over land, and what does and doesn't "work" in terms of improving women's participation in natural resource governance.

The purpose of this background note is to identify some of the key sources of debate in the literature on gender and natural resource tenure and their implications for the workshop. As the literature on gender and natural resource governance has developed, there have been significant (and sometimes heated) debates about a range of conceptual and normative issues. These include three interlocking debates, which are explored further below:

A. Debates about why women's rights to natural resources matter;
B. Debates about the ways in which men's and women's interests in natural resources should be understood and characterized;
C. Debates about the ways in which women's access to and control over natural resources might be strengthened or "secured”.

A. Why women's rights to natural resources matter

Women's access to natural resources was included in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which includes specific clauses on the equal treatment of women in agrarian reforms, and equal treatment of men and women in the ownership, management and disposition (through inheritance or transfer) of property.

While gender equality in natural resources rights are accepted as a matter of international law, there are differences of opinion as to why women's rights to natural resources actually matter, including how women's ownership and control over property relates to their economic wellbeing and social empowerment.

In A Field of One's Own, Bina Agarwal, an economist, set out four key arguments for promoting women's rights to land: to enhance the welfare of women and their dependents and reduce their risk of poverty and destitution; to improve economic efficiency; as both a means and an ends to improve gender equality; and to empower women to challenge and eliminate gender inequality. Agarwal's first two reasons are the ones that have received the most attention from other researchers:

- **Welfare**: some scholars argue that increasing women's control over assets has social and economic benefits not only for women, but for their dependents and the broader community. There is some evidence that men and women spend money differently,
with women more likely than men to spend money on things like school fees, children’s clothing, and health care, which in turn influences education and health outcomes.\(^3\)

- **Economic efficiency:** some researchers argue that improving women’s participation in land and natural resource governance leads to higher productivity and greater economic efficiency in the use of those resources. For example, there is evidence showing that addressing lower levels of inputs and advice to women from agricultural extension services significantly increases yields from women’s farms and raise total agricultural output in general.\(^4\)

Some researchers also argue that the increased involvement of women in land and natural resource government contributes to *conflict mitigation*, and reduces the chances of conflict in both the household and broader community. However other scholars, such as Cecile Jackson, have pointed out that increasing women’s participation in natural resource governance might actually lead to *increased* risk of conflict.\(^5\) For example, if donors or non-government organisations encourage greater inclusion of women, this may lead to arguments within a village, or increased domestic violence within the household.

Ambreena Manji, who is also an economist, has questioned the kind of approach advocated by Agarwal. She argues that women’s access to productive resources is not only important to women’s material wellbeing, but crucial to their subjectivities - for example how they perceive and experience the world.\(^6\) Cecile Jackson critiques Agarwal on a similar basis, and argues that it is important to pay attention to female gender identities and femininities, and to male gender identities and masculinities.\(^7\) For example, Alice Pollard refers to the link between gender identities and gardens in ‘Are ‘Are in Solomon Islands. She explains that “if a woman has a large and productive garden, she will be identified as *keni putinitae*, industrious and capable; on the other hand, if her garden is small and unproductive she will be identified as lazy and ignorant, even a thief.”\(^8\) This suggests that a woman’s garden doesn’t just affect her livelihood security, but how she sees herself.


\(^4\) Ibid.


\(^6\) Ambreena Manji “‘Her name is Kumundage’: Rethinking Women and Property among the Haya of Tanzania” (2000) 70 *Africa* 482-500.


These scholars agree that access to land is tied in complex ways to women's economic, social and political position within society, but they disagree about the ways in which gender inequality in ownership and control over property contributes to broader gender inequalities. These disagreements are also linked to debates about the ways in which men's and women's interests in natural resources should be understood, analysed and characterized, which are discussed further below.

**B. Conceptualisation of women's interests in natural resources**

A key difference of opinion in the literature occurs between those scholars who view rights to natural resources as being hierarchical and gendered; and those who perceive natural resources as being governed by "fluid" regimes with a range of overlapping claims.

These conceptual differences also give rise to different analytical approaches:

- I refer to the first set of approaches as "entitlement approaches", because they focus on identifying and analyzing the content of the ideologies and norms within legal systems (whether customary, religious or state-based).
- I refer to the second set of approaches as "process-oriented approaches", because they tend to emphasise the importance of case studies of the processes of negotiating and contesting access to and control over land.

**Entitlement approaches**

Scholars adopting an entitlement approach have often sought to identify and map out the laws, norms and ideologies affecting women's rights to land. These scholars have often drawn attention to issues such as descent ideologies, and the transmission of property through inheritance. The emphasis on descent ideologies has arisen largely from the belief that women in matrilineal societies occupy a stronger position vis-à-vis men than do women in patrilineal societies. There is also a debate (particularly among anthropologists) about whether matrilineal systems are being "eroded" by processes such as colonialism, modernization, urbanization, and capitalism.

Scholars adopting an entitlement approach have also attempted to identify the different kinds of rights that men and women have to land and other resources. These scholars tend to see the overlapping claims in land as comprising a "bundle of rights" that are hierarchically ordered and gendered, with rights of use being "secondary" to rights of ownership and control. These

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9 These approaches are often influenced – whether explicitly or implicitly - by Amartya Sen's entitlement approach.
researchers would note that since it is generally men who are active in decision-making, while women simply “use” the land, men’s rights are stronger and superior to those of women.

These scholars have also drawn attention to the fact that the land reform schemes implemented during both the colonial and post-independence periods were usually gender-blind and based on assumptions that not only overlooked, but actually reinforced gender inequality in relation to land. For example, in many countries land reform programs were undertaken in a way that meant that male household heads were issued with titles, while the rights held by other members of the household or family were ignored.

**Process-oriented approaches**

While entitlement approaches tend to focus on identifying the rules governing land relations, process-oriented approaches emphasise the practice of land relations. These scholars often come from disciplines like anthropology or geography, and focus on understanding how people negotiate access to land in particular places, and underlying processes of social change. These scholars usually perceive natural resources as governed by fluid regimes rather than clear “rules”. They often demonstrate that land and other resources may be subject to overlapping forms of use, and accessed simultaneously by a variety of people.

Process-oriented approaches shift the analytical emphasis for research examining the links between gender and natural resources in a number of important ways:

1. **Process-oriented approaches shift the starting point for analysis from “law/norms/rules in the books” to “law/norms/rules in action”**.

Process-oriented scholars emphasise the importance of local level studies of the actual practice of tenure systems. This contrasts with the emphasis of entitlement approaches, which tends to focus on “law in the books” (or what people say the norms are), rather than what happens in practice.

Studies of natural resource tenure at the local level often reveal that the assumptions made by entitlement approaches are unable to explain what actually happens in practice at the local level. For example, while entitlement approaches have often paid a lot of attention to descent systems, these might not matter at all. Women in patrilineal systems and women in matrilineal...

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This shift has much in common with broader debates about gender and development, in particular the shifts from ‘Women in Development’ (WID) to ‘Women and Development’ (WAD) and ‘Gender and Development’ (GAD): see in particular Dianne Rocheleau and David Edmunds, “Women, Men and Trees: Gender, Power and Property in Forest and Agrarian Landscapes” (1997) 25 World Development 1351; and Cecile Jackson “Gender Analysis of Land: Beyond Land Rights for Women” (2003) 3 Journal of Agrarian Change 453-480.
systems might have similar experiences; and men in matrilineal systems might have more rights to land than women in patrilineal systems.

(2) **Process-oriented approaches shift the focus of analysis from the content of a set of interests, to the processes by which claims are made and secured.**

Entitlement approaches often attempt to identify the set of "rights" that a particular individual or group may have. By contrast, process-oriented scholars focus on examining the ways in which people actually make claims to natural resources, and the ways in which those claims are challenged by other people, and accepted or rejected by institutions (such as government departments).

Local level studies often demonstrate that tenure systems, in particular customary tenure, are not static. Instead, they are often characterized by contestation and debate, change over time, and a high degree of complexity.

Local level studies also often demonstrate that "conventional" (meaning Western and liberal) approaches to property, are inadequate to describe the variety of ways in which people access resources under customary systems. Process-oriented approaches often focus on "natural resources" rather than just "land", and demonstrate that rights to land cannot be examined in isolation from other natural resource rights.

Importantly, while entitlement approaches tend to focus on "women" as a kind of category, process-oriented approaches pay closer attention to social identities and relations. This relates back to debates about how women's rights to natural resources actually matter: scholars like Ambreena Manji or Cecile Jackson would say that rights to land are tied up with the construction and performance of social identities more broadly. For example in the Pacific, the reputations of men and women might be tied up with the ways in which they tend their gardens; and a "chief" or "big man" is usually someone who has some kind of authority over land.

(3) **Process-oriented approaches have a different view of the meaning and role of "legal pluralism", and the relationship between "the state" and "customary law"**

Scholars adopting a process-oriented approach differ from scholars adopting an entitlement approach in terms of their perceptions of the meaning and role of "legal pluralism" and "the state". This issue is explored further below.

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C. Securing women's rights to natural resources

The different conceptual approaches outlined above also give rise to differences in normative position, and differences in the policy prescriptions advocated.

Entitlement approaches

As noted above, entitlement approaches emphasise the importance of women’s ownership of productive resources, and tend to emphasise the ways in which laws, norms and ideologies affect women’s control over resources, particularly in relation to inheritance. They often trace gender inequalities to customary rules of inheritance and the division of labour, as well as colonialism, capitalism, and neocolonialism. These scholars note that even when the state legal system provides women with the same rights as men, very few women have effective ownership and control over resources. They note that there is a gap between law and practice, and that the existence of gender-equitable laws does not mean that they will be followed in practice.

These scholars have different opinions as to the capacity of the state to bring about change and to “close the gap” between law and practice, and they are often very critical of the ways in which state legal systems have operated to the detriment of women (for example through land titling programs). However they still tend to adopt a rights-based approach and emphasise the role of the state, advocating various kinds of state intervention to improve gender equality. Put another way, they are critical of the state but ultimately conclude that the solution to gender inequality is gender-sensitive law reform.

Since the 1990s, a growing number of scholars have argued that land titling that is gender equitable can provide a solution to inequality in access to resources. For example Deere and Léon argue that the minimum that must be done to secure women’s rights to land is to issue joint titles to couples. However they go further, agreeing with Agarwal that joint titles would still tie women to men, and arguing that “[t]here is little question but that independent land rights for all women should be the goal for feminists.”

While many scholars and women’s rights advocates have advocated state intervention to improve gender equality, there is great diversity within this broad position. Some advocates emphasise legislative reform, some emphasise better implementation of existing laws, and there

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is no agreement as to which areas of law should be reformed.\textsuperscript{15} There are also differences of opinion regarding the extent to which the law is effective in achieving social change, and the degree to which inequality in tenure systems is connected to broader gender inequalities.\textsuperscript{16}

Differences of opinion between scholars are also reflected in the policy positions of major policy-makers and donors. Aili Mari Tripp has highlighted two strands of gender analysis within the World Bank’s Africa Vice-Presidency. One strand supports human rights-based arguments and sees reform of state laws as the key to women’s empowerment, particularly by addressing discriminatory customary laws and practices. The other approach emphasizes that the capacity of the state to bring about change is limited, and that even when state intervention is effective, it has tended to undermine local systems, create rigidity in customary law, and leave women unprotected in both the state and customary legal systems.\textsuperscript{17}

Scholars adopting what I refer to as an “entitlement approach” therefore differ as to the extent to which they believe the state can bring about change. However their analytic focus often leads them to have greater confidence in the state than customary law.

\textit{Process-oriented scholars}

Process-oriented scholars generally start their analysis with the norms and processes by which claims to land are made and secured, and emphasise that people draw on a range of strategies for claiming and obtaining resources (including the law). These scholars also tend to understand the concept of “law” and “legal pluralism” somewhat differently to entitlement approaches. These scholars note that although the realms of state, customary and religious law might be theoretically separate, in practice people make claims to natural resources by drawing on a range of systems, often simultaneously.

While there is certainly no consensus, the emphasis on ambiguity and contestation leads many process-oriented scholars to be far more uncertain about the appropriate role for the state vis-à-vis customary law. Scholars adopting an entitlement approach often view the flexibility and adaptability of customary tenure systems as detrimental for women, and argue that state intervention is necessary to “secure” women’s rights. By contrast, process-oriented scholars often regard the coexistence of multiple legal orders, and the flexibility of customary tenure, in a


positive light: they see it as ensuring multiple avenues of access to land for women,\(^ {18}\) and point out that intervention by the state (particularly through land titling programs) has often had detrimental impacts for women.\(^ {18}\) However other scholars have concluded that the key issue is not whether to choose between customary law or state law, but rather how to draw on both in order to achieve gender equality.\(^ {20}\)

**Key points for discussion during the workshop/implications for the workshop**

- **Whether and how gender inequality in natural resource governance matters:** What evidence is there to support or challenge the arguments for promoting women’s rights to land and other natural resources? In particular, to what extent are arguments about welfare and economic efficiency relevant in the Pacific? Do these arguments about welfare and efficiency apply to all types of property in Melanesia?

- **Improving women’s participation in natural resource governance:** What factors enhance women’s involvement in land and natural resource governance? Is there evidence that points us to particular processes over others? How can they be supported, and who can support them? Examples to consider include: facilitating community support for women’s land rights\(^ {21}\), corporate social responsibility initiatives\(^ {22}\), improving and documenting evidence on gender gaps and innovations and impacts on LNRG\(^ {23}\), strengthening women’s collective agency/collective action\(^ {24}\), identifying gender champions\(^ {25}\), and work around legal and regulatory frameworks.\(^ {26}\)

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\(^{21}\) See, e.g. Knight, et. al. (2012). LANDESA's work on Community engagement projects in India and Uganda and Kenya.

\(^{22}\) See e.g. work by Deanna Kemp, Center for Social Responsibility in Mining, University of Queensland) – Corporate Social Responsibility and gender dimensions of agreement making processes around mining based on literature review and case studies from PNG, Australia (Weipa), Lao PDR, Ghana (Afaho)

\(^{23}\) See work by FAO on documenting the gender gap in agriculture; IFPRI on collecting gender and assets data in mixed methods evaluations.

\(^{24}\) See, e.g. Membup and Macintyre (2000); Faircheallag (2011); Agarwal (2010).

\(^{25}\) See e.g. Mennies (2012); Naupa (2010).

\(^{26}\) See e.g. Stege, et. al. (2010); Macintyre (2011).