

Chapter 23

Beneficial for women? Global trends in gender, land and titling

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Introduction

This chapter explores the impact of agricultural land titling for women. Land titling has taken place both in context of neoliberal policy-making and of growth of demands for gender equality. 'Neoliberal globalisation' is a complex phenomenon, with contradictory implications for the lives and livelihoods of many women. This is particularly so for rural women, who are disproportionately amongst the poorest sectors of many populations, often relying mainly or solely, on agriculture and petty trading to survive. In many societies, the question of land is thus crucial to women's lives, livelihoods and social standing (Agarwal, 1994; Mudege, 2008).

Globalisation's dominant aspect is arguably a deep economic restructuring, enacted via the spread of versions of capitalism which eschew social welfare state provision and increase social inequality (Harvey, 2012). This restructure also entails an increased emphasis on individualisation, which, in the context of 'reforms' of land tenure often takes the form of strengthening statutory land tenure for individuals, while simultaneously increasing pressures to dismantle common property regimes.

While in many cases a negative development for women's livelihoods, globalising trends can nevertheless have more positive outcomes, particularly within social movements (Keck and Sikkink, 1998). Transnational women's and feminist movements have used the technological and political opportunities provided by globalisation to organise, especially since the 1990s. Thus, in recent years, NGOs, women's movements and at times global bodies have attended to some of the inequalities faced by rural women, urging that agricultural land be titled jointly in both husbands' and wives' names, or else individually.

The background to such discussions is now well-explored. Women globally tend to have less direct access to land, or else poorer ownership rights where such legal entitlements apply. This is particularly marked in contexts of patrilineal kinship systems. Moreover, women's land is usually of lower quality than land owned by men (FAO, 2011). Even where kinship is bilateral, as in much of Europe and the Americas, women nonetheless still often experience inferior rights and access (Brandth, 2002; Varley, 2010; Jacobs, 2014a).

Spurred on in part through neoliberal global policy, the main recent international trend in land and agriculture has been the move towards privatisation and titling of land. This trend, however, does not necessarily affect men and women in the same ways. Where land is privatised and owned outright, women are significantly less likely to possess it formally (Doss *et al.*, 2014c; FAO, 2011). Where land is held communally, as in much of sub-Saharan Africa and among some indigenous peoples elsewhere, women's rights are usually mediated through a husband or father. Customarily in sub-Saharan Africa, wives do have the right to hold a small plot allocated for food crops, and this and its products should be at her disposal. Where a woman is divorced or single with children, she should have access to her father's lineage land to feed her family. However, in many patrilineal African systems¹, women's rights are usually contingent, even when customarily they should be secure. Budlender (2015) thus writes that the received wisdom concerning African land rights for women of different marriage statuses (i.e. married/single/widowed) is that they can usually access land but may lack rights of control over it. (Widows are meant to hold land in trust for sons, so do have rights of control, albeit temporarily.) Nevertheless, negotiation of such entitlements can be arduous, with the rights often insecure in practice (Thorley, 2015).

According to the FAO (2002), a distinction should be made between land use-rights, control over land and rights of transfer. Adding further nuance to the difference between ownership and control, Doss, Meinzen-Dick and Bomuhangi (2014) classify property rights as: access (the right to be on the land); withdrawal (the right to take something from the land, such as firewood or water); management (including cultivation); exclusion (the right to prevent use by others); and alienation (the right to lease, bequeath or sell the land). Using this schema, women may have rights of access or withdrawal, and sometimes management, but they are less likely to have rights to exclude others or to sell or bequeath land.

African customary systems do nevertheless usually acknowledge the rights of all lineage *members* (and sometimes their dependants, including wives) to access land for food cultivation (Kingwill, 2014; Thorley, 2015). Given current world trends of land 'grabbing',² this safeguard should not be taken for granted. Nonetheless, women are likely to lack full decision-making powers, to be poorer than men in their communities, and to enjoy only marginal control over land. They may also be subject to intimate violence when asserting rights (Daley, 2011; Jacobs, 2015).

With this background in mind, the remainder of this chapter explores some international trends concerning land, land tenure and gendered impacts. The discussion is divided into two main sections. The first outlines current trends in land titling led by global agencies, and focusses particularly on the significant role of World Bank gendered policies. The second section summarises selected recent research pertaining to the impacts of both joint and individual land titling. This is followed by a concluding discussion, and some brief recommendations on increasing the role of states in protecting women's land rights.

Land titling: background, institutions and debates

Land 'titling' (i.e. the formalisation of land tenure law and practice) forms an important aspect of the economic 'liberalisation' of economies generally, and the spread of capitalist relations into agriculture in particular. Titling is a type of formalisation that can give full or partial property rights to users, superceding customary tenure practices and thereby giving statutory law authority over property. Titling usually strengthens the new owner's rights, including the right to exclude others (Stein and Cunningham, 2015). Although titling often occurs in conjunction with privatisation of land rights, it does not always lead automatically to full privatisation. For instance, states can retain ownership while granting permits for use (often, these are long-term), and restricting rights to buy and sell (see below).

Attempts to formalise land tenure have taken place in sub-Saharan African countries (see e.g. Manji, 2006), but also in south and east Asia and within former state socialist societies (Speer, 2012; Jacobs, 2010). This process has been promoted by IFIs (International Financial Institutions), and particularly the World Bank, for some years. More recently, bilateral 'deals' involving tenure formalisation have been enacted by the G8 and other bodies (see below).

Rationales for titling

This thinking has been influenced especially by de Soto (2000), who saw formalised property rights as the main cause of Western economic growth and development. At least four main political and economic benefits of land titling have been put forward (Hall, 2013). Firstly, titling is meant to promote security by protecting land from predation or seizure by various social actors, including the state itself (Stein and Cunningham, 2015). Secondly, titling is thought to stimulate investment on farms, since cultivators have a greater stake with secure tenure. Thirdly, titling makes it possible to use land as collateral when seeking loans. Fourth and relatedly, titling makes land much easier to buy and sell, in theory raising its financial value. (Reflecting the deeply economic inflections of these arguments, improving women's rights is usually mentioned only as a secondary benefit of titling.) Such arguments

are emphasised in varying degrees by different proponents. Combined, however, they constitute a powerful discourse and central pillar of contemporary neoliberal development policy, which is claimed to prompt growth and reduce poverty (FAO, 2011; USAID, 2013). Yet, through this process the meaning of 'land reform' also changes from its original sense of state-backed redistribution of land - particularly to the poorest people (Jacobs, 2013) - to the individualisation of property rights and fundamental land law reorganisation.

The World Bank and gender issues

Since the 1980s, the World Bank has been one of the most significant organisations urging changes in land tenure and titling policy (see World Bank, 2008; 2009). Gill and Cutler (2014) term this development a 'world market revolution', i.e. a global project to 'liberalise' economies and to open them to investment. Nevertheless, alongside this economic agenda, the World Bank has also incorporated an explicit gender focus in recent years in its writings and policy briefs. One of the earliest mentions by a major global institution of improved rights for women as an outcome of titling appears in a World Bank Report (Deininger, 2003), while the 2000, 2001 and 2006 *World Development Reports* (WDRs) highlighted the close relationship between gender equality, economic growth and women's paid employment (Mahon, 2012; Elson, 2012; Razavi, 2012).

One rationale for concern over women's land rights might relate to the World Bank's less clearly-articulated ambition to help form better functioning and more egalitarian families, albeit solely *heterosexual* families (Bedford, 2009). For instance, although World Bank policies encourage men to engage more with housework and childcare, Bedford (2009) notes that this ignores other possibilities that would involve public funding, most notably nurseries. However, the main justification claimed for women's land rights has been instrumental. The FAO estimates that the inequality or 'gap' in rural women's access to land and other resources causes a 20-30% reduction in yields on woman-managed farms (FAO, 2011). It is argued by the World Bank and other organisations that granting women land titles will address this issue by prompting investment in agriculture, leading to improved farming practices (World Bank, FAO and IDAF, 2009; FAO, 2011). The World Bank termed such business-focussed approaches to women's control over agricultural (and other) land 'smart economics', claiming that it was capable of raising productivity, reducing poverty and improving family welfare simultaneously (World Bank, 2006b, cited in Wisborg, 2014; see Chant and Sweetman, 2012). The smart economics approach was taken up with reference to agriculture and gender in the 'Gender and Agriculture Sourcebook' (WB, FAO and IFAD, 2009) and particularly in the FAO's 2011 report on Women in Agriculture. Additionally, it has been acknowledged by the FAO (2011) that women are

more likely to use income for the benefit of households, and particularly children within those households.

The World Bank's *WDR 2012 Gender Equality and Development* report makes some advances on the, at times, simplistic claims of 'smart economics'. The *Global Social Policy* symposium which evaluated the contents of WDR 2012, thus welcomed this report's acknowledgment of the *intrinsic* as well as instrumental importance of gender equality. WDR 2012 also recognises that many initiatives continue to rely on women's unpaid labour, and highlights continued discrimination in family and property law, plus the need for greater investment in water and sanitation - without which legal reforms remain ambitious but impeded in practice (Razavi, 2012; Elson, 2012).

Despite serious gaps and a primarily instrumental approach to women's rights, the World Bank has at least paid some limited attention to gender equity. A new draft strategy paper covering 2016-23, for instance, offers a broader approach than WDR 2012, acknowledging the obstacles posed by women's unpaid labour (including caring work), their lack of sexual and reproductive rights, and gender-based violence (Bretton Woods *Observer*, 2016, p.6). However, although such policy shifts are welcome, much is left out; and most notably the role of the World Bank itself (Elson, 2012).

Extent of titling

Land titling is most likely to occur where land is becoming a scarce resource and where it attracts commercial interest, either from corporations or from the state and/or national elites. However, this is not a new programme. An early land titling project was enacted in Thailand from 1984 (tellingly, for the globalised nature of this phenomenon, with the help of an external organisation - the Australian aid agency). Reflecting the exponential nature of land titling, this project saw the number of title deeds issued increase from four million in 1984 to 13 million in 1998 (Hall, 2013, p. 120). Land titling has since gathered pace, however. By 1996, such projects were widespread, covering many countries and world regions.

In sub-Saharan Africa, the predominance of customary law means that titling has given rise to much discussion and opposition. The idea that land is an 'asset' rather than a place to dwell, earn a livelihood or cultivate food – not to mention often a site of identity rooted in ancestral or kinship ties - runs counter to many customary systems. Opposition to titling thus prompted, at least for a time, a grassroots reaffirmation that customary systems could be efficient in terms of production (Bruce and Migot-Adholla, 1994). There have also been moves to go further and codify customary law, although

this is not the dominant trend.³ Nonetheless, communal tenure is often seen as both a barrier to investment and a site of traditional values, making 'reform' a particularly fraught issue.

Despite the risks, pressures to title land in sub-Saharan Africa have increased in recent years. Not only IFIs but also state development agencies such as USAID, the G8, AusAID, and the German GTZ have promoted titling projects. Stein and Cunningham (2015) further note that, following the 2012 G8 summit, held at Camp David, President Obama's New Alliance for Food Security and Nutrition prompted the G8 member states to launch a number of African 'cooperation frameworks', which also included commitments to ease access for private corporations. Subsequently, and not by coincidence, the G8 focussed on strengthening property rights in Africa. Bilateral partnerships were then established in Senegal (with France), in South Sudan and Niger (with the EU), in Namibia (with Germany) and in Tanzania and Nigeria (with the UK's Department for International Development) (Stein and Cunningham, 2015, p.6).

The impact of titling differs, of course where land is already privatised. Customary arrangements often exist alongside formal legislation (Sikor and Lund, 2009), yet small farmers are likely to lack the legal documentation necessary to use such laws. Where communal land tenure does not obtain, and ownership is (as is often the case) held in informal arrangements, powerful individuals - who are more able to exploit the legal system - will often play key roles in regulating access (Hall, 2013; Wily, 2012; Wisborg, 2014). Hence, those with greater social power and capital are likely to prevail in land negotiations and disputes.

Pros and Cons of land titling for women

A great deal of literature has critiqued the potential impact of titling in general, and for women in particular. Three key strands of critique which emerge from this work will now be considered.

Different perspectives exist concerning the potential impacts of land titling for women in agrarian households. Land titling might empower women by securing their rights and livelihoods given that most rural women are poor and face serious discrimination within families and communities. Property holding may also enhance women's status within communities (Agarwal, 2003; USAID, 2013) leading to indirect, beneficial impacts on their lives. However, instances where titling has resulted in the security, investment and productivity envisaged by proponents, are probably most likely where land is already held privately.

Land titling is intended to encourage privatisation and the spread of capitalist relations in agriculture (see Mandel, 1968) and is often successful in doing so. Like other commercialisations, this process tends to benefit those who are better-off and therefore able to acquire more land, leaving the poor to face marginalisation, accompanied, often by loss of their land. Such losses particularly affect women, who are disproportionately poor. Moreover, such effects seem inherent to the process itself; poor landowners are encouraged to use their property as collateral for loans in order to increase productivity, yet if the borrower is unable to repay, the land is lost (Fortin, 2005).

Foreign land acquisitions have gained much attention. This is understandable, given that such acquisitions, or 'grabs', are reminiscent of colonial predations. However, many if not most acquisitions are by *local* actors, often linked with the state. This includes corporations, local elites and government agencies (Park, 2015). Be they local or global, however, those with more wealth and power are most likely to gain control over property of any kind, including land. This effect is exacerbated by the remoteness of many rural communities, plus the high costs of litigation and conflict resolution, both of which increase the advantages held by those with power and/or capital (Askew *et al.*, 2013). In particular, rural women who may need urgently to access litigation are unlikely, in most cases, to be able to do so.

A second critique of the gendered effects of land titling concerns loss of secondary rights. Although, in *most* societies women's property rights are often greatly inferior to men's, many women do have some 'secondary' claims on land through marriage or kinship links, or else through community membership. Nevertheless, commercialisation and redistributive land reforms have usually been based around an automatic assumption that husbands or fathers are 'household heads' who enjoy sole decision-making rights. Distributing titles or land based on this assumption has further reduced wives' power within households and over agriculture (Deere and León, 1987; Lastarria-Cornhiel, 1997; Jacobs, 1984, 2010). Titling can entail erasure of their secondary rights, as well as seasonal rights (Chimhowu and Woodhouse, 2006). Some attempts have been made to offset this effect. In Rwanda, for example, the Succession Law (1999) does presume common property ownership within marriage (Polyvarapu, 2011), while the Organic Land Law (2005) ensures that women's interests in land and agricultural decision making be respected. Still, Rwandan marriage law continues to consider men as household heads, undermining the egalitarian aspects of land law (Polyvarapu, 2011).

This problem also occurs in other parts of the world, since the formulation of laws, and their enactment in policy, often reflects male bias (Elson, 1995). In Madagascar, for instance, civil servants,

along with many rural people, assume a model of the male-headed 'unitary household' (Widman, 2015). A related phenomenon concerns contradictions between codified marriage laws and land laws. In Madagascar, marriage law assumes a partial common property regime. However, at present this customary contradicts land law. Widman (2015) thus argues that mandatory joint titling for couples would harmonise these two sets of laws.

A third stream of critique questions the ability of titling to ensure security. Some of the problematic assumptions of land titling are clearly political rather than to do with the workings of financialised capitalism *per se*. Most significantly, the beneficial outcomes of titling are predicated upon the existence of a state which is able to enforce laws and to make fair adjudications. However, the absence of such state capacity is one of the problems that land titling is meant to solve... (Hall, 2013; Ossome, 2014).

Recent research on gender and land titling

The above critiques point to useful directions for analysis. However, the exact impacts and results of policy changes require detailed empirical investigation. Hence, the chapter now turns to a discussion of several recent case studies.

Interest in, and research on, gender and land has greatly increased in recent years, with much of this material being sparked off by debates on land titling and its effects. An indication of the volume of recent research is given below. Google Scholar returns approximately 150 papers, articles, chapters, and reports on 'gender AND land' ⁴ published in 2014 alone. This represents an exponential increase over previous years. Part of the explanation for this upsurge is that research in this area has won some notable support from major global institutions, particularly the World Bank, the FAO and UN Women, as well as from aid agencies such as USAID, Norad and Danida. Research institutions, such as the IFPRI and the ICRW, plus NGOs such as Action Aid, Oxfam and Mokoro, have also contributed to the debate, often offering critical views. The global alliance the International Land Coalition (ILC), which is notable for its ability to combine activism and research, has taken up gender issues, including holding difficult discussions over gender relations within family farming.

However, despite this increased attention, detailed empirical studies of the impacts of land titling are fairly recent and are few. The next subsection provides an outline of such studies, particularly those which focus on gender. Although not a comprehensive review, this will provide a flavour of the key trends in current research. Some studies on this topic do not explore gendered relational processes

but do address linked issues. For instance, Newman *et al.* (2013) discuss effects of joint titling on productivity in Viet Nam: the study finds that there exist no detrimental effects that could counteract an 'equity' argument.

Customary law and 'traditional' beliefs

Many studies have emphasised the difficulty of obtaining women's land rights, particularly where customary law predominates. For instance, in post-genocide Rwanda, civil law has been used to attempt vigorously to promote equal access to land. Yet the persistence of customary law remains an impediment to this objective: since most disputes are brought to community courts, it is *customary* law that applies (Daley *et al.*, 2010). Similarly in Vanuatu, although women enjoy property rights under the Constitution, nevertheless customary law is primarily recognised as the basis for land ownership (Nagarajam and Parashar, 2013). This places the effective control of land with fathers and husbands. Less often, customary law may form the basis of more egalitarian gender relations and decision-making, as found in Wiig's (2015) study of highland Peru.

Discrimination against women within customary land and marriage law is often accompanied by social attitudes and beliefs that curtail their access to land and ability to farm. In Limpopo, South Africa, for example, despite women's widespread participation in farming, Murugani *et al.* (2014) find strong negative perceptions of women's agricultural capabilities. Furthermore, a number of studies report that wives who assert land rights are seen as disloyal, thereby threatening their marriage (see Tripp, 2004; Widman, 2015). Murugani *et al.* (2014) similarly found women emphasising the need to maintain 'harmonious' marital relationships in order to retain access to land. (See also Thorley, 2015, on the Acholi of northern Uganda.)

That the impact of customary attitudes and beliefs can be considerably stronger than measures introduced to equalise land access is illustrated by the case of Orissa, India. Doss *et al.* (2014c) found that very strong normative prohibitions against any public displays of female authority meant that formal land rights in Orissa had had little impact on women's ability to take decisions concerning farming. Thus, customary and traditional law, practice and norms may form a powerful barrier, even where more egalitarian laws and norms have been proposed or introduced.

Women hold less land

While women usually hold much less land than do men, this is not only the case where married women are customarily forbidden from holding land on their own accounts, but also where such

strictures do not apply. In Madagascar, according to the country's Land Certification database, 21% of plots are held by women and 0.5% are held jointly by couples (Widman, 2014, p.118). Less than 3% of plots acquired by couples were certified as 'joint' holdings. In Viet Nam, despite a strongly patrilineal culture, national laws since 2008 have attempted to provide for more equal gendered access to land. A largescale Vietnamese study of two sites, in the north and the south, indicated that most women still suffered disadvantage (albeit with geographical differences in this effect) (Alvarado *et al.*, 2015). In Viet Nam, land continues to be held by the state, with cultivators holding Land Use Rights Certificates (LURCs). In the southern province of Long An, only 1% of plots were registered in both of names of couples, whereas over 70% of plots were held by men and 25% of plots registered in women's names. In contrast, in the northern site, Hung Yen, 35% of plots were registered as belonging to couples. Men held 53% of the remainder while women held (alone or with other women) 9-10% of plots (Alvarado *et al.*, 2015, p.10). The study found, additionally, that the plots held by men were larger than those held by women or couples. Thus, rural women seeking rights usually begin from a disadvantaged base in terms of landholding.

Law and policy

A number of practical and legal obstacles may inhibit women's ability to make land claims, including lack of knowledge, male-biased laws, contradictions between sectors of law, and lack of implementation. Rural women, and particularly those who live in remote communities, may be unaware of changes in legislation. This can be the case even in a society with strong official reach, such as Viet Nam. Alvarado *et al.* (2015) thus found that fewer Vietnamese women than men knew how to access LURCs. In their sample of some 841 households, there was general understanding that women could inherit houses and land, and that land could not be alienated without a wife's consent. However, few people knew that widows should not lose land if they remarried, that husbands and wives were able to hold their own property or LURCs within marriage, or that childless women had the right to land and houses.

A further problem is that egalitarian laws may simply not be implemented. In Viet Nam, despite land laws enacted in 2003 and 2013, it remains commonplace for only the husband's name to appear on a LURC. Moreover, women almost never acquire LURCs or shares of joint property upon divorce (Alvarado *et al.*, 2015, p.12).

Gaining land

A third strand of discussion concerns how women gain rights to land where these are available. In at least some contexts married women may gain partial security within patrilineal customary systems,

so long as their marriages are successful according to traditional expectations. In Murugani *et al.*'s Limpopo study (2014), wives in marriages of longer duration and with a number of children felt more secure in terms of access to land. (See also Thorley, 2015; Jacobs and Kes, 2015). In many societies, however, maintaining 'harmonious' marriage relations often entails wives behaving compliantly, and avoiding appearing to be demanding. Such 'security' is clearly precarious.

In South Africa, a number of women have avoided the dilemmas of customary law within marriage by 'refusing' to wed, or at least considering this option. In the Limpopo study, 36% of women in one site and 12% in another felt that marriage weakened their claims to land and that they would have stronger rights remaining on their father's property (Murugani *et al.*, 2014, p.215). This echoes Claassens' (2013) research on the declining popularity of marriage among rural women in South Africa, in which marriage was reported by many participants to offer numerous risks and few advantages.

Examining the institutional arena rather than individual agency, the most usual way for women to gain, or to be granted, land rights, is 'from above' through mandatory legal or other changes enacted by a state. In China, for instance, land rights were granted to peasant women in 1950 following the 1949 Communist Revolution. Yet, elsewhere, such rights have remained remarkably uncommon until recently. (An exception is Peru, where policies mandated by the authoritarian state have provided women with much stronger claims to land (Wiig, 2015)).

In the absence of state implementation, in some instances NGOs have attempted to link joint land or property titling to their funding grants (Widman, 2015), albeit with variable success. In other cases, there have been efforts to refer to international human rights instruments, particularly the CEDAW. This was attempted in Vanuatu by rights activists. However, as Nagarajam and Parashar (2013, p.101) note, "most women's lives are lived in spaces that the CEDAW does not reach." The existence of women's movements can also be of importance. Women in Budlender's (2015) South African study thus felt that the reasons that single, divorced and widowed women were more able to access and control land in recent years was due to increasing "democracy" and "women's rights". Conversely, absence of progress in ensuring women's land rights is sometimes linked to lack of feminist movements (see Widman, 2015).

Individual vs. joint titling: three studies

Two studies compare the impacts of joint vs. individual titling. Doss *et al.* (2014c) compare the impacts of joint versus individual land titling in three different African countries- Mali, Malawi and Tanzania- finding that both joint and individual titling within couples had positive impacts in each case. However,

the effects for individual ownership were strongest, especially concerning wives' ability to make agricultural decisions.⁵ Individual landownership also gave women more influence over food consumption, cash crop farming and decisions regarding agricultural inputs and marketing, although somewhat less so over non-agricultural decisions (2014, p.13). Jacobs and Kes' (2015) study of couples in central Uganda and Kwa-Zulu Natal province, South Africa, produced more ambiguous data. Spouses often disagreed over the meaning of 'joint titling', with married women more likely to assert joint ownership than were their husbands. However, joint ownership *was* weakly associated⁶ with coupled women being able to make transactions over land and housing, while the existence of documentation which included a woman's name meant that husbands were more likely to recognise their wives' claims to land.

A third study, conducted by Wiig (2013) in highland Peru, was able to report a clearer and more positive impact of joint titling. Peru is unusual both because joint titling has been strictly enforced from above for two decades, and also because gender norms among the indigenous Quechua are relatively egalitarian. Wiig compared 'old' redistributive land reform dating from the 1960s with more recent titling reforms within the same area. Their survey of some 1280 households indicated a statically significant 'empowerment' effect of joint titling for wives; again, particularly regarding agricultural decision making.

Conclusion

Land remains a crucial subsistence resource for many. Several points emerge from the recent literature that provide gender-based contextualisation to this need. Firstly, where customary land law is adhered to, its influence is powerful, often due to patrilineal or otherwise male-dominated contexts. However, customary law does afford some relative security for women, particularly with regard to rights of access and food cultivation. Yet such customs are often breached (Murugani *et al.*, 2014), particularly outside marriage, but also within it, at times making it difficult for women to activate their traditional rights. Another theme arising from the literature is that laws governing marriage and land can be contradictory with regard to women's rights. Where marriage or land law accords legal dominance to a husband or father, it generally remains the case that this will prevail. Moreover, women's assertion of land rights within wedlock is often seen as a sign of 'disloyalty' or lack of commitment to the marriage.

Recent studies indicate that women within couples do receive *some* benefit from joint titling, for example improving household bargaining power. Individual titling or ownership gave coupled women clearer rights; although accessing such rights risked 'payback' in terms of how women were viewed by the family and/or community. More advantaged women, who faced fewer obstacles, or who were more able to weather community disapproval, were more likely to be able to assert ownership or titling claims. Most women still remain at the 'bottom' in terms of income and assets, even within wealthier countries. Aggravating this problem, enforcement of gender-beneficial law entails recourse to formal courts. Only an elite of women are likely to be able to access such litigation.

Nonetheless, there remains a preference for individual titling by many rural people (Hall, 2013), including women (Agarwal, 2003; Wanyeki, 2003; Jacobs, 2004b; Widman, 2015). This may indicate a general distrust amongst women, of the protections supposedly entailed in customary land tenure. Much of the current research notes that both joint and individual titling has some positive impact on women's lives -- for example improving household bargaining power. However, joint land titling is a recent development. The studies cited are not longitudinal, hence it is not currently possible to assess whether future market processes will lead to women losing land gained through titling. Is land titling a vehicle that can secure rights for women? Or alternatively, does it serve as a 'trojan horse' for further privatisation (Monsalve, 2006), so that a vehicle for democratisation of land rights may instead result in loss of the land itself through foreclosure and land sales?

How rural women's land rights fare within the context of the major contemporary trend of increasing state and corporate land acquisition has been the subject of some recent studies (see e.g. Daley, 2011; Behrmann *et al.*, 2012; Wisborg, 2014; Park, 2015). Although the evidence remains sparse, there is at least some worrying indication that, rather than raising women's rights to the level of men's rights, rural women and rural men are both in danger of losing their existing and secondary rights.

Despite some positive developments, the pressure to introduce land titling for women can often be traced back to the spreading influence of international financial institutions. These institutions, in pursuing neoliberal agendas, often undermine or destroy rural people's livelihoods (e.g. Bryceson, 2002; Gwynne and Kay, 2004; Li, 2010; see Jacobs, 2014a).

It is thus likely to be *states* which hold the key to improving women's land rights. The most effective and positive improvements in women's rights have previously occurred only through 'top-down' government action. Neoliberal policies undermine states, particularly in functions supporting health,

education, labour rights and social equality. And male-dominated local communities have rarely been quick to reform women's rights, either in terms of land, or more generally. State bodies, with the power to enforce transformation, may be able to mediate between the opposing forces of patriarchal forms of customary law and untrammelled market forces, neither of which are likely to be positive for land and decision-making rights. The role of women's rights organisations in this transformation will remain key, as governments will likely remain pressurised by both external financial action and internal cultural reaction.

As the case stands, significant obstacles remain. Much testimony indicates how difficult it is to put women's land rights into practice, even once gained on paper. For instance, even the relatively straightforward change of including a space for two people's signatures on contracts, thereby permitting easier joint titling, has proved notably intractable (Widman, 2015; Deere, 2003; Doss *et al.*, 2014a). There exists no simple solution to this, given the dual challenge of external acquisitions that threaten to expropriate land and the 'internal' problem of the 'family-land-sexuality' nexus (Jacobs, 2014b). One response could be to make women's rights much more visible. For instance, Wiig (2014) notes that, in Peru, legitimacy (and potential cultural change) was gained by the public witnessing of the signing of land deeds. Campaigns against gendered violence (such as that of *La Vía Campesina*) whether within organisations or on peasant /smallholder farms (Jacobs, 2015), can assist women to gain a measure of security and autonomy

In sum, the research reviewed in this chapter indicates that there have been some positive recent achievements for women's land rights, not least that they are being highlighted in contemporary discussion and debates. In this complex terrain it is important build on such achievements, including changes in community attitudes, and, perhaps most significantly, to resist the dismantling of state and other public institutions. These are the very bodies that might help to encourage, or where needed *enforce*, new rights for women 'on the ground'.

NOTES

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¹ Matrilineal systems also exist, particularly in the central 'belt' of Africa and also in parts of south and southeast Asia, and these do afford greater rights for women, as they hold land through lineage membership. However, the number of matrilineal societies has for some time been in decline.

² Land ‘grabs’ or land transactions are equally important international trends, and have given rise to a large literature. See, for instance, Borras and Franco (2012); Achambault and Zoomers (2015) Space does not allow discussion of land grabs and their gendered impacts here.

³ Thus, the World Bank partially ‘backtracked’ over the insistence that all land be titled or privatised. There have been related moves to codify customary law – e.g. in Mozambique - and this has sometimes provided community protection (Hanlon, 2004; Amchambault and Zoomers, 2015b; Sikor and Lund, 2009). However, this has not been the main direction of change.

⁴ The search used ‘**gender OR women and land**’ as keywords.

Some caveats and explanation are in order. The data accessed are by no means comprehensive, but do give some indication of publications that are relevant to gender, women and questions of agriculture and land tenure. However, many ‘results’ are irrelevant – for instance ‘coronary disease among *women* in New Zealand’ - , while a larger number were only of marginal relevance.

Examining notices over a two-year period (June, 2013 – May, 2015) lists of publications were sent on average 9-10 times monthly, with approximately 8-9 publications in each. Of these, usually two to three items contained some relevant information or data.

⁵ Doss *et al.* (2014c) caution that increased female decision-making does not equate with wives having the ‘final say’; in most instances this is a male prerogative.

⁶ Krista Jacobs and Kes (2015) note that in their study, clear and consistent advantages for women could not be demonstrated statistically.

⁷ Both men and women are likely to lose land through processes of marketization and/or acquisition. However, women are likely to lose land disproportionately as they start out as weaker social actors, without the ‘assets’ demanded by the market.

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