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Statement submitted by Human Rights Advocates Inc., a non-governmental organization in consultative status with the Economic and Social Council*

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

* The present statement is issued without formal editing.



Statement

Gender inequality in land rights is pervasive. (Securing Women's Land and Property Rights: A critical Step to Address HIV, Violence and Food Security, Open Society Foundations, 2014). Not only do women have less access to land than men, they are often also restricted to so-called secondary land rights, meaning that they hold these rights through male family members, such as husbands. Thus, widows are frequently at risk of losing their land, often their source of not only food security but also a credit tool to rise out of poverty.

There are an estimated 285 million widows around the world, with over 115 million living in deep-poverty ("UN Women's statement for International Widow's Day, 23 June," UN Women, June 21, 2017). According to the World Bank Group's Women, out of 173 countries surveyed, surviving female spouses do not have the same inheritance rights as men in 30 countries (Women, Business and the Law 2016: Getting to Equal. Washington, DC: World Bank. Doi:10.1596/978-1-4648-0677-313). There is a global consensus that women's land rights are fundamental for the realization of food security and rural development. (Ana Paula De La O Camps, "Gender and Land Statistics: Recent developments in FAO's Gender and Land Rights Database," FAO, 2015). Creating legal frameworks to protect widow's ownership of family land is necessary to provide not only for the widow, but also for her family.

Widows' Legal Rights

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) explicitly says that State Parties shall "accord to women equality with men before the law." (CEDAW Art. 15.1.) It also states women and men have equal rights to contract and administer land (CEDAW Art. 15), as well as calling on State Parties to provide women with access to agricultural credit, loans, agrarian reforms, and land resettlement schemes. (CEDAW Art. 14.)

In several countries, these protections have not been implemented making women, and particularly widows, vulnerable to continued poverty. By losing their access to family land, widows face losing a husband and access to their livelihood and home. Laws that do not reflect equal principles of land ownership as provided in CEDAW should be abolished.

How widow's inheritance rights are violated

Widows lose access to or fail to exercise their right to their land for various reasons. By looking at different countries, a myriad of reasons present themselves explaining why the problem persists.

Uganda

Approximately 87% of Uganda's estimated 35 million people reside in rural areas, 85% of whom are involved in subsistence agriculture. ("Women's Land Rights in Uganda," Landesa, Center for Women's Land Rights, July, 2014). Under current law, spouses must consent before any transaction is executed involving the family land, and women have the right to live on the land and withhold consent. (Id.) Additionally, the Constitution prohibits gender discrimination (Uganda Const. 1995 Art. 21), grants everyone the right to own land (Id. Art. 26(1)), and provides women equal rights to men. (Id. Art. 33). The Constitution also pre-empts the customary practice of limiting female ownership of land ("Women's Land Rights in Uganda"). The Succession Act Decree 22/72 of 1972 explicitly recognized women's right to inherit from their husbands, and the Constitution guarantees widows the

right to inherit matrimonial property (Id.) These laws work together to provide widows the right to inherit land, but tradition and ignorance of the law often prevent widows from exercising their rights.

Widows are the most frequent victims of property grabbing in East Africa. (Cynthia Gorney, “For Widow’s, Life After Loss,” National Geographic Magazine, 2017.) A common practice in Uganda is termed “widow’s inheritance” where a member of the husband’s family acts as a widow’s protector. (“Understanding and Strengthening Women’s Land Rights Under Customary Tenure in Uganda,” Land and Equity Movement in Uganda, 2011.) Under the law women have the right to inherit land from their husband, but it is common to see the widow’s protector work to force the widow off the land to the benefit of the husband’s family. (Id.) Widows are also sometimes forced to marry a husband’s relative to keep the land and children in the same family. (“For Widow’s, Life After Loss”). Due to a lack of means for widows to protect their inheritance in court, and a lack of interest at the local level in protecting women from their husband’s family, many widows lose their land and are left vulnerable.

Jordan

In Jordan, only 3.0% of agricultural land is owned by women. (“Gender and Land Statistics: Recent developments in FAO’s Gender and Land Rights Database,” supra.) Islamic Shari’a law and Jordanian national laws protect women’s right to ownership and inheritance, however, due to social pressures widows often cannot exercise their rights to inheritance. (“Women’s Rights to Inheritance, Realities and Proposed Policies, 2012,” Jordanian National Commission for Women, 2012, pg. 17.) The Jordanian Civil Law invalidates coercive contracts, and has a special provision to protect wives from husbands trying to take the wives’ separate property. (Id. at 18.) Notwithstanding, women are still pressured by relatives to relinquish any inheritance. (Id.) In 2010, Jordan passed a law preventing women from waiving their inheritance and requiring any property they inherit to be registered in their name. The law also requires that relatives challenging the bequest go to court to demonstrate valid reasons for nullifying a woman’s inheritance. (“Women, Business and the Law 2016: Getting to Equal,” supra.)

Even though Jordan has laws that protect women and widow’s inheritance rights, in practice these rights are often not protected. Widow’s often lose their inheritance by three common means:

- the husband unlawfully bequests their entire estate to a son depriving the widow of any property;
- the husband or his family coerce the woman into gifting her land to the husband’s family; or
- threats of physical harm or violence from the husband’s family force women to surrender their inherited property. (“Women’s Rights to Inheritance, Realities and Proposed Policies, 2012,” supra at 23.)

Women interviewed by the Jordanian National Commission for Women cited many reasons why they did not fight for their inheritance, including fear of being harmed by brothers and other heirs, lack of knowledge about laws and inheritance rights, and an inability to pay court and lawyer’s fees to fight for their rights in court.

India

Land inheritance in India is largely dependent upon religion. There are two main laws governing women’s land inheritance, the Hindu Succession Act (HSA),

which was adopted nationally in 2005, and the Muslim Personal Law, which is a formal codification of sharia law in India. The Hindu Succession Act governs the inheritance and succession of property for 83.6% of India's population. ("The Formal and Informal Barriers in the Implementation of the Hindu Succession (amendment) Act 2005," Landesa Rural Development Institute, 2013.) Under the Hindu Succession Act, widows inherit land in equal shares as children. Even though Hindu Succession Act is a national law, some states have passed state level amendments that can still limit widow's inheritance. Under Muslim Personal Law, women can inherit, but less than their surviving children.

In practice, women in India own 11.7% of land with the vast majority of land received through inheritance. ("Gender and Land Statistics: Recent developments in FAO's Gender and Land Rights Database," supra.) Landesa, a non-profit organization for rural development, found on average 40% of women did not know they had inheritance rights, and even if they did know they do not assert their inheritance rights due to social stigma and family pressures. ("The Formal and Informal Barriers..." supra.) They also found that some local governments did not recognize women's inheritance rights.

Recommendations

Most countries have created equal inheritance and property rights for men and women. In practice however, widows are often pressured or forced into not exercising their rights. Based on the above, the following are recommendations to ensure widow's rights:

- Create marital property regimes that allocate property ownership and management between spouses during marriage and dissolution through death or divorce, such as community property regimes;
- Educate women about their rights to own and inherit land from their husbands;
- Educate local community leaders about the national laws providing equal inheritance rights for women and men;
- Invest in legal aid for widows who seek a legal remedy;
- Criminalize land-grabbing from vulnerable populations, including widows;
- Create a monitoring and evaluation program to investigate if national laws providing for equal inheritance rights are being enforced at the local level.