

Discrepancy between law and customs: women's access to land in Burkina Faso

With the support of and in collaboration with the Land Tenure Service of FAO, Maître Françoise Ki-Zerbo recently carried out a study entitled "Les femmes rurales et l'accès à l'information et aux institutions pour la sécurisation des droits fonciers. Etude de cas au Burkina Faso" ('Women's access to information and to institutions to secure their land rights in Burkina Faso'). - Rome: FAO (Service des régimes fonciers), 58 p.

In this study, Françoise Ki-Zerbo examines the theme of 'women, land and information' in Burkina Faso from several angles: the legal basis of the modern land tenure system; women's access to land according to traditional norms; women's participation in social communication; and local civil society initiatives to improve women's access to natural resources, to land and to legal information.

Land laws: culture, tradition and information

In Burkina Faso, women's access to land according to local customs is often relatively precarious and always embedded in and dependent of social relationships. In the realm of law and official procedures, women have a limited ability to receive, obtain, understand and/or use legal information about the procedures and institutions which can secure their legal land rights.

This study examines rural implementation of land laws which run against the grain of local culture and traditions and the resulting discrepancies between legislation and reality. From this perspective, it looks at the legal information system and the problems women face in accessing information and administrative bodies to formalise transactions in which they are involved. Dialogue, awareness-raising, and monitoring are underlined as essential factors for change, which will secure women's rights and enable equal access to land for both women and men.

The distribution, evaluation and removal of land is the responsibility of village land management commissions and legal information should reach the grassroots level through these structures. Specific actions are foreseen on the legal and socio-economic protection of women as part of reforms and general action necessary for decentralised development. The decentralised rural development plan also envisages the implementation of a Concertation Framework on Land Security for Women in Rural Areas as a support body to the National Committee for Land Security in Rural Areas.

However, at present women's access to land is still conditioned by tradition and as such they remain today in an unequal, dependent and vulnerable position.

In rural areas :

- land is managed by the elders of the community;
- women's access is subordinate to that of men since they can only access land with male approval and they themselves are lacking in land;
- paradoxically, women find it easier to access loaned land than men since their land area needs are limited and they are easier to evict than men.

As part of steps to improve the income and working conditions of women, the Minister for Women's Promotion in Burkina Faso plans to draw up standard contracts for land access, heighten sensitivity amongst traditional chiefs and disseminate the results of studies on women's access to land. There are also plans to popularise legal texts on basic rights, together with the

Ministries for Justice and Human Rights, and to raise awareness amongst the population on the inequalities suffered by women, in collaboration with the Ministries for Information and Culture.

Obstacles

- the legal texts are only known to a handful of individuals;
- it is mostly the urban dwellers (mainly men) who are aware of the law;
- almost all rural producers – men and women – are unaware of the texts;
- the large majority of the population does not seek information and does not try to exploit the legal provisions.

Exercising rights claimed by women, in particular the right to speak out or to take action is an ongoing challenge in light of African customary thinking. As one woman with lengthy experience in associative circles points out:

‘Traditionally, according to custom, it is out of the question to resort to force to insist upon one’s rights. Women still bear this customary rule in mind. Today the force is the law’

The combined efforts of women have nevertheless had an impact and in undeveloped areas, women’s groups – whether formal or informal - have been successful in being granted land collectively. Nevertheless, in order to secure women’s rights to their personal fields the collective method should not be seen as the only solution.

A need for concrete measures

The women intend to consolidate their achievements in terms of access to information, to training, to literacy and to land. They delegate representatives to village authorities, have learnt to write so as to be able to communicate with structures able to inform them, and listen to community radios with deal with issues of interest to them. The National Advocacy Forum for women’s full rights to citizenship took place on 3 April 2003. The women present demanded that concrete steps be taken to facilitate women’s access to land and proposed long-term lease contracts for the benefit of women, and the revision of the terms and conditions of developed zones to allow equal access of men and women to land.

Networks: enabling access to legal information

Today there is greater tendency for women to come together in a network. Conscious of their lack of legal information, the women of Burkina Faso have joined forces to call for their rights and civil society organisations help them with their social communication activities.

The quantitative and qualitative growth of the women’s associative and cooperative movements has led to a greater visibility of the socio-economic role of each woman and of women in general; in addition the women have improved their negotiating ability and are better able to defend their own interests.

The legal information of the citizens of Burkina Faso is assured by NGOs specialised in legal education or social communication. However, legal information activities are more concerned with family law than land law.

An oral tradition

Land transactions in women's favour are generally carried out verbally. When the women are supported by an association or an NGO they are more aware of the benefits of a written transaction, however their priority remains the possibility to access and work the land. In official law written proof carries more weight than oral proof. Nevertheless in rural areas a document does not necessarily secure the rights of the land users. On the contrary the desire for written proof is generally seen as a sign of lack of confidence. This mistrust of the written may be put down to the fact that most of the population is unaware of the content of many administrative texts, with information systems and authentication of agreements tending to be based on oral traditions.

A question of representation

Women's involvement in land committees is limited. Those who are members have been chosen by virtue of their age and experience and also because of their ability to make their voices heard. The village commissions for land management are important bodies and it is imperative that women are better represented and their interests taken into account.

General recommendations

One general recommendation of the study is the need to identify the sections of legal texts that contradict the constitutional right of the Burkinabe people to land access, regardless of their sex. Also highlighted is the importance of social communication and dialogue between the population (men, women and youth) and traditional chiefs, mayors, local representatives, among others, who hold power and can change the situation. There is a clear need to integrate a gender approach in all development projects and programmes.

Legal information in itself is not enough. An administrative structure needs to be set up to monitor the application of legal texts and secure the rights of citizens (men and women)

Specific recommendations

- Improve the level of information and training within the population;
- summarise and simplify the number and complexity of legal texts, and adapt the communication of them to the various target groups;
- develop functional literacy which includes specific training in land tenure matters;
- translate reference documents into local and national languages and distribute them using appropriate media – such as cassette tapes – at a price which most people can afford;
- carry out civic education in schools and universities to help promote positive thinking and reduce conflicts with traditional culture;
- train local extension workers , as well as administrative agents, in information, education and communication techniques;
- provide greater support to community radio networks and strengthen the skills of presenters in the “gender and development” approach;

- strengthen NGO and associative networks working in the area of legal education by providing training of trainers - both in communication methods and Burkina law;
- train paralegals specialised in land law to support local groups and bring appropriate legal assistance to those who need it;
- undertake comparative research actions at sub-regional level, to help identify legal information needs and strengthen women's negotiation skills;
- share experiences and good practices of securing land rights, so as to capitalise on experiences of applying the law as it currently stands.

The way forwards

Rural women are speaking out and using the many different media available to them, including newspapers, radio, in forums and during workshops. In daily life they are negotiating verbal contracts and obtaining concessions which allow them to access land in the best conditions possible for the moment.

For real change to come about, however, concrete measures must be taken to ensure optimal security of land rights for women. Equally, the whole population, and women in particular, must have access to legal information and land law should be adapted to the actual needs and realities of the men and women farmers of Burkina Faso.

The complete version of the study (only in French version at the moment) is available for download at the Dimitra website: <http://www.fao.org/sd/dimitra>

Based on:

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(Women's access to information and to institutions to secure their land rights in Burkina Faso)

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