# 'We Agree… On Condition no one Asks Why': Evaluating the Global Mandate for Equal Security of Women's Property Rights

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**Abstract**

Fifty-five years of international treaties and declarations suggest an aspiration toward a global consensus on equal security of property rights for men and women. However, the universal reality of a wide chasm between commitment and practice belies progress in social acceptance of a norm of equal and complementary control over family property. This essay declares that the era of consensus-building through themed global conferencing is over. The project needs to shift base to the local level. The chapter arrives at this conclusion after examining the multiple, varied (sometimes inconsistent) justifications advanced for securing women's property rights. At one level, this is further evidence of a fragile consensus. At another level though, it signals the need to pitch the argument in multi-pronged ways so as to draw support from the multiple existing and potential constituencies for strengthening women's property rights, being cognisant of pre-existing worldviews and engaging reflectively with them.

**Keywords:** Property rights, women, equality, social norms, law reform, human rights

## Introduction

> "Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws."
>
> Sustainable Development Goal #5.a (United Nations, 2015)

On the face of it, there is global consensus on the need to guarantee that women and men will be equally secure in their access to ownership and control of land and other assets key to securing one's livelihood.

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Even as the goal was being declared in 2015 though, there was no measure of the extent of the existing inequality. The World Development Report 2012, for instance, relied on partial data from selected 'countries with available data' to support the assertion that women seldom own the land they farm, and that female-headed households are less likely to own land (World Bank 2012:18, 163). The absence of global data persists to date: '…there are virtually no recent, comparable, nationally representative global data on women's and men's ownership, control or management of land.' (UN-Women 2019:125). Obviously, the absence of a baseline is cause for concern: how do we know that we are doing better or worse, or which regions of the world have the greatest need for action on this goal?

However, the lack of a baseline is not the greatest concern. Of greater concern is the almost despairing admission by the same global institutions that set this goal, that the gap between apparent commitment and actual action has become something of an enduring feature. This article argues that this gap is inevitable and will prove enduring, because the apparent commitment expressed in global statements such as SDG #5.a represents only a procedural -not substantive- consensus. Governments have put their names to a text, but not much distance or depth has been covered beyond the text. Substantive consensus entails getting to the *why* question. It goes beyond pragmatic agreement that a particular action must be taken, to agreement on *why* it must be taken. At root, *why* should reforms be undertaken to give women equal security of access, ownership and control of key assets such as land? The range of answers given to this question by the range of actors involved (inter-governmental, social movement and scholars) exposes the thin substantive consensus on the issue.

Settling for a thin substantive consensus in global agreements is not unique to the issue of equal security of property rights. It can be said of much of international human rights law. Indeed, this chapter's title is inspired by a comment made with respect to the drafting of the Universal Declaration of Human Rights in 1947[1]. However, in the essay conclusion we elaborate why a thin substantive consensus has a peculiar inevitability when it comes to the issue of access and control of valuable assets within family.

This article is organized into four substantive parts. Following this introduction, the first part sketches the milestones in the development of a global

1. The comment is attributed to Jacques Maritain who headed a UNESCO committee of philosophers charged with collating diverse views regarding basic rights in different cultural and religious thought systems, in an attempt to arrive at a philosophical foundation for a universal list of fundamental rights. See Glendon (2001: 77).

mandate on the issue of equal security of property rights. The second part then discusses the gap between global commitment and action. This will be done mainly through the lens provided by the reports of the UN Special Rapporteur on the right to adequate housing, supplemented by observations made in other writings. The third part examines how the various actors involved in this issue have addressed the *why* question, in order to grasp any gleanings on the depth of the existing substantive consensus on equal security of property rights. The fourth and final part reflects on whether indeed a substantive global consensus of any significant depth is possible, and suggests that efforts at deepening substantive consensus may be best reserved for 'small places, close to home.'[2]

## Part One: The Aspiration

Table 1 below gives a chronological summary of the key milestones in the development of a global mandate on equal security of property rights for women.

Undoubtedly, the adoption of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) fifty years ago marked the global legal scene's first engagement with the issue of equal security of property rights for women. Prior to CEDAW, general anti-discrimination clauses could be found in international human rights treaties, chiefly the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Non-binding documents from successive international conferences on women had engaged broadly with women's integration into the development process and recognition of their crucial contribution.

2 Eleanor Roosevelt's comment, at the conclusion of the drafting of the Universal Declaration of Human Rights, that the declaration's success could only be assessed on the basis of what would be made of it by sufficient numbers of men and women 'in small places, close to home.' See Glendon, Mary Ann, (2001) *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House), at p.241.

**Table 1**

**Key milestones in the development of a global mandate on equal security of property rights for women**[3]

| Milestone | Year | Highlights |
|---|---|---|
| International Covenant on Civil and Political Rights (ICCPR) & International Covenant on Economic, Social and Cultural Rights (ICESCR) | 1966 | Prohibition of discrimination on grounds of sex in the first binding international human rights treaties based on the Universal Declaration of Human Rights. |
| Report of the World Conference of the International Women's Year (Mexico City) | 1975 | No specific mention of property or land rights, but integration of women in the process of economic development, extension of social security benefits, and equality in marriage (pp.85, 90,95,103). |
| Programme of Action for the Second Half of the UN Decade for Women (Copenhagen) | 1980 | Para.41(c) (p.101): 'provide rural women with the necessary means and access to resources for agricultural production.'<br>Para 44(3)(b): ensure that rural women 'have access to credit and financing mechanisms on a basis of equality with men' |

3 This table presents a summing up of key 'global consensus' moments, when the issue of equal security of property rights for women received attention. In addition, there are documents at the regional level marking such moments. Arguably, the Protocol on the Rights of Women in Africa is the most detailed among them. A comprehensive summary of this and other regional human rights documents is available in UN-Women & OHCHR, 2013: 11-13.

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|---|---|---|
| UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) | 1981 | Articles 2(f)and 5(a): state obligation to modify cultural practices that discriminate against women;<br>Article 14(g) and (h:): equal treatment in agrarian reforms, land resettlement programs, and agricultural inputs such as credit; right to housing;<br>Article 15(2): equal right to contract and administer property;<br>Article 16(h): equal rights of spouses with respect to 'ownership, acquisition, management, administration, enjoyment and disposition of property.' |
| *CEDAW Interpretive Statements:* | | |
| *General Recommendation No.21 on Equality in Marriage* | *1994* | Highlighted the importance of marital property legislation, and the need for states' reports to comment on efforts taken not only on formal law, but also on custom. |
| *General Recommendation No.29 on Economic Consequences of Marriage, Family relations, and their Dissolution.* | *2013* | Para.10 [align religious and customary family law systems, especially marital property regimes with Constitutional non-discrimination provisions]; para. 37, 38, 43, 47 [spouses' equal rights to all types of marital property]; Para. 50, 53 [enact laws to deal with practices such as widow eviction or forced levirate marriage on pain of loss of land or home] |
| *General Recommendation No.33 on Women's Access to Justice* | *2015* | Para. 46: [calling on states to establish special judicial or quasi-judicial forums (e.g. family courts) to deal with matters such as property settlement, land rights and inheritance, and for formal courts to oversee personal law forums to address possible discrimination] |
| *General Recommendation No.34 on Rights of Rural Women* | *2016* | Para.55-59: [emphasizing state obligation to ensure substantive equality of rural women with respect to land and natural resources, including recognizing traditional tenure systems that protect their entitlements] |
| *General Recommendation No.37 on Gender-related Dimensions of Disaster Risk Reduction in the Context of Climate Change* | *2018* | Para. 70: ['As a result of discriminatory laws and social norms, women have limited access to secure land tenure, and the farmland that they are allotted tends to be of inferior quality and more prone to flooding, erosion, or other adverse climatic events.'] |

| | | |
|---|---|---|
| Report of the World Conference to Appraise and Review the Achievements of the United Nations Decade for Women: Equality, Development and Peace (Nairobi Forward-Looking Strategies) | 1985 | Para. 174 [full integration of women in development, in recognition of their key role as food producers]; para. 182 ['Women should be given full and effective rights to land ownership, registration of land titles and allocation of tenancies on irrigation or settlement schemes and should also benefit from land reform'; protect women's customary land and inheritance rights]; para. 211 [women's direct access to housing construction and housing credit schemes]; |
| Report of the International Conference on Population and Development (Cairo) | 1994 | Chap.1, Resolution 1, annex, para. 3.18; section 24 para. 4.6 [strengthen women's access, ownership and inheritance of land and productive resources, and equal capacity to contract and administer property; challenge discriminatory patterns such as son preference] |
| Report of the World Summit on Social Development (Copenhagen) | 1995 | Section 20 para. 5 [e]; section 61, para. 6 [g]). [strengthen women's land rights as central to poverty eradication; eliminate restrictions on inheritance] |
| Report of the Fourth World Conference on Women (Beijing Declaration and Platform for Action) | 1995 | Section 19, para. 51; Section 69 paras 58e and 165e [lack of control of property blamed for women's poverty, lack of participation in decision-making, and diminished autonomy; need for legal and administrative action to secure property rights, including inheritance] |
| Report of the UN Conference on Human Settlements (Habitat II, Istanbul) | 1996 | Para.78(*b*), 78(*e*), 78(*g*) [strengthen women's land ownership and inheritance rights, and protect widows from losing homes] |
| Report of the World Food Summit (FAO, Rome) | 1996 | Part I, appendix, Objective 1.3(*b*) [secure and equal access to and control of productive resources, including credit, land and water] |
| FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security | 2004 | Guideline 8B, para. 8.10 [secure land tenure for women, with 'full and equal right to own land and other property, including the right to inherit.'] |

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|---|---|---|
| General Comments of the UN Human Rights Committee (overseeing implementation of the International Covenant on Civil and Political Rights- ICCPR) | 2000 | General Comment No. 28 on equality of rights between men and women [para.5: states should report on customary or religious laws and practices that undermine non-discrimination laws; para. 19 and 25: equality before the law must mean equal capacity to own and administer property; prohibition of practices that treat women as property; para.26: equality in distribution of property on dissolution of marriage by divorce or death |
| General Comments of the UN Committee on Economic, Social and Cultural Rights (overseeing implementation of the International Covenant on Economic, Social and Cultural Rights- ICESCR) | 2005 | General Comment No.16 on the equal right of men and women to enjoy economic, social and cultural rights [para.28: women's right to own/control land and housing on an equal basis with men is part of the content of the right to an adequate standard of living] |
| Reports of the UN Special Rapporteur on the Right to Adequate Housing | 2003, 2006, 2012 | Focusing on women and adequate housing, highlighting gap between law and practice, especially insecure tenure and link to gender-based violence. |
| FAO Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security<br>[Followed up by a Technical Guide on gender-equitable governance of land tenure, FAO 2013] | 2012 | Para.4.6 [prohibit discrimination in tenure rights resulting from change in marital status; equal tenure rights for men and women, including right to inherit]; para. 5.3 [ensure that legal and policy frameworks are non-discriminatory and promote gender equality]; para. 5.4 [provide legal services and other assistance to enable women to defend their tenure interests] |
| UN Conference on Sustainable Development (Rio+20) | 2012 | Para.240 [equal rights to land, inheritance, credit, natural resources, appropriate new technology] |
| Sustainable Development Goals | 2015-2030 | Goal 5a: [Reforms to give women equal rights of access, ownership and control over land, financial services, inheritance and natural resources, in accordance with national laws] |

As Table 1 highlights, CEDAW addresses the issue of equal security of property rights, specifically land rights, in article 14, which is dedicated to the social and economic conditions of rural women. The article calls for equal treatment in matters of land, such as agrarian reforms and resettlement programs, as well as related inputs such as loans, marketing facilities, appropriate technology and training and extension services. This is reinforced by article 16(h) on equality of spouses 'in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property', and article 15 on equal legal capacity.

These articles are set against the background of CEDAW's core obligation, namely to establish and implement the principle of gender equality in laws and administrative practices, as well as 'to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women' (CEDAW article 5(*a*)).

A host of interpretive comments and statements have further elaborated on CEDAW's provisions on the issue of women's property rights, as highlighted in Table 1. These have emphasized concrete measures such as establishment of dedicated judicial and quasi-judicial forums to adjudicate family property matters and exercise oversight over informal justice forums to ensure compliance with non-discrimination laws, as well as recognition of traditional tenure systems that protect women's entitlements. The table also highlights interpretive comments issued on equal exercise of property rights by other UN treaty bodies.

Successive thematic international conferences- besides those dedicated to women- have also addressed the issue, as the table highlights.

At the regional level, the issue receives the most detailed consideration under the Protocol on African Women's Rights (2003). The protocol addresses concrete situations such as a widow's right to remain in the marital home, equal inheritance rights for male and female siblings, and land resettlement programs in post-conflict situations.[4]

When Miloon Kothari was the UN Special Rapporteur on the Right to Adequate Housing (2000-2006), he dedicated a substantial portion of his work to women's right to secure tenure over land and housing. His detailed reports on the subject were preceded by regional consultations which highlighted the

4 For a detailed discussion of how the various regional human rights systems address the issue of equal security of property rights see UN-Women & OHCHR, 2013: 11-13. See also Report of UN Special Rapporteur on the Right to Adequate Housing: Report on Women's Rights 2003.

gap between legal commitments and actual practice. Since this gap is the subject of the next section, we will discuss the reports in greater detail there.

## Part Two: The Chasm

The global milestones discussed in the previous section and the literature surveyed in this section suggest that for all the attention that the issue has received over the last four decades or so, there is little in national and local level practice to suggest organic growth in consensus around a norm of equal security of property rights for men and women. Arguably, a civil society-driven community of practice has emerged, albeit without an explicitly shared understanding of the normative basis for a global mandate for sexual equality in property rights. It is fair to say that the recruitment of this global community of practice has outpaced social acceptance of the norm. Public contention over the norm, as happened in Beijing in 1995 is but one illustration of the fragility and shallowness of any substantive global consensus.[5]

CEDAW has the dual distinction of being one of the most widely ratified international human rights treaties, and also the treaty with the highest number of reservations. The vast majority of those reservations relate to the very articles we have identified as holding the greatest significance for the security of women's property rights, particularly within the family: Article 2(f), 5(a) and 16(h). This state of affairs has led some analysts to conclude that those reservations negate core obligations of the treaty, thus nullifying the legal effect of the ratification altogether (Cook 1990:11,15; Banda 1998:532).

In no country is it accurate to say that the prevailing law and practice embodies the ideal of equal and complementary control over property and income at the family's disposal, with each spouse having commensurate rights and responsibilities to contribute to and benefit from such property and income. The general trend is that the policy and legal environment at best has made limited attempts at redressing inequality in security of property rights, and at worst has tolerated or sanctioned it.

In assessing progress made in the first half of the UN Decade for Women, the report of the second world conference on women (held in Copenhagen,

5 Equal property rights with respect to inheritance proved one of the most contested issues at the Fourth UN Conference on Women and Development, held in Beijing, China in 1995. See, *Statement by Mrs. Gertrude Mongela, Secretary-General, Fourth World Conference on Women,* Press Release, 13 September, 1995 WOM/BEI/Note 14. See also "A Final Report on the Fourth World Conference on Women", 14 *Earth Negotiations Bulletin* (No.22, Monday 18 December 1995) [Published by the International Institute for Sustainable Development (IISD)].

1980) laments that 'the review and appraisal of the economic and social situation of rural women…reveals that little or no positive improvements have taken place since the first half of the decade.' (UN 1980:105)

Other assessments have specifically lamented the recalcitrant nature of inequalities that relate to command of resources. The World Bank observed that while improvements in areas such as health and schooling have been rapid, progress has been slow in areas of 'political participation and equal rights to property' (World Bank 2001:13). Family law, which includes control of marital property and inheritance, is described as 'an area where blatantly unequal rights still prevail' (World Bank 2001:117). The World Development Report 2012 also lists 'gaps in asset ownership' as one of the areas in which gender inequality has persisted (World Bank 2012:13, 72), labelling it a 'sticky' domain (World Bank 2012: 76).

For five years (between 2002 and 2006) the issue of women and adequate housing received sustained attention by the then UN Special Rapporteur on the right to adequate housing. In report after report, one hears the rapporteur repeatedly decry the gap between legal and policy commitment at both national and international level, and actual implementation; between *de jure* protection from discrimination, and *de facto* discrimination.[6] The issue is presented vividly in the regional consultations that the Special Rapporteur held in the build-up to the 2003 report. Subsequent holders of that office have picked up the issue, with particular focus on discrimination and insecurity of land tenure for urban dwellers.[7] The persistent gap between legal and policy commitments and social practice signals limited social acceptance of the basic normative claim that men and women should be of equal legal and moral worth. This limited social acceptance also manifests itself in formal state laws and policies. For instance, virtually all sub-Saharan African countries have ratified CEDAW. Many have also ratified the regional protocol on women's human rights.[8] However, side by side with this international and regional picture are national constitutions that

6 See, for example, E/CN.4/2003/55; E/CN.4/2006/118. All reports available at https://www.ohchr.org/EN/Issues/Housing/Pages/WomenAndHousing.aspx

7 See, for example, A/HRC/19/53 (2012); A/69/274 (2014), available at https://www.ohchr.org/EN/Issues/Housing/Pages/Women and Housing.aspx .

8 See Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003). The protocol came into force in 2005. As of October 2019, 42 states had ratified it. See https://au.int/sites/default/files/treaties/37077-sl-PROTOCOL%20TO%20THE%20AFRICAN%20CHARTER%20ON%20HUMAN%20AND%20PEOPLE%27S%20RIGHTS%20ON%20THE%20RIGHTS%20OF%20WOMEN%20IN%20AFRICA.pdf

do not prohibit sex discrimination, and others that only began to do so in the 1990s.[9]

A quick survey across all the regions of the world yields a list of prevalent issues that point to this gap between aspiration and reality. In sub-Saharan Africa, the primacy of customary norms has meant that changes in formal law and policy have had limited reach. This issue dominated the regional consultation that the UN Special Rapporteur on the Right to Housing held with civil society organizations in the region in 2002.[10] The 'sticky' issues have been:

- the notion that wives and daughters have only contingent or transient membership in families, which explains son preference and weak protection of marital property rights (Kidd *et al* 1999; WLSA Zimbabwe 2000; Nyamu-Musembi 2002; Bowman & Kuenyehia 2003; Tibatemwa 1995);
- that the labour of wives and children is rightly owned by the husband/father and his lineage, and therefore ultimately property belongs to the husband and his lineage, not to the marital unit, which justifies eviction of widows or grabbing of property by relatives even in countries where the practice has been explicitly outlawed, such as in Malawi and Zambia (UN-Women/OHCHR 2013:27; WLSA 1995; Human Rights Watch 2003; Butegwa 1994; Tibatemwa 1995; Kameri-Mbote 1995; Nyamu 2000; Davison 1997). It does not help that on-going socio-economic challenges such as HIV/AIDS and civil conflict put pressure on resources, which gives rise to new forms of exclusion, which get re-cast as customary in order to justify disentitlement (WLSA 1995:11,23).

Thankfully, there are glimmers of hope in the form of several cases that show women and families that were bold enough to use the courts and positive provisions in laws and constitutions to challenge unjust decisions justified as accepted cultural practice (UN-Women & OHCHR 2013: 28-9; 33).

Secondly, defective legal frameworks are also identified as culpable for the gap between legal and policy commitment and actual practice. However, the defects in the normative framework are not always overt. In principle, formal laws place the claims of male and female family members on an equal footing. Indeed, the constitutions of countries such as Ghana, Malawi, Mozambique, Namibia, Uganda, South Africa and Kenya provide specifically for women's

9 Among the states that have only prohibited sex discrimination since the 1990s are Botswana (1996), Kenya (1997), Zambia (1991), and Zimbabwe (1996). See Mvududu & McFadden 2001; Ncube 1998).

10 UN-HABITAT, *African Regional Civil Society Consultation on Women and Adequate Housing*, (Nairobi, Kenya 2002). The 'stickiness' of customary norms was also the dominant theme in the regional consultation with civil society groups in the Pacific region. See Pacific Regional Rights Resource Team *et al*, *Proceedings of the Pacific Regional Consultation on Women's Rights to Adequate Housing and Land*, (Nadi, Fiji, 2004) [available at https://www.hlrn.org.in/documents/Fiji_Report.pdf].

equal right to property. Yet analysis of the design of programs and actual implementation of policies reveals that these normative statements represent neither consensus nor commitment. Land title formalization programs have overwhelmingly resulted in individual registration of a 'male head of household' rather than joint registration of spouses, despite the fact that the social reality is one of family holdings accommodating multiple and diverse entitlements (Lastarria-Cornheil 1997; Meinzen-Dick *et al* 1997; Tamale 2002; Kabonesa 2002; Nyamu 2000; Pala 1983; Shipton 1988). Defects in legal frameworks may also take the form of national laws that sanction the operation of customs that legitimize the dispossession of women, and courts that interpret customary law in a restrictive manner.

Thirdly, lack of commitment is evident in weak institutional accountability as well. Very few states have taken steps to remove obstacles to women's access to and representation on key institutions that mediate property relations (UN-Women 2019; UN-Women & OHCHR 2013; Meer 1997; Gaidzanwa 1995; Ishengoma 2002; Vijfhuizen 2001). Only a few countries have made recent changes stipulating minimum representation for women on land tribunals.[11]

Fourthly, regarding access to credit facilities by women entrepreneurs, some countries have taken part in the Financial Sector Deepening program. Whereas evaluations of the specific component of the program dealing with inclusion of women through savings groups and financial literacy initiatives are easy to find,[12] it is more difficult to find assessments of the progress that has been made in review of the regulatory framework governing banks and other lending institutions so as to identify the credit gap.

In the Asian region too, as in sub-Saharan Africa, laws relating to family and property are largely enacted based on cultural (religious) principles. Even when the national constitution does provide for equality before the law and equal protection of the law, these provisions rarely feature in disputes concerning family generally or family property in particular (Ali 2002).

Secondly, rights granted in law prove impossible to claim in reality, or their exercise exerts so high a social cost as to put them out of the reach of many women. Examples include laws in India and in Vietnam giving a woman the right to be allocated land in her village of birth, but exogamy renders that

11 Examples include Uganda and Tanzania's 1998/9 reforms in land laws.

12 See, for instance, Topsoe-Jensen, Bente, Bethel Nakaponda, Stephen Tempo, Frida Ericsson, (2019), 'Mid-Term Evaluation of Women in Financial Inclusion and Capabilities Project in Zambia', (SIDA); Storchi, Sylvia and Saltanat Rasulova (2017), 'Impact Evaluation of FSD Kenya's Savings Group Project' (Oxford Policy Management/FSD-Kenya).

legal right illusory. Similarly, where a woman relocates following divorce, the law requires compensation for loss of her interest in land, but few women are prepared to pursue legal action against their in-laws (Agarwal 1994: 152, 325-331). The UN Special Rapporteur's African regional consultation found that divorced or widowed women in Eritrea face this same issue, in spite of a 1994 law that recognised their right to village land.

Thirdly, linkages between insecure property rights and violence against women have featured prominently in the Asian region, as well as in the Pacific region. This concern dominated the regional consultation that the UN Special Rapporteur held with civil society organizations in 2003 and 2004.[13]

In the Latin and Central American region, since some countries in the region (e.g. Brazil) extend social security benefits to 'rural workers', the chief concern has been about the invisibility of women's productive contribution, which locks them out of social security benefits. This is because their duties on family farms are difficult to distinguish from care work performed in their capacity as wives, mothers, or daughters (Brumer 2008:20). In Brazil for instance, as of 1999 only 25% of the female workforce in rural areas was recognized as 'rural workers', and therefore were the only ones covered by social security benefits (Sardenberg, Costa & Passos 1999). A campaign to document all women working in the sector has contributed to a significant rise in the figure (Guivant 2003; Katz 2000: 212). However, throughout the world it is acknowledged that coverage of social security is still low for women workers relative to men, especially where contributory schemes are used (Deere & Doss 2006:32).

Second, the reality of legal rights rendered illusory by paucity of concrete implementation is also present in the Latin American region. For instance, there is a very low incidence of joint land registration between spouses, in spite of the fact that the constitutions and civil codes of most Latin American countries since at least the 1990s recognized the concept of 'dual headed household', which replaced the idea of the husband as embodying the family's legal identity (Deere 2003: 258; Bohn and Levy 2019:252). Yet as late as 2008 in Brazil, state-subsidized low-income housing was still being distributed predominantly to male heads of households (Bohn and Levy, 2019:255). Another illustration is

13 See Asia Pacific Forum on Women, Law and Development (APWLD) *et al, Proceedings of the Asia Regional Consultation on 'The Interlinkages Between Violence against Women and Women's Right to Adequate Housing'* (New Delhi, India, 2003) [available at https://www.hic-net.org/fr/interlinkages-between-violence-against-women-and-womens-right-to-adequate-housing/); Pacific Regional Rights Resource Team *et al, Proceedings of the Pacific Regional Consultation on Women's Rights to Adequate Housing and Land*, (Nadi, Fiji, 2004) [available at https://www.hlrn.org.in/documents/Fiji_Report.pdf)

the fact that even though most Latin American civil codes provide for equal inheritance of property by all children, the practice is that daughters are rarely given land, or are given a share much smaller than that of their brothers (Deere & Leon 2001a; Brumer 2008:24). However, the significance of this issue is diminishing due to changes such as greater educational opportunities for women, and a preponderance of young women in rural-urban migration (Brumer 2008).

Third, defective legal frameworks are also a reality, to a certain degree. For instance, formal legal restrictions on widows' inheritance rights persist in some countries, in the form of forfeiture of inheritance upon remarriage (Deere & Leon 2001).

In all the regions, assessments by both intergovernmental bodies and the advocacy community point the finger primarily at 'deeply entrenched gender roles and social norms' (World Bank 2012:13,14),[14] operating at the level of the household, economy and society at large to influence women and men's access to resources (World Bank 2001:13-14; 98-99). The state has limited reach into the domain of social norms so as to enforce legal and policy commitments. Any global mandate- essentially a commitment expressed by the state at the highest level- is almost always guaranteed to ring ever hollower the closer one gets to the daily practices of relations around property at the level of family, community and market.

This reality of legal pluralism, which international institutions have now come to accept and take into account, (World Bank 2001:140; World Bank 2012: 165, 174) explains why legislation and policy do not quite so directly translate into social change; why there is a 'stickiness' to the issue.

The chasm between international and national legal and policy aspirations and actual practice easily tempts one to despair of the project of securing equal security of property rights altogether. The next part of the essay sifts through the various justifications advanced for the project. Hopefully the upshot of the diversity of justifications is not further despair, but rather, a mapping of possible paths toward building substantive consensus in small places.

14 See UN Special Rapporteur on the Right to Adequate Housing, *Women and Adequate Housing* (2006), E/CN.4/2006/118. It should be pointed out that the UN Special Rapporteur on the Right to Housing also conducted regional consultations in the following regions: Eastern Europe and Central Asia (Budapest, Hungary, 2005), Asia Pacific and Fiji (Nadi, Fiji, 2004), and Middle East and North Africa (Alexandria, Egypt, 2004).

## Part Three: The Justifications

Why invest in equal security of property rights for women? The answers or justifications that emerge from the literature may be classified into four broad clusters as follows:[15]

- Economic and social development outcomes;
- Reciprocal justice;
- Inherent equal dignity;
- Symbolic/cultural transformation.

I need to issue a caveat right at the outset: these justifications are not mutually exclusive. It is not unusual to find them deployed together in various combinations. For instance, the World Banks' first comprehensive report on gender and development stated:

> 'Reducing gender disparities in access to productive resources…can help enhance both equity and efficiency' (World Bank 2001: 255).

In the World Development Report 2012, the World Bank advanced both an intrinsic and instrumental argument for gender equality in development:

> '…because the ability to live a life of one's own choosing and be spared from absolute deprivation is a basic human right and should be equal for everyone, independent of whether one is male or female…because greater gender equality contributes to economic efficiency and the achievement of other key development outcomes.' (World Bank 2012:3).

The Food and Agriculture Organization similarly employs a multi-pronged justification for gender equality:

> 'Women, like men, can be considered "productive resources", but they are also citizens who have an equal claim with men on protections, opportunities and services provided by their governments and the international community… Equality for women would be good for agricultural development, and agricultural development should also be good for women' (FAO 2011: 3-4).
>
> 'Gender equality is good for agriculture, food security, and society' (FAO 2011: 61).

15 This clustering broadly matches Agarwal's three main justifications for women's independent rights to land: welfare (that the general welfare of children, for instance, stands a better chance of improving when women have control of productive assets); efficiency (women have a higher incentive to produce when they have assurance that they will have more control over the output); equality and empowerment (enabling women to own land independently will empower them economically and also enable them to challenge and change gender-based social and political inequalities) (Agarwal 1994). For a critique of Agarwal's arguments see Cecile Jackson, 'Gender Analysis of Land: Beyond Land Rights for Women?' Vol.3 *Journal of Agrarian Change* (2003: 453-480).

In this section, I isolate the various justifications from one another so as to give each a detailed examination, and to emphasize just how varied the consensus is. This underlines the need to pitch the argument in multi-pronged ways so as to draw support from the multiple existing and potential constituencies for the strengthening of women's property rights.

## 1) Economic and social development outcomes

Arguments in this cluster make the case for strengthening property rights for women on account of what it will do for economic productivity and for social development indicators. The following statement from the FAO aptly captures it:

> FAO 2011: page 23: 'Improving women's access to land and security of tenure has direct impacts on farm productivity, and can also have far-reaching implications for improving household welfare.'

This argument falls within the broader 'development case' against gender inequality in general, for undermining the effectiveness of economic and social development policies. The World Bank makes this argument repeatedly in its publications. Its first comprehensive treatment of the subject of gender and development in 2001 states the case as follows:

> 'A wealth of evidence from countries around the world demonstrates that societies with large, persistent gender inequalities pay the price of more poverty, more malnutrition, more illness and more deprivations of other kinds' (World Bank 2001:73).

These are *'the costs of keeping women illiterate, uninformed and without resources'* (World Bank 2001:82)

> 'And because women's status affects the cognitive development, health, nutrition, and schooling of their children, it also influences a country's long-run prospects for economic growth' (World Bank 2001:83).

On the specific issue of property rights, the report observes that *'women continue to have systematically poorer command over a range of productive resources, including education, land, information and financial resources. …Many women cannot own land, and those that do generally command smaller landholdings than men'* (World Bank 2001:5).[16]

16 The World Bank reiterated this argument in the World Development Report 2012 (World Bank 2012:5).

Deploying the economic and social development outcomes justification for strengthening of women's property rights is predicated on increased productivity. Citing several country-level studies, the World Bank report (2001) argues, '… *gender inequalities impose costs on productivity…[M]ore equal control of inputs and farm income by women and men could raise farm yields by as much as a fifth of current output*' (World Bank 2001:10-11; 74). The World Development Report 2012 cites evidence of increased agricultural productivity as a result of improving women's property rights and access to fertilizer and other agricultural inputs (World Bank 2012:4-5).

The list of anticipated positive outcomes then moves on from productivity of farms or enterprises managed by women, to increased household spending on food and children's education, lower child mortality rates (in general and for daughters), to higher school enrolment (in general and for daughters). The refrain is picked up by other global institutions:

> 'Increased resources in women's hands also benefit children', adding that pensions are spent better to benefit grandchildren when they are in the hands of older women compared to older men (UN-Women 2019:110).

> 'Many studies have shown that improving women's direct access to financial resources leads to higher investments in human capital in the form of children's health, nutrition, and education' (FAO 2011: 33).

The argument is also influential in scholarship, especially by economists (including feminist economists):

> 'To the extent that asset ownership improves women's productivity and ability to earn a living, women's ownership of assets will contribute to economic growth and development' (Deere & Doss 2006:35)[17]

A sub-set of this cluster of arguments justifies strengthening of women's property rights in terms of removing constraints on women's productivity and their ability to function as guarantors of household wellbeing. The argument made may be described as 'instrumental empowerment.' In essence, much is expected of women as food producers and household managers, but their ability to function effectively in these roles is hampered by insecure property rights. The following quotes illustrate this line of argumentation:

> 'Owing to the increasing rate of outmigration among men in climate change-affected areas, women are left with the sole responsibility for farming, yet they do

17 See also Agarwal 1994:27-38.

not possess the legal and socially recognized land ownership necessary to adapt to the changing climatic conditions effectively.' (UN-CEDAW, 2018)[18]

'Discrimination in credit markets and other gender inequalities in access to productive inputs also make it more difficult for female-headed firms to be as productive and profitable as male-headed ones.' (World Bank 2012:3)

'These resources ensure that women are able to provide for their day-to-day needs and those of their families, and to weather some of life's most difficult challenges' (UN-Women/OHCHR, 2013: 2).

'women need…unmediated control of land and related production inputs in order to successfully manage their lives and increase agricultural productivity.' (Kelkar 2014: 52).

'…everywhere women face gender-specific constraints that reduce their productivity and limit their contributions to agricultural production, economic growth, and the wellbeing of their families, communities and countries.' (FAO, 2011: vii).

'Legal barriers and cultural norms sometimes bar women from holding bank accounts or entering into financial contracts in their own right. Women generally have less control over the types of fixed assets that are necessary as collateral for loans. Institutional discrimination by private or public lending institutions often either ration women out of the market or grant women loans that are smaller than those granted to men for similar activities.' (FAO 2011: 33)

This subset of arguments typically concerns itself not only with control of land, but also with disparities in access to inputs that would improve women's productivity, such as fertilizer, extension services, information and credit facilities. The studies in this subset are concerned, for instance, about evidence in multiple countries showing that agricultural extension agents are more likely to visit male-headed than female-headed farm households (World Bank 2001:174). This and other practices constitute '*gender discrimination [which] diminishes an economy's capacity to prosper and provide for its people'* (World Bank 2001:74).

In summing up, observe that the economic and social development outcomes argument can be (and has been) made concerning women's increased access to income in general, and to investment in women's education (World Bank 2001:79-81). On its own, therefore, it does not really make a specific case for ownership and control of land and other productive resources. If the positive

18 UN CEDAW General Recommendation No. 37 on Gender-related Dimensions of Disaster Risk Reduction in the Context of Climate Change, para.70.

economic and social development outcomes can be achieved by availing women an increase in income by whatever means, then there is no reason for the more difficult road of strengthening property rights, which inevitably entails institutional reforms and mindset transformation.

Observe also, a limitation with respect to the 'instrumental empowerment' argument: it is only convincing if the insecurity in property rights translates into a constraint on productivity or undermines social development indicators. The mere fact of insecurity of property rights for women, either relative to men in general, or among differently situated categories of women, is not enough to trigger concern. The case made is therefore conditional and limited, not so much a principled and comprehensive defence of equal security of property rights.

## 2) Reciprocal Justice arguments

This cluster flows out of the economic and social development outcomes arguments. It goes something like this: women should receive the measure of security of their property rights that is commensurate with their contribution to the economy and to social wellbeing. This cluster of arguments highlights the magnitude of women's contribution, especially to agricultural production. The FAO (2011) reports that women make up an average of 43% of the agricultural labour-force of developing countries. In Southeastern Asia and sub-Saharan Africa the figure is 50%, and women in sub-Saharan Africa have the highest average agricultural labour-force participation rates worldwide (FAO 2011: 7). Diminished control and authority over property, therefore, does not do justice to women's role as the primary producers in the agricultural sector.

This was the tone adopted at the first international conference on women (Mexico City, 1975).[19] A decade later, the Nairobi Forward-Looking Strategies also drew from this type of argument, implying a tacit reciprocity between women's contribution to development, particularly in food and agriculture, and their right to benefit from development and to greater security of entitlements:

> 'Women therefore make a vital contribution to economic development, particularly in agriculturally based economies, which must be better recognized and rewarded. …Development strategies and programmes… need to be designed…so as to

19 See *Report of the World Conference of the International Women's Year* (Mexico City, 1975: 85)[Section 13 on Social Security and Family Security for Women].

> facilitate this key role of women and to ensure that women receive proper benefits and remuneration commensurate with their important contribution in this field.'[20]

The UN Special Rapporteur on the Right to Adequate Housing similarly makes reference to this justification, even as he situates his argument for women's right to land and housing within a human rights framework. In his 2003 report, he states that because *'women often bear the primary responsibility for sustaining and maintaining homes'*, there is *'need to ensure that their critical role is recognized and their rights advanced*.' (Special Rapporteur Housing, 2003: para. 20).

The reciprocal justice argument also shows up in scholarly and activist literature. A review by a coalition of Kenyan NGOs of progress ten years after the Beijing Conference (1995) lamented: *'Women are therefore more 'investment poor' than men, by virtue of the fact that they have limited resources, despite the fact that more women work as farmers than men*.'[21]

The reciprocal justice argument is the argument that many a wife is compelled to make in divorce proceedings in jurisdictions that operate separate property regimes that do not recognize marital property. She must work hard to prove that she made a contribution to the property or to the marriage commensurate with the portion of property that she is claiming, especially when that contribution is non-monetary (Deere and Doss, 2006; Nyamu-Musembi 2002). Literature that decries the injustice of divorce and inheritance customs that leave a wife or widow without any property in spite of life-long effort expended on home and farm also appeals to a sense of reciprocal justice (Tibatemwa 1995: 70, 75; Musembi 2003; Butegwa 1994; WLSA 1995).

Lynn Khadiagala's study of land disputes in Southern Uganda's Kabale district documents an exceptionally well-established history of women using the local courts to defend their claims on land and other agricultural assets. She deduces that in this mountainous region, where families farm multiple plots of land across a variety of climatic zones and elevations in order to minimize risk of crop failure, women's position as crucial labour gave them the standing to make these claims:

> 'When female generated income makes the acquisition of property possible, women expect the courts to honour their status as property owners. There is an expectation that the Magistrates' courts will treat them not as women, but as human beings.' (Khadiagala 2002: 111).

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20 *Report of the World Conference to Appraise and Review the Achievements of the United Nations Decade for Women: Equality, Development and Peace* (Nairobi Forward-Looking Strategies), [para. 174].

21 Kenya Women's Political Caucus (2005), *Beijing +10 Review: Kenya NGOs Report*.

When women see how indispensable their labour is, they can challenge family decisions on their property rights '*and still expect to return home married because the relatively high labour intensity of farming, and the value of their labour to the household economy gives a cultural legitimacy to their reciprocal rights and responsibilities…'* (Khadiagala 2002: 107).

Khadiagala's study bears parallels to Angela Cheater's 1982 study of Msengezi Black Freehold Area in Zimbabwe. She found that stronger protection of widows' land rights in this area was explained by the fact that women affine relatives were leveraging their crucial position as productive farm workers to acquire or retain access to and control of land in their own right (not dependent on their husbands or other male kin) (Cheater 1983).

## 3) Inherent Equal Dignity arguments

In essence, this cluster of arguments holds the position that women should have equal security of their property rights for the same reason that any human being has any rights at all: their inherent dignity; their equal legal and moral worth. Under this category are clustered all arguments that anchor equal security of women's property rights on the international human rights canon. International human rights are anchored on the equal and inherent dignity of every human being, as the preamble to the Universal Declaration of Human Rights asserts, albeit without identifying the source of that inherent dignity.

The pursuit of the goal of equal security of property rights for women is situated within a rights-based approach, which is defined as: 'a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights'(UN-Women & OHCHR 2013:14). The rights-based approach has as its defining pillars non-discrimination, empowerment, accountability, indivisibility and non-hierarchy of rights, and- crucially for the present discussion- interdependence of rights. Interdependence simply means that no right stands alone; the realization of one right depends wholly or in part on other rights.

Employing the lens of interdependence of rights, these arguments accord a nodal status to security of women's property rights: *'Land is key to a life with dignity and a basis for entitlements which can ensure an adequate standard of living and economic independence and, therefore, personal empowerment. ..land rights also have major implications for the achievement and enjoyment of her human rights such as the*

*right to equality, food, health, housing, water, work and education'* (UN-Women & OHCHR 2013:3).

Interdependence makes visible the connections between poverty, violence and the laws and institutions that govern family relations:

> 'Women's property rights in divorce situations are critical, because divorce could lead to poverty, and unequal rights in divorce are also a real barrier to women leaving abusive relationships…divorce can be tantamount to destitution for women' (UN-Women/OHCHR 2013: 40).[22]

A woman's control of property, whether individually or jointly, is an expression of her status as a person with full legal capacity and full equality under the law (UN-Women & OHCHR 2013:15). Deere and Doss implicitly invoke this argument when they employ the racial discrimination analogy: '*Therefore we should be concerned about the distribution of wealth by gender in the same way we are concerned about its distribution by race.'… 'The first reason that the gender distribution of wealth matters is an equity issue*' (Deere & Doss 2006: 35).

Some within this cluster go beyond exclusive focus on formal legal rights to argue for the safeguarding of rights guaranteed to women by other normative orders, such as custom and religion (UN-Women & OHCHR 2013:56-7; Musembi 2013; Jadeed 2020; WLSA 1995; World Bank 2012:165).

Lastly, women's property rights matter because they are an indicator for women's overall security and wellbeing. They are central to safeguarding the fundamental right to safety and security of the person throughout the various life-stages: '*Unequal rights to own land or apply for credit deprive women of resources for their livelihood and for security in old age, leaving them more dependent on male relatives'* (World Bank 2001:75).[23]

## 4. Symbolic/Cultural Transformation arguments

This fourth cluster draws its strength from what it means to have command of land and other productive assets (wealth) in most societies. Command of assets signals power- economic, political and social- at multiple levels: household, community, and society at large, including in interaction with public institutions. Evaluating the success of the MST,[24] a movement that aims to secure land for

22 See also (UN Special Rapporteur on the Right to Adequate Housing, 2012)

23 See also UN-Women (2019) *Progress of the World's Women*, p.122.

24 MST (Portuguese *Movimento dos Trabalhadores Rurais Sem Terra)* refers to a movement of the landless poor in Brazil, which acquires land through a combination of physical occupation and litigation strategies. In addition to Navarro 2005, see Wolford 2016.

the landless poor in rural Brazil through physical occupation and litigation, Zander Navarro underlines the symbolic rather than economic value of the smallholding, in a context where land ownership is intertwined with political power (Navarro 2005).

Applied to the specific issue of securing property rights for women, the argument is that facilitating women's acquisition of assets enhances their access to economic and political power. It thereby transforms cultural expectations about women at household level and beyond: '*The odds of being beaten if a woman owns both a house and land are a twentieth of those when she owns neither.*' (World Bank 2012: 88) A similar argument is made in successive reports of the UN Special Rapporteur on the Right to Adequate Housing,[25] and the UN Special Rapporteur on Violence against Women,[26] as well as in Deere & Doss (2006:39), Agarwal (1994:2), and UN-Women (2019:22, 109).

This argument accords a lot of weight to economic considerations in their conception of bargaining power: '*Since bargaining power is often measured as income or wealth, this suggests that the gender patterns of wealth ownership are important, even within households'* (Deere & Doss 2006:36). This enhanced bargaining power then arguably spills over beyond the household to the community and to public arenas (Deere & Doss 2006: 39). The FAO articulates the link as follows:

> '…control over land is synonymous with wealth, status and power in many areas. Strengthening women's access to, and control over, land is an important means of raising their status and influence within households and communities (FAO 2011: 23).[27]
>
> The joint research report of UN-Women and OHCHR also draws from this argument to underline the importance of women's property rights: '…women acquire more power and autonomy in their families and communities, as well as in their economic and political relationships. Rural women also feel that secure land rights in particular increase their social and political status, and improve their sense of confidence and security. …[D]irect and secure land rights boost women's bargaining power in the home and improve their levels of public participation.' (UN-Women & OHCHR 2013:2)

Govind Kelkar's research in rural India furnishes empirical basis for this argument. Asked why it was important for a woman to have land titled in her

25 See reports for 2003 (para. 21, 27, 63); 2006 (paragraphs 32-36); and 2012 (paragraphs 7, 11,12, 15, 21, 22, 32, 33, 36).

26 See for example, Report of the UN Special Rapporteur on Violence against Women, its Causes and Consequences, Annual Report 2017 (Human Rights Council, 35th session), paragraph 46.

27 See also World Bank 2001:155-6; 175.

own name, women farmers gave the following reasons: it raises her self-esteem, so she has greater confidence in seeking out institutional credit; gives her greater voice in land-use priorities and positions her favourably in contesting sale of land without her knowledge and consent; more respect from husband, children and community; enables her to escape domestic violence and marital conflict; lowers likelihood of eviction from the marital home (Kelkar 2014:52). She concludes that strengthening women's property rights is part of 'creating a culture of equality' (Kelkar 2014:53).

A study undertaken in Nicaragua and Tanzania in 2015 concluded, based on interviews with 492 women, that levels of physical and psychological violence reduced when women acquired land ownership (Grabe, Gross and Dutt, 2015).

Observe that with this cluster of arguments, positive change does not stop at adjustment in the woman's material circumstances, or indeed the wellbeing of her household. There is a greater concern about the kind of society we end up with; the kinds of social relations we signal as ideal or of value. Arguments that draw a connection between property rights and freedom from domestic violence bring this out clearly. They imply that a change in the dynamics of control of property becomes a nudge toward redrawing the boundary between acceptable and unacceptable ways to treat a wife, daughter or mother.

In concluding this section, I need to emphasize what I pointed out at the start of the section: These arguments intersect and overlap. They are not mutually exclusive. I have disentangled them from one another so as to illustrate the multiple bases for galvanizing a measure of substantive consensus around the need to strengthen women's property rights. Indeed, this discussion itself has shown multiple justifications being cited in the same report. Statements such as these are not rare in the literature:

> '*When women own land and manage earnings, their agricultural productivity also increases and their children eat healthier. Even more, ICRW has found that owning property changes the power dynamics between women and men at home. In some households, having property gives women greater bargaining authority, which helps reduce their vulnerability to domestic violence and HIV infection*.'[28]

## Conclusion

The issue of equal security of property rights is clearly one we cannot afford to ignore. In 500 focus group discussions conducted in 19 countries with women

28 ICRW: International Centre for Research on Women [https://www.icrw.org/issues/assets-and-property-rights/]

and men across age and income groups, ownership of assets was ranked among the top four keys seen as essential to improving individual and family well-being (World Bank 2012: 7). Yet asset ownership is enmeshed in social norms that regulate family relations, the one area that has been variously described as a 'sticky' domain (World Bank 2012: 76); 'an area where blatantly unequal rights still prevail' (World Bank 2001:117); as one of the 'remaining legal enclaves' that demonstrate 'patriarchy's staying power' (UN-Women 2019:26). Social norms in the area of family relations enjoy a semi-autonomy from formal state regulation that makes the process of translating legal reform into social change far from predictable (Moore 1973). This is what renders inevitable the chasm between the world of aspirations in law and policy, and the simultaneously harmonious and conflictual world of social practice. The project of securing equal security of property rights is as important as it is daunting.

The variety of justifications given for the project also yields a variety of views on the strategies to adopt. For instance, justifications citing social and economic development outcomes may employ strategies that place resources- such as agricultural credit- in women's hands, and term that intervention 'women's economic empowerment'. There are those who will criticise this approach as offering benefits for individual women while closing off the prospects for structural transformation (Cornwall and Rivas 2015). For such critics, radical transformation of family structures holds the key to securing equal property rights between men and women. For instance, Shamim Meer (1997:6) sees the strengthening of women's authority over land matters as part of a wider project of 'family reconstruction.' For Meer and others in this mode of thought, this is the only framing of the issue that holds any promise for sustainable gains.

There are others who will immediately sense a threat in a project so radically framed. For instance, a person may be passionate about the specific issue of dispossession of widows and eviction from their marital homes. His/her advocacy and action may indeed be motivated by adherence to a religious code or customary norm that mandates protection of widows against such dispossession. Such a person may take the view that his/her faith or belief system provides the motivation for action (indeed, compels action) on this specific issue. However, he/she may reject the call for wholesale realignment of family structure, for instance, to eliminate the concept of male headship altogether, or of differentiated roles from all dimensions of family relations.[29]

29 See, for example, Jadeed (2020) who argues for strengthening of the inheritance rights of Muslim women in Kenya through closer implementation of the stipulated shares under Islamic Inheritance Law, noting that a syncretic practice that integrates arbitrary local customs dispossesses women.

We may take issue with the justifications that differ from, or even potentially conflict with our own. For instance, it was pointed out earlier that economic and social development arguments for women's property rights make a case that is conditional and instrumental, rather than principled and intrinsic. Rather than dwell on the differences, the variety of motivations for action should draw attention to the need to pitch the argument in multi-pronged ways so as to draw support from the multiple existing and potential constituencies for strengthening of women's property rights. Borrowing from the spirit expressed in the World Development Report 2012 which focused on gender equality: we may disagree on whether to pursue an 'equality of opportunity' approach or an 'equality of outcomes' approach, but most agree that 'gross manifestations of gender inequality should be eliminated' (World Bank 2012: 4). As long as there is agreement among those engaged in advocacy or other types of action as to the importance of taking such action, motivations for action may be multiply expressed.

The era of themed global-scale conferencing is over; the era of global consensus-building is over. Contending over clauses in high-profile summits only got us as far as a shared declaratory language in which to express aspirations. To hope for shared meaning and uniform motivation will only yield despair. The work of building social legitimacy for equal security in property rights entails sustained, detail-oriented, mindset transforming engagement. In order to be effective, such engagement must be fully cognisant of pre-existing worldviews and intervene at strategic points with questions that facilitate self-critical reflection.[30]

> "*The history of human rights shows that rights are best defended in the end by the feelings, convictions, and actions of multitudes of individuals, who demand responses that accord with their inner sense of outrage*." (Hunt 2007:213).

Ultimately, the establishing of a global consensus on equal security of property rights for women has gone as far as it can go. The project now needs to shift base completely to draw from the diverse 'multitude of individuals' and their diverse ways of expressing what is 'no longer acceptable' (Hunt 2007:26, 213); to the painstaking work of deepening consensus in the small places close to home.

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Another example could be drawn from the work of the Christian NGO, International Justice Mission, whose work on protection from violence has included tackling the grabbing of property from widows in Uganda. See International Justice Mission (2019).

30 One example of this kind of engagement is the work that was undertaken by Women for Change in rural Zambia since the 1990s for about 25 years. See Women for Change (2015).