



Commission 7
Cadastre and Land Management

**The Symposium
on
Women's Access to Land,
12 October 1999
Bay of Islands,
New Zealand,
FIG,
Commission 7**



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The Program, Symposium on Women's Access to Land

9.00- 9.15	<ul style="list-style-type: none"> ▪ Welcome Address, Presentation etc.
9.15-9.50	<ul style="list-style-type: none"> ▪ Report from the Task force Group
9.50-10.30	<p><i>Agneta Ericsson</i></p> <ul style="list-style-type: none"> ▪ Women's Access to Land, <p><i>Agneta Ericsson</i></p>
10.30-11.00	<ul style="list-style-type: none"> ▪ MORNING TEA
11.00-11.40	<ul style="list-style-type: none"> ▪ Woman's Access to land: Surveyors can make a difference, <p><i>Dr. Sue Nichols</i></p>
11.40- 12.20	<ul style="list-style-type: none"> ▪ A presentation of Access to land for the indigenous populations in New Zealand <p><i>Dr. Angeline Greensil</i></p>
12.30-13.30	<ul style="list-style-type: none"> ▪ LUNCH
13.30-14.10	<ul style="list-style-type: none"> ▪ Informal Settlements, a study accomplish by Swedesurvey, <p><i>Tommy Österberg</i></p>
14.10-14.50	<ul style="list-style-type: none"> ▪ A presentation of the current situation regarding land legislation and the land allocation process in the context of Women's Access to Land in Vietnam, <p><i>Tommy Österberg and Agneta Ericsson</i></p>
14.50-15.30	<ul style="list-style-type: none"> ▪ A panel discussion
15.30-16.00	<ul style="list-style-type: none"> ▪ AFTERNOON TEA
16.00-17.30	<ul style="list-style-type: none"> ▪ Discussions about a draft outline of a set of guidelines for surveyors regarding how to support/improve Women's Access to land (in small groups)



Commission 7
Cadastre and Land Management

Terms of Reference

Women's Access to Land a Task Force Group Commission 7 FIG

In Brighton in 1998, Commission 7 of the FIG, formally established a Working Group on Access to Land, see enclosed Terms of Reference. Within this working group, a special Task Force Group will study and promote Women's Access to Land, with emphasis on women's situation in developing countries.

Background

Women are often treated differently than men regarding land, maybe not in legislation but rather by cultural and religious traditions. Yet a quarter of the households at the international level are run by women. This figure varies from country to country but may in some countries come close to 50 % (Women and land development, Abidjan-1995). Furthermore, as customary relationships change through, for example, increasing urbanization and economic necessity, there is a growing need to examine how women participate in land matters.

Households are never homogeneous entities and neither are families. Women and men usually have different functions within the family as well as outside of it. This implies that men may receive different information, opportunities and status than women. In general, attitudes and traditions guide female behavior to not be involved in issues regarding landrights., even if women are the primary users of the land. Taken together, these factors give rise to different degrees of ownership, management, and control of land.

Women's dilemmas in the third world are closely connected to poor economies, informal settlements, large families, and long working days. These leave no time for participation in land management matters, especially if this implies a long trip to a distant authority. Lack of information and illiteracy are other factors. The consequences can be low social status, isolation and lack of participation in decision-making processes.

An international workshop on women's access to land was organized in Gävle, Sweden in October 1995, as a part of the preparations for the Habitat II congress. Women from all over the world participated. The purpose of the workshop was to gather together a number of experts from different parts of the world in order to discuss and identify two fundamental questions "What are women's legal rights to land and settlement today?" and "What are the obstacles or mechanisms behind the fact that women have less control and management over land use than men?" The workshop resulted in a list of recommendations to ensure that women have the same rights to land as men. At

the UN Habitat II Congress World Congress in Istanbul 1996, the need of security of tenure for women was highlighted.

Informal settlements

"Women-headed households represent a significant proportion of women living in informal settlements. Most often women are marginally, rejected by traditional structures and with no socio-economic status, which permit them to integrate in the formal and legal structures of society. This category of people have the tendency to be very mobile, which neither favours regularisation nor consolidation of the living environment. Women living in informal settlements do not have a well defined social status. They find themselves locked in a vicious circle: they live in informal settlements because they are marginalised; they are further marginalised because they live in informal settlements". (Abidjan Interregional Seminar,-95)

Land Surveyors and Women's Access to Land

Land surveyors play an important role in the management of land, especially in supporting the allocation and transfer of rights to land. Their activities include land adjudication, establishing cadastral and land registration system, as well as land use planning. They can also be engaged in elaborating and amending land laws and regulations etc.

When performing these assignments, land surveyors can play a crucial role in protecting women's rights and to ensure that women can actively participate in the different processes. The following examples shows how women's access to land, in different ways, may be improved:

1. When allocating land, the land title can be issued in the names of both husband and wife
2. When developing cadastral systems, the system should be able to accommodate a common or joint title
3. In the land use planning process, both men and women should be engaged
4. Decentralising the Land Register may make it easier for women to apply for a title.

Objectives of the Task Force

The objectives of the Task Force Group are to advise land surveyors and make recommendations on how they can contribute in improving women's situation regarding access to land and security of tenure. Another objective is to elaborate a FIG guideline on Women's Access to Land and Security of Tenure.

Methodology

To be able to contribute in improving women's situation regarding access to land and security of tenure, one must first of all acknowledge the problems. The working methodology is therefore to highlight and describe different problems regarding women's access to land and security of tenure in different countries and cultures so that land surveyors can be more aware of women's situation in this context. This will be done by studying existing literature, good examples, country statistics and

by accomplishing seminars in several developing countries. Furthermore, ideas and practical advice will be elaborated on how surveyors can contribute in this context. The point of departure is the conclusions and recommendations from the Habitat Seminar “Women’s Access to Land and Security of Tenure.

Limitations

The studies and recommendations will concentrate on developing countries and especially informal settlements in urban areas.

Financing and Support

It is a huge task to carry out required studies in this field. Therefore special funding must be available. Potential financial resources may be found in different donor organisations. The Task Force Group will investigate the different possibilities.

The Habitat Centre in Nairobi supports the Task force group with advice and advertisement in their newsletters etc.

Time Schedule and Activities of the Task Force Group

Elaborate Terms of Reference	Autumn 1998.
Seminar in New Zealand	Autumn 1999
On Womens Access to Land	
Elaborate the Guidelines	Autumn 1999-2001
Issue the Guidelines	Autumn 2001
Presentation of the Outcome of the Task force group	Congress 2002

Participants

Chair person	Agneta Ericsson; Sweden
Members	Sue Nichols; Canada
	A.J. van den Berg; South Africa
	Sam Zhen; Zimbabwe
	Bill Robertson; New Zealand
	Ian Williamsson; Australia
	Krystyna Czarnecka; Poland

Others	Clarissa Fourie; South Africa
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Women's Access to Land

Agneta Ericsson

Chief County Surveyor

National Land Survey of Sweden

801 82 GÄVLE

Sweden

Presented at the UN-FIG Conference on Land Tenure and Cadastral Infrastructures for Sustainable Development, Melbourne, Australia

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ABSTRACT

The aim of this paper is to describe some key issues in the context of women's access to land, with special attention to women in developing countries and to Female Headed Households. Another objective of this paper is to explain why this is a sensitive issue and to show some good practices from different countries.

Keywords and phrases: *Access to land; Female Headed Households; Customary law; Dissemination of information; illiterate, matrimonial property, joint ownership .*

Introduction

Women's access to land is a sensitive and huge topic to discuss. The situation differs from one country to another and this paper does not lay claim on to be based upon scientific methodology. It is only to be seen as observations based upon literature studies as well as own experiences. The paper shows examples and quotations from some African and Asian countries to highlight the situations and problems in the context of women's access to land and closely related issues.

The first observation made is that especially Female Headed Families are vulnerable in the context of land and access to land. The next observation is that the number of these families is continuously increasing, especially in so called informal settlements. The third observation is that there seems to be a serious difference between the views of women and those of men. Interviews among poor people in an urban area in Lusaka illustrates this observation:

1. "Women certainly regard themselves as major persons, while men want to see married women as dependants in their custody;
2. Women claim joint ownership, while men see themselves as sole owners of matrimonial property;
3. Women want pooled incomes and joint control, while men claim control and ownership over not only their own but also their wives incomes;"¹

Why access to land?

All human beings rely upon access to land in one way or another. The land supplies us with food and a place to live in. Without land, no human beings. Even in pre-historic times people relied upon access to land. They were hunters and the animals they hunted needed a lot of space to be able to survive. Later on, the population increased and people began to cultivate land to support their

¹ Gender contracts and housing conflicts in Southern Africa", p 31

families. Through out the years, different systems have been developed to supply the population with land. The methods to carry out land allocations and land policies have changed over the time and differs from country to country. The basic objective, although, is the same, namely, to satisfy a growing population with enough space for food production and shelter as well as to provide taxes to the state/dictator/empire etc.

Key issues regarding womens´ s access to land in developing countries

Women’s access to land may not be a key issue as long as the old structures in society prevail. The families divide their responsibilities between husband and wife according to their conditions, needs and traditions. The husband usually takes care of the family’s economy and land matters and the woman of the household and children. From the society’s point of view, the husband generally is seen as the head of the family. If the family owns a piece of land, the title is mostly in the name of the husband. The old structures usually includes some kind of welfare system e.g. for parents and other relatives.

The big problems occur when the old structures fall apart and when the ”welfare systems” break down. This is exactly what is happening today. All over the world, urban areas expand uncontrolled and informal settlements grow bigger every day. Families are separated and the amount of female-headed families are continuously increasing. Female headed families are estimated to be about one third of the households². Therefore, we can not rely upon the old systems and we have to analyse the consequences of this fact.

Women’s Access to land is a sensitive issue. Men, not only from developing countries, often feel threatened when these questions are discussed. Land and access to land is a matter of power, why would we otherwise have wars! The more land, the more power, so why would men like to share the power with women? On the other hand, women in general do not care about power or access to land as long as the family is intact. But, in case of divorce or if the husband dies or disappears, a woman’s situation becomes totally changed. The life becomes very unsure. In many countries the woman finds herself without any kind of property and no place to stay in. Often, her only choice is to go back to her own family.

When does women’s access to land become an issue?

The following quotations give examples of WHEN access to land becomes an issue:

“It is common knowledge that widows are quite often totally dispossessed immediately after the death of the husband. A widow is not even recognised as a person who earned part of the property or contributed to its existence.”³

“ The situation is bad also for abandoned women and young widows when they decide to leave the in-law family. In all cases, they left without any compensation. Many of these women came to the in-law without land, so they also left without anything. They do not have any share of the reclaimed land of the family in-law.”⁴

“A few days after the death of my father, his relatives met together and told me that they didn’t recognise me as his daughter. They said that I was born before my parents got married, then

² Indicator Programme, Monitoring Human Settlements, Volume 4, p 5

³ Exposed to social insecurity Vulnerable women in Tanzania, p 2

⁴ A study of Female Headed Households and Land Tenure” (Vietnam), p 29

according to the Islamic tradition, I was illegitimate and therefore could not inherit my father's property"⁵

"Another widow stated, his relatives took possession of all the moveable property and all children".....When she refused to marry one of her husband's brother",she went back to Dar es Salam without property or children. The reason for this action was that the husband's family had paid a high bride price for her, she was therefore their property and property can not own property"⁶

"Housing is a constant problem for widows.....the majority of African husbands prefer not to live in their wife's house. Because of this, on death of the husband, the widow is at a great disadvantage since majority of widows have to vacate the matrimonial home. For 20 % of them, this was because they were told by the landlords that the contract was with the husband, not with them.... However, about 68 % had to leave their matrimonial home because they were tormented by the deceased husband's relatives who were anxious to seize the property.."⁷

"All the problems she has encountered have been caused by the customary laws of inheritance which prevents widows from inheriting land"⁸

Legislation and Access to Land

Many countries have a constitution that gives equal rights to men and women, but often dual legal systems exist with one general law and one customary law. In general, the customary laws seem to take over the general laws and they are not favouring women. The logic of customary law is grounded in village life and considers communal family interest rather than individual rights.⁹ Culture and religious traditions have a great impact on women's daily life and these traditions mainly treat women unfairly:

"The Matrimonial Causes Act in Zimbabwe is very flexible and leaves a lot to the discretion of the court. A study of all divorce cases during 1991 in the high court and in the Community Courts of Harare and Chitungwisa which involved conflicts over urban houses was conducted in order to see how the law was implemented. By reading the judgements, one can easily identify the paragraph of the dominating gender contract saying that the husband is the sole owner of property. Judges hold strong view of matrimonial property as belonging to the husband."¹⁰

"Vietnam has lots of progress in provision of laws and policy, which do not discriminate women. In the constitution, the civil code, the land law and the marriage and family law, women are given special attention. However, the population, especially the ethnic minority population, do not know about these laws and follow therefore instead their own customs."¹¹

"In Zambia where there has been no legal reform to protect a wife in case of divorce, the Local Courts have fully adapted the gender strategy saying that an urban house and all other property except kitchen utensils belongs to the husband."¹²

⁵ Exposed to social insecurity Vulnerable women in Tanzania, p 13

⁶ Exposed to social insecurity Vulnerable women in Tanzania, p 24

⁷ Exposed to social insecurity Vulnerable women in Tanzania, p 25

⁸ Exposed to social insecurity Vulnerable women in Tanzania, p 37

⁹ Gender contracts and housing conflicts in Southern Africa", p 38

¹⁰ Gender contracts and housing conflicts in Southern Africa", p 21

¹¹ A study of Female Headed Households and Land Tenure" (Vietnam), p 33

¹² Gender contracts and housing conflicts in Southern Africa", p 23

“Joint ownership is possible but rather uncommon. Usually there is only one name, the husbands name, on the contract. A husband can get a deed or transfer a deed without any consent from his wife. Until recently, a married woman could not even buy a house of her own without the consent of her husband.”¹³

What are the mechanisms behind the fact that women often are vulnerable in the context access to land

The society is usually built by men, for men. This means that women have difficulties in understanding the structures in different systems. This may have to do with a high level of illiteracy among women, they usually have less access to education than men. The structure of governmental agencies may also be a problem for women. E.g., the Land Register is often centralised to the capital of a country. This means that even if a woman is entitled to get land registered in her name, she can not manage to travel outside her village because she has no one to take care of her children and the household.

The following examples indicate some of the mechanisms behind the fact that women often are vulnerable in the context access to land:

“ Few women seems to know about their legal rights or entitlements”¹⁴. If you don’t know your rights it is of course difficult to fight for them.

“In Lusaka a battered woman had moved from her husband to her mother. “ The issue was handled in court. ...”Defendant is ordered to return wife”. This woman is clearly seen as a minor or even as property belonging to the husband.”¹⁵

Seldom women get involved in politics. This is the same situation as in developed countries, women do not have time or interest in being involved in politics. “In developing countries they need all time for their own and their children’s survival”¹⁶

“...tribes and cultures in Tanzania seem to look down on women who are not married at the age they are supposed to be. For women who bear children out of wedlock the situation is worse and for those who separate or divorce the blame is also theirs since they are supposed to tolerate any situation in marriage.”¹⁷

“Some (women) would like to be able to get a loan to enable them to undertake projects or businesses that would raise their income. However, it is very difficult for them to obtain loans because they have no security.”¹⁸

“Joint ownership by husband and wife is rare. The woman is secure in the house as long as she is married. But if the husband dies she can face problems. There is a new law of inheritance which gives the widow the right to the home. But “property grabbing” by the late husband’s relatives still occurs. The Deeds Registry at Lusaka City Council is not aware of the problem and refuses to change the ownership in the name of the Administrator to protect the widow.”

¹³ Gender contracts and housing conflicts in Southern Africa”, p 41

¹⁴ Exposed to social insecurity Vulnerable women in Tanzania, p 17

¹⁵ Gender contracts and housing conflicts in Southern Africa”, p 20

¹⁶ Exposed to social insecurity Vulnerable women in Tanzania, p 19

¹⁷ Exposed to social insecurity Vulnerable women in Tanzania, p 2

¹⁸ Exposed to social insecurity Vulnerable women in Tanzania, p 17

Justification to give women access to land

Women's contribution to the survival of the family is often at least as high as the husbands, although this may not always be possible to count in money. E.g., women invest energy and resources in their houses but this can be difficult to estimate.

Women are often deeply involved in cultivating land. In Tanzania, the agriculture sector employs about 90 % of the country's foreign exchange (Tanzania). Out of the total active population engaged in agriculture production, 75 % are women.¹⁹

If the traditional family is dissolved, the woman usually takes care of the children. Beside the fact that her economic situation becomes problematic, her need for a secure place to stay in becomes even larger the moment her husband disappears. The least a woman needs is to have a place to stay in, in this situation.

Women's strategy to improve their access to land

One strategy for women to improve their access to land, is found in Kenya. Thousands of women get together in hundreds of groups. "Women get together specially to pool their savings to buy land, or to start some economic activity that will eventually enable them to do so."²⁰

The situation for women to get access to house and land can obviously be quite problematic and women often feel that they will not be successful in trying to get the legal right to the land or the house. Their strategy can instead be to gain control over the house by having it transferred to and registered in the name of the eldest son.²¹

Experiences from land administration projects with a gender components

Vietnam

The Vietnam-Sweden Cooperation Programme on Land Administration Reform, carried out by General Department of Land Administration (GDLA) together with Swedesurvey, supported by Sida, includes a major component of gender awareness. The program includes 6 sub projects, namely legislation, cadastral mapping, land use planning and mapping, land valuation, LIS and program management. Each sub project is responsible to contribute in one way or another to improve the gender situation in the Land Administration Branch in Vietnam. From the starting point, the GDLA staff was not aware of the fact that there were any problems of this kind in Vietnam and the gender issues were not taken into account as a real problem. Throughout the project these issues have been highlighted in different aspect, and the gender awareness is increasing among the Vietnamese staff as well as the Swedish technicians. E.g. the legislation project has realised that the knowledge about the new land law is low among common people. Information campaigns are therefore planned. The LIS project is designing a system so that it can provide statistics about gender etc.

One study, "A study among Female Headed Households and Land Tenure" , VIE 99/1-5, Ms. Nguyen Nhat Tuyen, concerns ethnic minority women in the mountain areas. Some recommendations, among others, are:

¹⁹ Exposed to social insecurity Vulnerable women in Tanzania, p 6

²⁰ Woman in human settlement, p 21

²¹ Gender contracts and housing conflicts in Southern Africa", p 29

“

- *To change gradually the attitudes of men vs women's status, a wide dissemination is needed amongst the population about the rights and responsibilities of both men and women to make them aware about their possibilities to become a changing agent in the process of the implementation of the land law. In the short term the staff of the land administration branch are the pioneers in working with the population to make them understand the objectives and the process of LUCs. To achieve progress some short training courses should be designed for the special needs of approaching low educational levels living in isolation in mountainous high land areas. The courses should also target the ethnic minority staff to work at the grass-root levels. Gender issues are recommended to be included in the curriculum.*
- *To raise awareness among men and women (especially targeting the young, school children) about gender equity in appropriate environment, such as in school, WU meeting, peasants meetings, during festivities and market activities where there is a big audience. The meeting organized by the WU at local level was found in many other places as a good measure to make information reach women. This type of meetings can also include other topics for women to discuss about their concerns and help them to build the solidarity, self-esteem and confidence. To attract women to attend the meetings it is good to have some economic/health activities integrated in the programme. The law can be included in these meetings, but the use of difficult terms has to be avoided and rather give cases to discuss and find the problem and solution by the women participants. The venue and the timing of the meeting have to be acceptable by the majority of the target participants and not constrain the traditions.*
- *The land administration office has to be aware of the risk of exclusion of one group of women from the right they have according to the law. To ensure the gender equity is to ensure the right to have access and control over the land that can support the living in the special group of FHHs.*
- *The land administration branch continues the work started by a working group on ethnic minority issues and besides assigns staff to up-date the information and progress of the work. This work has to be done in cooperation with researchers, social scientists and women's studies experts to give a broad picture of the population that may be affected while implementing the law. This data and research findings would enable the policy makers to adjust the policy for the benefits of the whole population.*
- *The land administration office has to produce under law documents to give guidance for implementation of the law.*

...”

Egypt

In Egypt a Gender Study is conducted within the Egyptian-German Cadaster Project –EGCP_ “Promotion of the cadaster”. From this study following findings are found:

The proportion of female landowners in one of the project areas was quite high, 36 % but the management of land and land use of its outputs rests with the male of the household. Female land owners only marginally participate in ownership investigations because they are not accustomed to

dealing with formal procedures. In case of the husband's death, the widow has a guardian who looks after the land affairs. A woman who inherits land from her father is more or less expected to hand over the land to her brothers (the share of a female is one half of the share of the male when both have the same relationship to the deceased). Female illiteracy in Aswan Governorate is 65 % 1992 compared to men 50 %. The female-headed households are estimated to be 17-20 %.

The project included a study of the gender situation among the staff within the Egyptian General Survey Authority (ESA). Only 2 % of women in ESA did not have formal education against 41 % of males who are illiterate. In spite of relative high qualifications, women have less remunerated positions.

Findings within the project, among others, were:

- To appoint female staff to assist with the development of material and messages which specifically address to female target groups;
- That selected female employees be trained to assist in the informational campaigns to address female land owners;
- The government institutions have successfully used village women leaders to spread messages. With some training on cadastral technical training procedures and legal aspects of land registration they could become efficient intermediaries between ESA and local women

Mozambique

Sida has supported a long term program in Mapoto with Mozambique's National Surveying and Mapping Department, (DINAGECA). The program includes one identification and adjudication process. The customary laws are very influential in Mozambique and the project took place in an patrilineal system area where women only have access to the husband's family land. In order to speed up the identification process, the local administrative structure together with DINAGECA decided that, in absence of men, the women should be the title applicants, as they were the ones to work in the field. Therefore, some of the titles were given to women, despite prevailing customs in the area. An evaluation team, appointed by Sida, Sida 97/15, exposed that the women did not understand what it meant to hold a title. Therefore, in reality, women did not assume the role of titleholder. The conclusion is that the title will not give them control of the means of production unless they accept this control and that they are prepared to deal with the potential conflict with their husbands.

About statistics

Below are some gender statistics aggregated

- Even though females comprise more than 50 % of the world's population, they only own 1 % of the worlds wealth²²
- It is estimated that 70 to 80 % of refugees world wide are women and children²³
- According to statistics of the population census in Vietnam in 1989, female headed households make up a total of 27 % of all households in Vietnam.
- According to the 1990 Population and Housing Census in Uganda, 45% of the female population have never been to school²⁴

²² Women in Human Settlement, p 6

²³ Indicators programme, p 29

- Female literacy rates are low: 20 to 50 percent of males level²⁵

There is a general lack of information about women's situation. It is therefore important to promote systems that can provide gender sensitive systems. This should be considered when e.g. LIS systems are created.

What global, national and local initiatives are necessary?

To be able to improve women's situation regarding access to land, it is necessary to get an insight about the problems, not only in developing countries, but all over the world. We all have a responsibility to stress these issues. It has to do with what kind of world we would like our children and grand children to take over (we might have daughters or daughter-daughters and they may become widows or even get divorced!). It has to do with attitudes, knowledge and power. We all have to take every opportunity to stress these issues. We need to start from the moment a child is born. We need to teach our children that all people have equal rights. This has to continue in school.

Not only developing countries disfavour women. The societies in Western countries are certainly not equal societies and market driven economies are probably less gender sensitive than communistic states. Let me give you an example from Vietnam. During the communistic era, the constitution gave men and women equal rights. During the Vietnam War in 1970ies, women had to take over from men regarding labour, politics etc. Therefore, women have been quite visible in all activates in the society. Unfortunately, this trend is regressing, probably due to an emerging market economy and the old feudal structure is taking over again.

I am sure that we all understand why everybody should have a fair chance to have a place to stay in, earn their own living without being dependent in an other person's goodwill. The problem is to gain insight and knowing what to do.

A lot of activities are ongoing with the objective to improve women's situation in the world. At the **global level** governments have committed themselves to work for women, e.g. Forth World Conference on Women, Beijing Platform for Actions:

“Men and women shall have full and equal access to economic resources, including the right to inheritance and ownership of land and property...” (Beijing Platform for Action, paragraph 63 (b),

The Conference on Human Settlements (HABITAT II):

“Governments at the appropriate levels, including local authorities, should nevertheless strive to remove all possible obstacles that may hamper equitable access to land and ensure that rights of women and men related to land and property are protected under the law. (Global Plan of Action: Strategies for implementation B para 55).

This is fine, this gives us a platform to stand on, but nothing will happen if it is not followed up at national and local level.

From the **national level**, Mrs Anna Lindh, Minister of Environment, Sweden, at her welcome speech at the international workshop on Women's Access, Control and Tenure of Land, Property and Settlement, 1995, exemplified measures used in Sweden in order to increase women's rights and increase the possibilities to participate on an equal basis with men (Sweden is supposed to be one of the most equal societies in the world):

²⁴ Women's access to land, p 105

²⁵ Women in Human Settlement, p 6

- The most important measure is the right for women to work. The opportunity for women to support themselves, to choose whatever occupation they find interesting, to have the same conditions as men in working life, is a necessity in order to reach equality between men and women.
- The second prerequisite is the possibility to get childcare and care for elderly.
- The third is political reforms in the field of economic, social and family policy that contribute to the development.

Governments must increase the education level among the population and they must include the girls. Also, governments must disseminate information about legal rights. To be able to supervise the trends we need statistics. All governmental systems should be able to provide gender sensitive statistics.

Every sector has to contribute. As far as land surveyors are concerned they have a lot of possibilities to promote equal access to land. Therefore a task force group has been established within FIG, Commission No 7, regarding Women's Access to Land. The objective of the Group is to highlight the Land surveyors possibilities to play a crucial role in protecting women's rights and to ensure that women can actively participate in the different processes. The following examples shows how land surveyors may have impact in women's access to land, in different ways:

5. When allocating land, the land title can be issued in the names of both husband and wife;
6. When developing cadastral systems, the system should be able to accommodate a common or joint title;
7. In the land use planning process, both men and women should be engaged;
8. Decentralising the Land Register may make it easier for women to apply for a title;

Financial institutes should look over their conditions to grant loans to women. Even in Sweden, women have problems getting loans because they are women. Financial institutes are not used to and not familiar to business conducted by women.

Political organisations all over the world should consider what they can do to facilitate for women to participate in politics.

The **local level** is where you and I can do something about the situation. **Men** need to be engaged to solve the problems because they are the ones that have the power. Therefore they also need to understand why this is important for men. This could be exemplified by a new phenomenon coming up in some Asian countries; girls, if they have a choice, prefer to remain unmarried and have no children. In the short term maybe this is a successful behaviour both for the girl and the society, but not in the long term. Instead, "the society should realise that young girls are future investments as far as development and reproduction is concerned."²⁶

Women must be made to understand what they can do themselves. Probably, the greatest problem is women's lack of education. In the study carried out among minorities in Vietnam following statement is found, "Lack of education, information and communication are the main obstacles for female headed households to be aware of their rights. Without this awareness women are only some objects that can be traded by family."²⁷ This statement seems to be adequate for many women in many countries. Many of the problems are connected with lack of information. People (both men

²⁶ Exposed to social insecurity Vulnerable women in Tanzania, p12

²⁷ A study of Female Headed Households and Land Tenure, (Vietnam) p 33

and women, but especially women) just do not know their rights and responsibilities. Dissemination of information is therefore necessary.

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Biodata:

Agneta Ericsson is a Chief County Surveyor at the National Land Survey of Sweden. She got her Master of Science in Surveying and Mapping at the Royal Institute of Technology in Stockholm in 1973.

Through out the years she has been engaged mainly in cadastral issues e.g. in the development of the Swedish Land Data Bank System and the digital cadastral index map.

During 4 years (from 1994-1998) Agneta was employed by Swedesurvey, a state owned company responsible for marketing the services and co-ordinating the activities of the National Land Survey of Sweden. At Swedesurvey she was responsible for Swedesurvey's activities in Asia and Latin America.

National Land Survey of Sweden, 801 82 GÄVLE, Sweden

Tel: +46 26171646 Fax: +46 26171642, agneta.ericsson@lm.se,

Women's Access to Land: Surveyors Can Make a Difference

*Part of Work in Progress on Measuring Women's Access
to Land and Its Benefits*

Sue Nichols,²⁸ Eve Crowley,²⁹ and Katalin Komjathy³⁰

²⁸ Dr. Sue Nichols is a survey engineer involved in land reform and is currently an Associate Professor in Land Administration at the University of New Brunswick (UNB) in Canada. She was a visiting scholar with the Land Tenure Service at the UN Food and Agriculture Organization (FAO) in Rome in 1998/99. *nichols@unb.ca*

²⁹ Dr. Eve Crowley is an anthropologist and is currently a Technical Advisor on Household Food Security and Gender at the International Fund for Agricultural Development (IFAD) in Rome. Until May 1999, she worked as a Technical Officer with the Land Tenure Service at FAO. *E.Crowley@ifad.org*

³⁰ Katalin Komjathy holds a Masters in Business Administration and lives in Boulder, Colorado. She is currently a Masters student in Geodesy and Geomatics Engineering at UNB and in 1999 was a consultant to FAO compiling a bibliography on Women's Access to Land for the Land Tenure Service. *komjathy@unb.ca*

Women's Access to Land: Surveyors Can Make a Difference

*Women Hold Up 51% of the Sky*³¹

Land is a primary basis for wealth, status, and power. Access to land is therefore a critical factor in how wealth, power, and status are distributed within society. One of the building blocks of the colonial policy in countries such as New Zealand, for example, has been that land resources and benefits from those resources should be distributed as widely as possible to avoid the landlessness, poverty, and servitude experienced by the majority of Europeans until the 20th century, in other words the policies sought to a widely distribute wealth, status, and power. The inequities and inefficiencies of how access to land is allocated in society are still major issues worldwide, for example, in the former Soviet Union, in the independent African states, and in western countries where indigenous groups had been marginalized.

The rights women have to land have also become a major concern internationally, in part because women are now recognized as forming an important segment of a nation's economic and social capital. Their labour, often devalued in the past, is a critical element in food production and family maintenance in many countries. Increasingly women are the *de facto* heads of household due to such factors as divorce, migrant labour, war, and general social changes. In developing countries, for instance, 50% to 80% of food is produced by women's labour. It has also been shown that women tend to reinvest more resources in the household unit than men and this reinvestment is the building block for nutrition, health, education, and effective poverty alleviation.

This increased recognition of women's rights and their value to the economy and well-being of a nation has also been a factor in western countries. Social mores and legislation that prevented women from owning property or obtaining credit have been gradually replaced. But in most countries this devolution of wealth, status, and power has been largely a 20th century phenomena and as recently as 10 years ago women with collateral could rarely obtain a bank loan in North America without the guarantee of a male family member.

The purpose of this paper is not to explore whether women's rights to land should be more equitable, whether based on principles of human rights or based on principles of poverty alleviation and more efficient land use. Instead we share some of the research that has been conducted over the past year through the Land Tenure Service at the United Nations Food and Agriculture Organization on addressing a set of issues, including:

- what do we mean by access to land and the benefits of land?
- how can we measure whether land reform projects or policies affect access to land, i.e., what indicators can we use to determine whether the quantity or quality of access has changed?

³¹ UN Poster.

- what are the difficulties that may be encountered in addressing women's access to land in a land reform program or a cadastral project?

A fourth issue and the main focus of this paper is:

- how can surveyor make a difference in protecting and perhaps enhancing women's access to land.

The surveying profession should not underestimate its role in allocating, adjudicating, protecting, and changing the way in which people hold rights to land. In the past the major impact was the size and shape of land parcels and the general pattern of the parcel fabric. Today, the profession also has a role in land reform – at home and abroad – in ensuring that the cadastral systems, laws, and procedures put in place during such reforms do not adversely affect the rights of groups and individuals that the reforms were meant to benefit. They sometimes have in the past and the purpose of this paper is to document the complexity and difficulty in as simple an issue as women's access to land.

Measuring Access to Land and the Benefits from Land

Access is the right or opportunity to use, manage, or control land or natural resources. It includes the ability to reach and make use of the resource. Equitable access to land does not only mean the quantity of rights allocated. To make use of the rights and opportunities, access to land must also be enforceable or secure (for example, against seizure by force or by law). Equitable access must also be effective, i.e., by including equitable access to other resources such as irrigation, roads, or finance.

Having some measurement system for evaluating access to land is essential if the 'success' or 'failure' of a particular program, policy, or project is to be determined. There needs to be a set of indicators that can describe the situation before, during, and after something (e.g., a new law, a titling project) has occurred. Basically this is the same as a deformation survey of a dam – campaigns of measurements at discrete intervals of time to detect movement. The problem in measuring access to land is similar to the problem of determining which points on the dam are critical in detecting movement. These 'points' become indicators.

Measurement of access to land needs to involve both qualitative and quantitative parameters. Surveyors and other land administrators tend to think primarily of property rights to the surface of the land together with its fixed improvements. The focus becomes the quantity of rights (e.g., leasehold, freehold, easement), the size of the parcel of land, or its economic value. On the other hand, social anthropologists have tended to emphasize the uniqueness of land tenure systems within a given culture and focus on the nature or quality of the rights that may be involved. Both approaches are valid for certain purposes and both have their limitations. If, however, we are to design a way of measuring women's access to land it may be important to draw on both approaches.

One way of examining the quantity of rights is to view the ‘bundle’ of rights as a spectrum. At one end of the quantitative spectrum are temporary rights of use. At the other end is absolute control over what can be done with a particular resource, including who else can use the resource and for how long. Somewhere in the middle of the spectrum is the management of the resource where there is more limited decision making power (e.g., the ability to transfer rights and the opportunities to reap the direct and indirect profits from the resource). An English common law freehold estate then might be considered to be at the management level subject to the overall control of the state. A short term leasehold might be considered a temporary use right.

Examining the quality of the rights to determine indicators is more complex and only a few examples can be given here. One measure of quality is the legal security of the rights, i.e., how well do formal law (e.g., legislation) or informal law (e.g., traditional or local community rules) protect the ownership of the rights. Thus, for example, inheritance through entail or patrilineal inheritance rules may limit women’s right of management or control. Physical security is another indicator that may be affected, for example, by war or by custom in many countries where land is seized by the male relatives on death of a husband. A third example of quality of rights is transferability. Use rights may often be non-transferrable because they are vested in a family or particular family members. Furthermore, transferability may be affected by the quality of the evidence of the right, such as an official document or register.

In assessing the quality and quantity of rights, the scope of potential rights of access must be broad. For this reason we have chosen the term ‘‘access to land and the benefits of land’’. Some of these direct and indirect benefits that should be considered in measuring access include:

- rights to shelter;
- rights to access water, firewood, fish, or fruit;
- rights to shares in inheritance on the death of a family member;
- rights to shares in land and improvements on the death or departure of a partner in an informal marriage;
- rights of access to financing and financial inputs;
- rights to the profits from the use or sale of the resource;
- social status in the community based on access to land;
- role in decision-making (e.g., management and control).

The next step for project managers, policy makers and others who want to know more about the quantity and quality of access to land, what indicators might be used? These will be important in pre-project assessments and in later monitoring and post-project evaluation. Again only a few samples can be given here.

In many land administration projects and programs the conventional approach has been to use documents of land rights or land registry records. This has the advantage of being straight forward and reasonable objective but the limitations are many. Even in western countries title documents and registers only record a limited set of rights and the situation is made more complex in customary societies and less-developed nations where either:

- few documents or registers exist;
- they may not be up-to-date or complete;
- they may not reflect the on-site situation;
- they often only list one name (*de jure* head of household)

- they probably do not reflect the variety of formal and informal rights that exist through custom and tradition.

A second major indicator used to measure access to land is legislation, such as laws for inheritance, divorce, or land use. This however may also be misleading since the formal legislation may not reflect what actually is accepted as practice on the ground. One example are the divorce laws in some socialist states which may recognize equal division of property. How well a woman's (or man's) rights might be protected on divorce, especially in impoverished rural regions, will also depend on the degree of access to the courts, ability to finance litigation, and the degree of support provided by the family or community. Similarly calls for equal rights in constitutions can be quite meaningless in the actual practice of local communities.

Other indicators include physical occupation or proof of the actual exercise of the rights. Again this has some difficulties in that it may not agree with the formal (legal) status and it may be difficult to observe (especially in a short time span) all of rights in play. Related to these indicators are indicators such as: *de facto* head of household; primary food provider; community acceptance or agreement of someone's rights; or the share of financial and labour inputs. Even more difficult to measure objectively and completely are factors such as social status and decision-making power.

Further Examples of the Challenges

Three examples have been chosen here to demonstrate how difficult it can be to protect or enhance women's access to land and its benefits.

Documenting Customary Tenure: In several African countries (e.g., Zimbabwe, Uganda, Malawi) there have been discussions and proposals to document or register customary rights in land. The arguments for these certificates of customary tenure and for registration are that the processes will:

- provide greater security of tenure on customary lands;
- provide a document that can be used as collateral for credit;
- provide more information for planning and land management.

Despite the merits or limitations of the processes, there could be significant impacts on women's access to land. The major difficulty is the fact that such documentation effectively freezes customary rules that are in place at the time. No account is made, for example, of such future rights as the right of a woman to return home and receive a parcel of family land after a divorce. Limited rights such as the right to pick fruit or gather wood on another's property may be eliminated by the documentation. And then there is the question of whose name(s) the certificates or registers will record. For example, will the name be the *de facto* head of household, who may be a woman whose husband works away from home, or the *de jure* head of household according to customary law; there are limitations with both of these approaches, including the problem of whether the documents have priority over customary law in cases of inheritance when both names are recorded.

Changing Cultural and Religious Beliefs: Traditional laws and religious laws often protected women and provided for wives, widows, and female children through other means than, for instance, equal land shares on inheritance. In Islamic law, for example, girls may receive 1/2 the land that sons receive on the death of their father. This is in effect their dowery to bring to a

marriage. The sons on the other hand have the responsibility to provide for unmarried sisters and their mother and in theory require more land. Other cultures have had similar traditional laws.

The difficulty today is that traditional societies and religious based communities are not immune to the influence and social changes around them. Education of women and greater opportunities for employment and self-sufficiency are affecting many traditional communities. Divorce, desertion, and urban migration may also challenge the traditional safety nets. And the devastation of aids and war have fragmented the extended and traditional family arrangements. At the same time, in the midst of obvious need for changes, who has the right to demand they be made or to force another community to adopt its values? This certainly raises ethical dilemmas for the professional.

Gender Targeted Development Project: International aid organizations have been targeting women for special assistance for decades. More recently protection and enhancement of women's rights to land has become a focus for some land reform projects. One of the difficulties is that these projects often enhance the value of the land. So, for example, women may have had parcels of marginal land in the community to raise personal crops. After a land development project, this land has received irrigation and a new road is built. The value of the land is thus enhanced. Will local authorities allow these women to maintain their land rights after the project is over? Experience in, for example, housing projects have shown that making improvements may lead to the loss of the right to use a house allocated to a woman on communally owned land.

The objective of the above discussion was not to discourage action. Instead it was to demonstrate that making changes does not always result in the benefits originally intended.³² The situation is complex.

³² See, for example, B. Harden [1990]. "Good intentions." Chapter 5 in *Africa: Dispatches from a Fragile Continent*. New York: W.W. Norton & Company. in which the author details the unexpected outcomes from a well intentioned aid project in Kenya.

Surveyors Can Make a Difference

We believe that surveyors can make a difference and therefore our objective has been to raise awareness of the issues. In this section, a number of ways in which surveyors and the surveying profession can assist in protecting and improving women's access to land are discussed briefly with the hope of beginning a constructive dialogue within the International Federation of Surveyors and within the Member Associations.

Sharing Awareness of the Issues and Their Complexity: Just being aware that there may be some potential issues is a long step forward. This will help project managers, task managers, and other participants in policy formation or project design understand that they need to be sensitive to potential impacts. Awareness of the complications in what may have seemed to be a straight forward surveying project, may help professionals decide whether or not people with specialized expertise may be necessary. It is also important that surveyors share this awareness with their staff and others involved in the projects.

Ensuring Women's ACTIVE Participation: This includes ensuring that women in the community affected and on staff are involved in the project or policy processes, not as an afterthought, but from planning, to implementation, and to evaluation of the results. This is not always an easy process and sensitive ways must be found in some communities to allow women to share their views and experiences openly, especially with strangers. Another way in which women in the community or organization can be encouraged to participate is to provide role models, such as appointing women as key project members and supporting them.³³

Obtaining Knowledge of the Situation: For project managers to know whether women's access to land may be an issue, there is a need for an adequate pre-project assessment of the situation. The level of detail and complexity will depend on the local situation and the objectives of the project. However, if the situation does appear to have issues directly related to women's rights, then special measures may have to be taken to understand the potential implications of the project. This can be assisted by monitoring changes during the project and by obtaining feedback from women as well as male community leaders before and during the project. Post-project evaluation (the role of which is too often disregarded or minimized) is also important for understanding what worked and what did not and what were the lessons learned.

Providing Opportunities for Women's Rights to be Explicitly Recognized: If a land titling, cadastral surveying, land registration, or information system project is going to document rights to land, then decisions need to be made as to: what rights will be included? whose names will be documented and based on what evidence? and how will these names be kept up to date? In addition there is a need for the decisions made on these issues to be acceptable to the recipient community to ensure the sustainability of the systems introduced.

Supporting Women in Land Administration Organizations: In major internationally funded projects, women employees often do not have the same access to opportunities on the project. Yet

³³ The importance of role models was made very apparent to the primary author in her first year of teaching cadastral surveying. After a guest lecture by the only woman cadastral surveyor in Canada at the time, one first year foreign student wanted to know whether all cadastral surveyors in Canada were women.

these women may be able to help foreign project members and recipient organization staff to better understand the issues related to women's access to land locally. They may also be a communication bridge to the community's women. Projects can also enhance women's sustained participation in a land project through education and training. The Swedish International Development Agency, for example, has required that 50% of all participants in cadastral training and education projects abroad be women.

Ensuring Effective Access Through Other Support: Providing equity is not enough. To be effective, access to land must also include access to other resources (such as financing, technology, and training) and to required support systems (e.g., water, roads, marketing co-operatives). Without these resources and support, the projects may leave nothing but paper titles behind.

Conclusion

Others have argued that providing secure and effective access to land for women can benefit families, communities, and nations through, for example:

- increased economic opportunities;
- increased investment in land and food production;
- improved family security during economic and social transitions; and
- better land stewardship.

However, these benefits can only be fully realised if the strategies adopted for improving women's access to land work in practice and if decision-makers and project teams are aware of those strategies that do and do not work. They need to know about the quality and distribution of rights in land, the economic and cultural impediments that limit women's effective and secure access to land, and the benefits that can be achieved by enhancing women's access. They also need to know what options for improving equitable access to land exist and be able to evaluate the full range of implications of these options.

The objective of this paper was to raise awareness of a few of the many issues related to women's access to land. Surveyors have an impact on land tenure systems worldwide. This implies that the profession also has a special responsibility to society. As the land tenure issues grow increasingly complex and become more diverse, the profession has a responsibility to know more about the issues and do more to ensure that the systems for administering property rights serve society well.

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Urban Growth and Cadastral Development

By Benita Nordin and Tommy Österberg, Swedesurvey, Sweden

Urbanisation is increasing particularly in developing countries. Governments are seldom able to satisfy the demands for land and housing of growing populations in towns and cities resulting in an increase in informal settlements with informal land tenure. Informal land tenure can be legal or illegal and it can also be based on customary rights. It has many disadvantages as often it does not, indeed cannot, provide security of tenure. Land market transactions on informal markets are exposed to risk and open to fraud. Governments often lack the resources to expand existing cadastral systems to include informal settlements. In many countries, existing cadastral systems are inappropriate being too complicated, costly and inaccessible for the general public. Further, without an appropriate cadastral system, land administration is open to corruption. The result is insecurity, costly and risky land markets, a reduction in economic development, environmental problems due to unsuitable land being used for settlements and insufficient information for the formulation of policies and programmes to upgrade informal settlements.

This report is the result of a project carried out jointly by Sida and Swedesurvey. It aims to describe cadastral methods appropriate for urban areas in developing countries. The report covers the first phase of the project. Three separate studies have been carried out which have resulted in the following sub-reports:

- Informal Settlements in Guatemala City – access to land; a minor field study by Kristina Jauring
- Urban Growth and Cadastral Development, the Philippines; by Richard Lundgren
- Informal Land Tenure in Lusaka, Zambia; by Benita Nordin

Experience from projects in Maputo, Mozambique and Port Elizabeth, South Africa and other cadastral development projects is included in the report, as is Swedesurvey's experience gained from involvement in international organisations such as Habitat and the International Federation of Surveyors (FIG).

Informal settlements

Informal settlements are growing in most major cities in the third world. The reasons for this are an increased migration to urban areas, high birth rates in the settlements and the failure of the authorities and the market to meet demands for plots in urban areas with suitable services for residential purposes.

The situation in the five cities included in the study, Guatemala City, Lusaka, Port Elizabeth, Manila and Maputo differs but they all have considerable problems with informal settlements and all lack efficient cadastral systems.

The upgrading of informal settlements and management of low income housing areas should preferably involve the engagement of the inhabitants through some form of community association. This would provide a forum for discussions, resolving disputes and making decisions and facilitate upgrading activities for both housing and services.

In order to develop a cadastral system which will cope with the problem of informal settlements, institutional and technological development is necessary and changes need to be made to the methodology applied. This includes development of legislation, organisation, financial systems and procedures as well as training.

Security of tenure

Urban growth has positive as well as negative consequences. Urban areas promote economic development, provide more opportunities for generating income and give inhabitants easier access to health services, education, cultural activities etc. Unfortunately urban growth can also lead to social unrest. A large part of the population lives in poor conditions, the environment is often polluted, natural resources over-exploited and there are health risks. Stable conditions, which support rights to property and in which risks can be foreseen and therefore reduced, promote urban development and wealth. Rights to land may be held through ownership or leasehold and both of these systems can provide stability.

Studies have shown that security of tenure is of utmost importance to inhabitants in informal settlements. This question should be solved before making investments in infrastructure such as roads and water. With security of tenure inhabitants know that they can remain on their plot and so are more likely to participate in upgrading. A sense of security will provide the incentive to make improvements to buildings and increase interest in improving the environment. This will solve problems associated with the lack of proper latrines, clean water and waste management.

Access to land

Land is needed for housing development but access to land can be limited by physical constraints such as flooding, by lack of infrastructure for transport or by institutional constraints such as high land prices.

Governments should be responsible for providing land for housing developments preferably through local government. This could be done directly by land acquisition or via strategic planning and efficient decision making regarding land use to facilitate for land developers. A land acquisition programme, supported by legislation regarding for example pre-emption and efficient expropriation, could be established. Such a programme will need access to capital resources, an inventory of land resources and some form of strategic land development planning.

Local governments must develop efficient and flexible processes for land delivery in order to meet market demands. Decision-making must be decentralised and power lie at a local level. In cases that are in line with principle solutions, decision-making could be delegated to officials. Administrative procedures, involving different authorities, can be streamlined to avoid duplication and time-consuming procedures.

Cadastral systems

Cadastral systems in developing countries are often a legacy of colonial rule. In many developing countries land legislation and the regulations for land registration and cadastral surveys are now obsolete and need to be adapted to the needs of modern society. Bureaucrats, resistant to changes in legislation and technical methodology, may pose serious institutional constraints. In some countries dualism, between traditional rule and modern administration, can also cause constraints as can the lack of both financial and human resources and methodology development.

In order to fulfil obligations and provide legal security a cadastral system needs to be the responsibility of the government. This responsibility can, however, be decentralised and lie with local government but local government must be strengthened. The private sector can play an important role both as provider and manager of information. Cadastral processes need to be re-engineered and adapted to the real needs of customers and the urgent demands they place on the system. This could be achieved by:

- simplified decision-making procedures regarding land allocation and land adjudication;
- making the requirements for cadastral surveying and mapping more appropriate;
- making the requirements for land use planning and the considerations for suitable land use more appropriate;
- integrating the cadastral system with other information systems in order to avoid duplication and to facilitate analyses to support decisions regarding land use;
- local maintenance and access to information through local offices;
- NGOs, the formation of informal and formal associations within the community.

It usually takes a long time to establish a cadastral system and considerable capital investment is needed. Therefore it is necessary to concentrate the resources available on the most urgent needs and use appropriate methodology.

A flexible approach to cadastral surveying and land registration uses methods to meet the most important demands whilst taking into consideration the resources available. Basic security of tenure can be provided by general legislation which gives rights to remain in areas which have been occupied for a certain length of time. Demarcation and a survey of the perimeter of the area, numbering the houses and a manual register of owners or plots which is managed locally, but with the information transferred to a central computer system, will provide a basis for a formal land market. If demand requires the provision of suitable land parcels and an efficient mortgage system, then it will probably be necessary to survey individual parcels basing the survey on existing or demarcated boundaries and to register ownership to the land in a central computerised system.

Land registration can be done in different ways. A deed registration system means that, in principle, the transfer of deeds is registered in chronological order and, as no legal checks are made, solicitors must be employed to do this, thus increasing the cost. Title registration is based on the identification of each parcel with changes in the legal conditions being recorded after a check has been made. The title registration system is, therefore, much simpler and cheaper for the parties concerned and should be used in low-income areas.

An improved cadastral system could help to improve protection of women's rights in connection with divorce or widowhood. The encouragement of joint titles for spouses is just one means of achieving this.

The registration system should have a monitoring system, which can facilitate a smooth flow, and an efficient updating procedure. A computerised system offers efficient tools for integration, monitoring and updating of information.

There are several ways in which cadastral surveying can be carried out using modern technology. Orthophotos, based on aerial photography, can be used for identifying existing boundaries of existing settlements directly on the map or for base maps for cadastral systems. Total stations or satellite technology can be used for ground surveys.

Successful cadastral development projects have shown that investments pay off in that an efficient cadastral system leads to an increase in economic activities, increased land and property values, income from land use and from the use of public services and provides an increased base for taxation.

Proposal for a working model

Demand	Method	Achievement
Basic security of tenure	General legislation providing basic rights to stay on areas occupied for a certain length of time	Avoid fear from eviction
Provide a formal land market	<ol style="list-style-type: none"> 1. Demarcation and survey of the perimeter of the area 2. Numbering of houses in the area 3. Manual register of owners of plots managed locally 4. Transfer of information to a central computer system 	<p>Security of tenure for houses provided</p> <p>Transactions are safe and reliable</p> <p>Authorities have access to information which will facilitate management of public services and collection of fees</p> <p>Parcel boundaries are left to the inhabitants to agree on.</p> <p>Unsuitable plots can be left for coming upgrading projects</p>
Provide suitable land parcels and allow for efficient mortgage system	<ol style="list-style-type: none"> 5. Survey of each parcel based on existing or demarcated boundaries 6. Registration of ownership to the land in a central computerised system 	<p>Safe identification of each parcel.</p> <p>Possibilities to use the land as collateral for loans.</p> <p>Upgrading of the layout of the area with sufficient space for roads and other public use</p>

