



Smallholder Farmers' Rights are Women's Rights

by Barbara Adams

Most farms in developing and least developed countries are small, generally plots of less than two hectares of land. Smallholder farmers manage over 80% of the world's estimated 500 million small farms and provide over 80% of the food consumed in Asia and sub-Saharan Africa, contributing significantly to poverty reduction and food security. As much as 75% of global seed diversity in staple food crops is held and actively used by smallholder farms. However, despite their vital role in the global agricultural community, the participation and priorities of smallholder farmers – most of whom are women – are often neglected. Effective mechanisms giving smallholder farmers a voice in policymaking are imperative to address their needs and interests, to promote the conservation and sustainable use of plant genetic resources and more broadly, to ensure food security.

The crucial role of smallholder farmers is acknowledged in myriad international agreements. Most recently, the 2030 Agenda for Sustainable Development and the Sustainable Development Goals (SDGs), Goal 2, commits Member States to “End hunger, achieve food security and improved nutrition and promote sustainable agriculture” and includes a comprehensive target on the rights of small-scale food producers:

SDG Target 2.3: “By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous people, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment.”

The rights of small-scale producers, alongside the integrally related rights of rural women and girls, which is the priority theme for the 2018 session of the Commission on the Status of Women, have been long-standing issues on the UN agenda and the subject of numerous resolutions.

In his December 2017 report ([E/CN.6/2018/3](#)) to the Economic and Social Council, on challenges and opportunities in achieving gender equality and the empowerment of rural women and girls, the Secretary-General stated that “in the 2030 Agenda, in particular Goal 2, Member States addressed the structural barriers that place rural women and girls at a disadvantage in their realization of food security and nutrition”. He went on to say:

“A recent assessment of progress indicates, however, that it is unlikely that hunger and malnutrition will be eradicated by 2030 unless more coordinated efforts and greater investments are made to respond effectively to food crises around the world. Doing so would entail expanding decent work and social protection in rural areas, increasing agricultural productivity and smallholder incomes, supporting smallholder sustainable agriculture and food production systems and conserving and equitably sharing the benefits of agricultural biodiversity. It would also entail negotiating trade rules that protect domestic policy space for agricultural development and food security, while prioritizing women's empowerment and gender equality.”

The Secretary-General's report to the General Assembly (A/72/207) on the situation of women and girls in rural areas echoed the importance of Goal 2, adding that "the implementation of the framework constitutes an unrivalled opportunity to achieve gender equality and realize the rights and empowerment of women and girls in rural areas." (A/72/207 Paragraph 11).

CSW – policy directions

In preparation for the 2018 session of the CSW, UN Women convened together with the International Fund for Agricultural Development (IFAD), the Food and Agriculture Organisation (FAO) and World Food Programme (WFP), an Expert Group Meeting (EGM) on the primary theme, "Challenges and opportunities in achieving gender equality and the empowerment of rural women and girls".

The analysis and recommendations of the EGM were comprehensive, addressing the enabling environment needed to facilitate a just and equitable transition towards a sustainable future for rural women and the obstacles to be overcome to achieve this. The recommendations include actions to be taken by Member States and international development stakeholders to:

- Support global tax cooperation through establishment of a Global Tax body which facilitates global tax cooperation in tax and financial transfers data, works to close tax havens and establishes a global corporate tax floor to end tax competition;
- Take measures to establish inter-regional tax cooperation;
- Build and strengthen existing public-public partnerships (PuPs) based on the principle of solidarity and with the purpose of public good, rather than profit;
- Support the transition to energy, water and resource democracy within the transition to universally available renewable, clean energies.

The Expert Group Meeting (EGM) on the CSW 62 Priority Theme Recommendations

1. Implement land tenure reforms in a gender-equitable manner, ensuring that women have recognized equal rights with men on private or household lands, and that on communal and collective lands, communities have recognized security of tenure and women have representation in community decision-making bodies for such lands;
2. Recognize, guarantee, and protect women's land rights by law, including in plural legal systems, whether or not they are recognized by customary or religious systems, by family members, by a woman's community and its leaders and ensure rural women's access to justice without discrimination, including in official bodies, courts, and other relevant dispute resolution bodies, such as customary institutions, and to gender-responsive dispute resolution processes that are available, accessible, affordable;
3. Ensure women's full and meaningful participation in decision-making, management and governance, and dispute resolution bodies addressing land and natural resources and respect rural women's right to exercise free prior and informed consent (FPIC) as per CEDAW General Recommendation 34;
4. Regulate international financial markets and foreign trade agreements to protect against land and water grabbing by foreign corporations and individuals and prevent land and food speculation;
5. Ensure adequate investment in the collection of sex-disaggregated data and analysis for the implementation and monitoring of SDG indicators on secure tenure rights (1.4.2., 5.a.1 and 5.a.2), and other land related indicators at the country level with collaboration of CSOs and other stakeholders;
6. Recognize customary water tenure and protect water resources to realize women's human rights to health, food and an adequate standard of living;
7. Invest in water infrastructure, including the existing community-based water infrastructure investments for multiple uses and their water resource sharing arrangements as common property, developed with the full and meaningful participation of rural women;
8. Transition to renewable, clean, safe, predictable sources of energy that rural women can affordably access and participate in the distribution and control of energy;
9. Implement The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (the Voluntary Guidelines) adopted by the UN Committee on World Food Security (CFS) and Principles for Responsible Agricultural Investment (PRAI) more rigorously, particularly those guidelines pertaining to women's land rights.

Women and small farmers' rights to participate in decision-making

The International Treaty on Plant Genetic Resources for Food and Agriculture (PGRFA) was adopted in 2001 and came into effect in 2004. Article 9.2 (c) states that “each Contracting Party should, as appropriate, and subject to its national legislation, take measures to protect and promote Farmers’ Rights, including:

- protection of traditional knowledge relevant to plant genetic resources for food and agriculture;
- the right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture; and
- the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture.”

However, as noted in a 2016 working paper of the Association for Plant Breeding for the Benefit of Society (APBEBES), “Farmers’ Right to Participate in Decision-making”, the operationalization of Article 9.2(c) at the national, regional and international levels is severely lacking. Farmers face considerable challenges in exercising their right to participate at all these levels, with the consequence that legal and policy decisions not only ignore their needs, but also adversely affect their freedom to operate and in some cases criminalize farmers’ right to freely use, save, exchange and sell farm saved seed/propagating material.¹

The right to participate in decision-making is also protected in several human rights treaties, including CEDAW, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

¹ Farmers’ Right to Participate in Decision-making – implementing Article 9.2 (c) of the International Treaty on Plant Genetic Resources for Food and Agriculture, Working Paper, APBEBES, September 2016, by Chee Yoke Ling and Barbara Adams with contributions from Sangeeta Shashikant and Laurent Gaberell. Published by the Association for Plant Breeding for the Benefit of Society (APBEBES) and its member organisations: Development Fund, Public Eye, SEARICE and Third World Network.

Moreover, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)’s March 2016 [General Recommendation 34](#) on the rights of rural women recommends that State Parties “ensure that rural women and their organizations can influence policy formulation, implementation and monitoring at all levels and in all areas that affect them” and ensure rural women and their representatives are able “to participate directly in the assessment, analysis, planning, design, budgeting, financing, implementation, monitoring and evaluation of all agricultural and rural development strategies”. Additionally, the Human Rights Council is currently drafting a new UN declaration on the rights of peasants and other people working in rural areas.

In adopting the Beijing Platform, Member States committed to “implement policies and programmes that enhance the access of women agricultural and fisheries producers (including subsistence farmers and producers), to extend financial, technical, extension and marketing services; provide access to and control of land, appropriate infrastructure and technology in order to increase women’s incomes and promote household food security, especially in rural areas and, where appropriate, encourage the development of producer-owned, market-based cooperatives.”

Farmer organizations could use the UN Human Rights Council accountability mechanism, the Universal Periodic Review (UPR),² to support implementation of Article 9.2(c), in particular its operationalization through a legal framework at the national level. At the same time, CEDAW and women’s rights processes and mechanisms can be powerful tools for farmers’ rights realization, the starting point being the activation of the right to participate in drafting national and regional laws.

The trade and investment regime – a key impediment to farmers’ rights

A major obstacle to ensuring the rights of women farmers is the intellectual property and related protections contained in many trade agreements. As highlighted in the report of the EGM, “States and UN treaty bodies have recognized the detrimental impact that the Trade-Related Aspects of Intellectual

² The UPR was established when the Human Rights Council was created on 15 March 2006 by the UN General Assembly in resolution 60/251. This mandated the Council to “undertake a universal periodic review, based on objective and reliable information, of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States”.

Property Rights (TRIPS) can have on rural women's human rights"; several trade agreements include intellectual property protections that go beyond the requirements of the World Trade Organization's agreement on TRIPS.

One of the most concerning elements of trade agreements is Investor State Dispute Settlements (ISDS), which allow corporations to sue governments in specifically convened tribunals. This mechanism essentially allows for the protection of investors over and above the human rights of community members – often rural women – working to prohibit extractive industries in their communities or to seek remedies and clean-up of their environments. UN Independent Expert on the promotion of a democratic and equitable international order, Alfred de Zayas, [states](#) that “far from contributing to human rights and development, ISDS has compromised the State's regulatory functions and resulted in growing inequality among States and within them.”

A second feature of the trade regime which contributes to undermining farmers' rights is the International Convention for the Protection of New Varieties of Plants (UPOV Convention)³ Recent trade agreements, including the Comprehensive and Progressive Trans Pacific Partnership Agreement (CPTPP), require that States parties sign the UPOV Convention (UPOV 91).⁴ UPOV 91 grants and protects plant breeders' rights, resulting in monopoly rights over 'the sale, reproduction, import, and export of new varieties of plants'. By providing protections for agri-food companies – both through plant breeder rights restrictions and patent protections – the Convention inhibits farmers' abilities to save and exchange seeds.

Civil society organizations (CSOs) have repeatedly raised concerns that both UPOV programming and the constituencies consulted tend to represent the industry interests, in particular the interests of multinational corporations involved in industrialized agriculture, with hardly any representation of

³ The International Convention for the Protection of New Varieties of Plants ("UPOV Convention") was adopted on December 2, 1961 and came into force on August 10, 1968. It established the International Union for Protection of New Varieties of Plants (UPOV), an intergovernmental organization headquartered in Geneva, Switzerland, whose stated mission is to “provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants, for the benefit of society.”

⁴ This provision was retained in the just-signed Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

organizations of small farmers or those that champion women rights.⁵

Another critical issue faced by small farmers is regional seed policy harmonization, the process of creating common standards for a particular regional economic bloc. Harmonization processes center on three core aspects: variety testing, registration and release; seed certification; and phytosanitary measures. High costs, intensive labour demands, and stringent international standards make it difficult to certify and trade farmers' varieties. There are no mechanisms for redress by and compensation to farmers in the event that a variety fails to perform. Seed laws – whether regional or national – make it unlawful to market and trade seed that is uncertified, thereby effectively criminalizing the sale and exchange of farmers' varieties, and eroding farmers' seed sovereignty.

The EGM recognized that the harmonization of seed laws will favour the expansion of the formal seed system and the spread of corporate seed, while at the same time further neglecting and marginalizing farmer varieties and farmer-managed seed systems, thus threatening agricultural biodiversity. This will have major implications for the availability of seed and the future of food production across continents, as “rural women routinely save and share seeds as a way of ensuring sustainability, resilience, and biodiversity, and reducing input costs.” Considering rural women's rights to food sovereignty and nutritional empowerment, the EGM urged Member States and international development stakeholders to: “Strengthen, conserve, and revive local and traditional sustainable food production and consumption practices through, inter alia, recognizing the importance of seed saving and refraining from acceding to conventions and agreements that make seeds subject to the rights of intellectual property rights holders and prevent women farmers from saving and sharing seeds.”⁶

The [2018 Status report](#) on the Southern African Development Committee (SADC), the Common Market for Eastern and Southern Africa (COMESA), and the East African Community (EAC) harmonized seed trade regulations notes: “Farmers require access to good quality seed in sufficient quantities at the right time, but it is questionable whether these

⁵ See, for example, the 2015 report by Third World Network, “International Contradictions on Farmers' Rights”

⁶ Report of the Expert Group Meeting on the CSW 62 Priority Theme: Challenges and Opportunities in Achieving Gender Equality and the Empowerment of Rural Women and Girls, 20-22 September 2017

harmonized formal systems, which tend to support large-scale seed corporations, are suitable or appropriate to the seed needs in the region. Currently, by far the majority of seed is provided through farmer seed networks, and it is therefore the farmer-managed seed systems that should be protected, strengthened and supported, including farmer-led quality control systems. All harmonization efforts currently underway should assure the rights of farmers, and particularly the rights of women farmers.”

Conclusion

In spite of fast urbanization, half of the women of the world still live in rural areas and of them two thirds in developing countries. To fully implement the rights of rural women and girls, it is critical to effectively operationalize their rights to participate in decision-making processes and address barriers created by incoherent or unfair trade and investment policies.

Meaningful participation in decision-making is not just about online consultations and surveys, or even a few face-to-face meetings that purport to seek views and inputs which have little or no bearing on the

outcomes and decisions. A fundamental principle of rights to public participation is that they encompass the right to be consulted at each phase of legislative drafting and policy-making, to voice opinions and criticism, and to submit proposals. This entails a long-term and genuine commitment to engage in processes of intensive dialogue. Since actual decision-making remains the prerogative of the State, essential to the right to participation is also the right to seek a review of a decision and redress/remedies if it results in adverse effects on the individual or group concerned. Access to justice with appropriate administrative and judicial procedures and the right to participate are thus inextricably linked.

As it works to protect and promote the rights of rural women, a priority for CSW62 should include attention to the full implementation of treaties that guarantee the rights of small farmers, the majority of whom are women, and to be a rigorous part of their monitoring and accountability. Policy recommendations should include addressing obstacles, such as agricultural trade rules, seed patenting, and policies that protect big corporate investors over women farmers.

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