

Women's Land Rights in the PHILIPPINES

Opportunities

Philippine legislation is progressive in terms of women's rights and access to land. That is beyond debate.

Government agencies are slowly recognising women's capacity to act especially in concluding contracts – in terms of land ownership and property relations. For example, the Comprehensive Agrarian Reform Law (CARL) that governs the implementation of the agrarian reform program in the country states that all qualified women members of the agricultural labour force must be guaranteed and assured equal rights to land ownership, equal share of the farm's produce, and representation in advisory or appropriate decision-making bodies with regard to any agrarian-reform program implementation. The Department of Agrarian Reform, the primary agency mandated to implement agrarian reform in the country, has come up with administrative regulations consistent with CARL's gender-equality provision stating that land titles must be issued to the names of both husband and wife; or, in the case of unmarried couples living under consensual union, they are

also allowed joint titles, provided such spouses are jointly working and cultivating common tillage of the land.

According to the revised Family Code of the Philippines, property acquired in unions with or without marriage is covered under national co-ownership and joint-ownership laws. The presumption is that if two people live together, their land is owned jointly. This presumption is broader than in many countries, where co-ownership and joint ownership presumptions applied only to formally married couples. Furthermore, this presumption addresses the specific needs of many rural couples, who are not formally married.

In particular, indigenous peoples in the Philippines have their own customary marriage laws. Even if they indigenous peoples are married under such customary rules, outside the church and other legally sanctioned ceremonies, such couples still benefit from the Family Code. Also, both partners' written consent is required for land transactions, regardless of whether the land is registered in the name of both or was obtained by only one of them, if the land was obtained during the marriage or cohabitation.

Based on the presentation of Mr. Samson Pedragosa, Deputy Director of the Philippine Association For Intercultural Development (PAFID).

The Indigenous Peoples' Rights Act of 1997 also mandates that IP women shall enjoy equal rights and opportunities as men, as regards the social, economic, political and cultural spheres of life.

The Indigenous Peoples' Rights Act of 1997 also mandates that IP women shall enjoy equal rights and opportunities as men, as regards the social, economic, political and cultural spheres of life; and their participation in the decision-making process at all levels, as well as in the development of society, is given due respect and recognition.

The Department of Environment and Natural Resources (DENR), the primary agency mandated to promote and protect the country's environment and natural resources, is also in charge of land classification. It has amended its regulations on alienable and disposable public lands in 2002, thereby granting women - regardless of civil status - equal rights as men to apply for the purchases or lease of public lands. Forest lands are considered as government land. Once a portion of land has been declared alienable and disposable, anybody can apply for a pre-patent or lease over those lands, and over these the law provides for equal rights for men and women.

Critical issues

Firstly, while Philippine laws affirm women's equality with men, there are still significant gender imbalances in practice, as well as customary laws that discriminate against women. This is more pronounced in the rural areas, where the gap in education and employment opportunities between men and women is wider.

Second, although there are no longer any legal variations in men and women's

access to land and property, in practice men are still perceived as the primary property owners with bigger collaterals. Thus, sometimes, men receive bigger loans; while, women, on the other hand, are limited to small loans.

Customary laws, primarily prevalent in rural areas, also make it difficult for women to enter into contracts or agreements. Customs, sometimes, are very difficult to overcome. Customary and religious laws in the Philippines have a major impact on how vigorously civil law is followed or enforced. For example, under Muslim personal law in the Philippines, a woman must have her husband's consent to acquire any property by gift, except from her relatives.

Indeed, customary laws and practices differ from region to region and province to province. In some regions or provinces, women are equal with men in rights to land ownership, although in many areas, men administer or manage the conjugal property.

Recommendations

PAFID as an organization has always respected the rights of IPs to self-determination and cultural integrity as mandated in the IPRA; such respect demands that they be allowed to address perceived gender inequalities at their own pace and determination. This means that it is highly unethical and even illogical for an outsider to make judgements about the community on, for example, gender imbalance. Rather, the community

should determine for itself whether gender imbalances exist within their community. And whatsoever they determine, they should be given their own rights and space, at their own pace, to decide whether or not to address those challenges.

To help bring about this process requires continuous dialogues, interactions and information dissemination and gender education. While PAFID does not overtly try to intervene in the communities where they work, they continue dialoguing with them. In the process of merely communicating with them, they are creating some change.

The Philippine experience demonstrates that gender integration can be pursued by promoting awareness of women's land rights and disseminating information. The country certainly does not lack laws and policies pertaining to gender. But there still remain many things to be done:

- identifying gender-sensitive policies and services;
- using gender-sensitive processes for implementation;
- evaluating implementation in terms of gender impacts;
- developing guidelines for gender-appropriate practices and the participation of women;
- fostering strong participation of women; and
- changing operational and organisational policies.

The importance of gender disaggregated data cannot be emphasised enough, especially to enhance efforts to address gender imbalances in the country. In the absence of disaggregated data, it is necessary to extrapolate data from the general population. But progress is being made with the 2010 population census, which has begun to collect gender-disaggregated data, including data on indigenous peoples. ■

