

# Indonesia

*Condensed from Scoping Study on Women and Land Rights by Yayasan Bina Desa. For more details of the study, contact: [bindesa@indo.net.id](mailto:bindesa@indo.net.id)*

**A**re you suggesting that women should be given rights to land? What do women want? Break up the family?

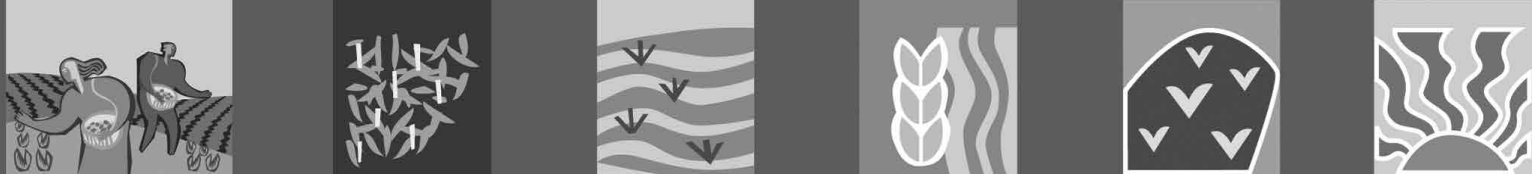
No less than the Minister of Agriculture asked this during an Indian Planning Commission seminar on Land Reform in June 1989, a clear reflection



**Women of Kendeng Pati, Central Java defend their lands against PT INDOCEMENT cement plant**

Photo by A . Prianggoro

Photo source: [http://data.tribunnews.com/foto/images/preview/20140909\\_133641\\_demo-tolak-pembangunan-pabrik-semen-semarang.jpg](http://data.tribunnews.com/foto/images/preview/20140909_133641_demo-tolak-pembangunan-pabrik-semen-semarang.jpg)



of the inequality of land ownership in many households in Indonesia at that time.

Until today, men have control over valuable resources such as land and women have access to land only through their husbands. This can be attributed to the prevailing patriarchal culture where power relations favor the men. As a result, men exercise control over the land even though it is mainly the women who cultivate it.

Data from FAO Rural Income Generating Activities (RIGA) Team reveals that participation rate of men in rural wage labor market was 18.1%, and 8.6% from women in 2000 (FAO SOFA Team & Doss, 2011). Though the data suggest that men’s agricultural participation is higher than that of women’s, Table 1 shows how women are skewed to low-paying jobs than men. This implies that women tend to cluster in low-paying jobs.

Consequently, women suffer from a rural wage gap (43%) where 40% of this is explained by discrimination (see Table 2).

Facets of such a patriarchal culture are reinforced by various national and regional policies that recognize the head of the family – the man – as landowner, in effect trampling on women’s inherent rights to land. And the cycle continues as land ownership is passed down from fathers to their sons, not to their wives or their daughters. Men are not expected to give up ownership easily considering that land is becoming an even more prized commodity.

According to the 2013 agricultural census, there has been a decrease in ownership and control of land by farmers in Indonesia with the decline in the number of farmer households from 31.17 million households in 2013 to just 26.13 million households in 2013. With a population of 240

**Table 1. Participation in rural agricultural wage employment by wage levels and gender in Indonesia, 2000.**

Participants in rural agricultural wage employment (%)					
Low		Medium		High	
M	F	M	F	M	F
43.1	64.1	21.1	16.8	35.8	19.1

**Source:** FAO RIGA Team as cited in FAO SOFA Team and Doss, 2011  
 Note: Table adapted from FAO SOFA Team and Doss, C. 2011. The role of women in agriculture. Retrieved from <http://www.fao.org/docrep/013/am307e/am307e00.pdf>.

“Low wage jobs = below median agricultural wage; medium wage jobs = between the medians of agricultural wage and non-agricultural wage; high wage jobs = above median non-agricultural wage” (FAO SOFA Team & Doss, 2011).

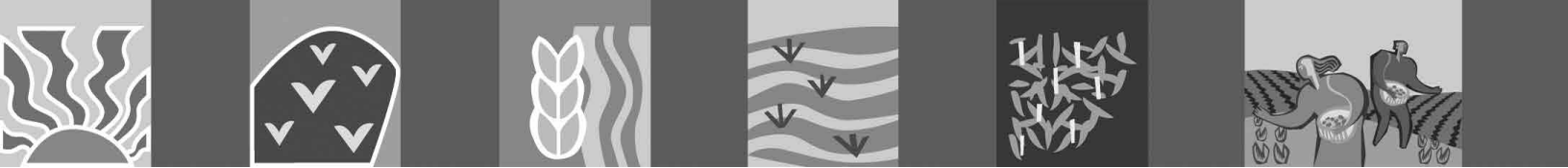
million people, the average land area per person comes out to only 0.03 hectare (ha).

This decline in farmer households is partly due to the annual growth in population. However, it is increasingly also caused by the systematic marginalization of farmers through the massive conversion of their land to, among others, plantations and industrial estates.

The rate of farmlands and forest conversion for infrastructure and plantations reached 100,000 ha per year, according to Merdika (2013), and the land ended up in the hands of mining and plantation corporations, based on data from the National Commission for Women.

The marginalization of farmers from their land affects hits women especially hard as they are regarded as ‘invisible farmers.’

For centuries now, women farmers in Indonesia only have what is known as ‘access rights’ to land and other resources. Referring to property rights, they have access rights (the right to enter the territory of the resources that have



**Table 2. Wage gap in rural labor market in Indonesia.**

Wage gap between men and women (%)	Part of the rural wage gap is explained by (%):	
	Assets and attributes	Discrimination
43	2	40

**Source:** Hertz et. al. (2009) FAO SOFA Team and Doss, 2011

Note: Table adapted from FAO SOFA Team and Doss, C. 2011. The role of women in agriculture. Retrieved from <http://www.fao.org/docrep/013/am307e/am307e00.pdf>.

“The wage gap is calculated as the difference between average male and female wages as a percentage of the average male wage. A positive wage gap means men are paid more than women. “Discrimination” is calculated as the difference in the returns to the assets and attributes of male and female workers. A positive “discrimination” value means that women are paid less than men for the same level of education, work experience and other attributes” (FAO SOFA Team & Doss, 2011).

clear boundaries and receive the non-extractive benefits), withdrawal rights (the right to utilize the resources), and the right to produce (Ostrom & Schlager, 1992).

Meanwhile, control over land in the form of management rights, the right to determine the rules of resource utilization, exclusion rights, and alienation rights remain in the hands of the men.

The green revolution that ushered in agricultural intensification (improved seeds, chemical pesticides, balanced fertilizer, irrigation, and farm mechanization) led to stratification and social institutional decay in the village (Hayami et. al., 1976), putting more women in subordinate positions, reinforcing discrimination against women, and depriving them of their economic, social, and cultural rights (Astuti, 2010).

Tasks such as seed breeding, sowing, planting and harvesting rice and other crops that are part of life for farmer women have been taken over by machines. And with land increasingly owned by corporations, women have been losing their access to land, forcing many of them to look for other forms of livelihood, such as working in factories.

## Legal framework related to women’s land rights

Indonesia is one of 182 countries that ratified the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) in the form of Law No. 7 of 1984 signed on 24 July 1984. CEDAW seeks to help countries address the issues of underdevelopment and inequality between men and women, even in the area of agrarian policy. By ratifying the convention, Indonesia committed to protect women’s rights.

Under Law No. 7 of the Act, the Indonesian government is obliged to make every effort to provide protection, assurance, and fulfillment of the right to live safely, and an equitable and fair life to its citizens, especially the women who still suffer injustice and gender inequality in many areas of life, especially in rural areas (Fanani, 2011).

Efforts to achieve equal rights between women and men in rural areas became the core focus in Article 14. The state recognized the position of women in the family, including their roles in fulfilling the family’s food needs and in subsistence farming. It also recognized the position of women in rural social life and their equal rights as citizens



as alongside the men. Paragraph 2 of the Article asserts that the state should ensure that the roles given to and benefits received by men and women in rural development should be equal.

In terms of agrarian reform, section (g) of paragraph 2 clearly states that rural women are entitled “to have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes.”

Prerequisites to developing rural areas are based on asset reform, which begins with equal treatment of men and women in land reform and continues with a program of access reform, through assuring the sustainability of farming practices, establishing a fair marketing value chain, and introducing appropriate technology.

Indonesia’s national agrarian policy was based on Act No. 5 of 1960 or the Basic Agrarian Law (BAL) that replaced the colonial agrarian law (*Agrarische Wet*) and also accommodated customary rights. BAL was a fundamental overhaul of the entire system of land law that applied in Indonesia at the time. The spirit of BAL was evident in some of the legal principles developed (Wahono, 2013), including gender equality in Agrarian Law.

However, the definition of national and state interests in BAL was used as a means for the government to encourage the liberalization of various sectors, especially agriculture.

Claims of development for the welfare of people served as a means for capitalists from developed countries to take advantage of the abundance of Indonesia’s natural resources and policies that do not consider small farmers in rural areas. Rural women consequently became the

most marginalized group in Indonesia, despite legislation that ostensibly promotes agricultural liberalization.

In terms of access and control over agrarian resources, it can be said that BAL is gender-neutral; or it has not addressed gender inequality. Women’s ownership/control of land is very limited, indicating that the position of women in the control of agrarian resources is still very weak.

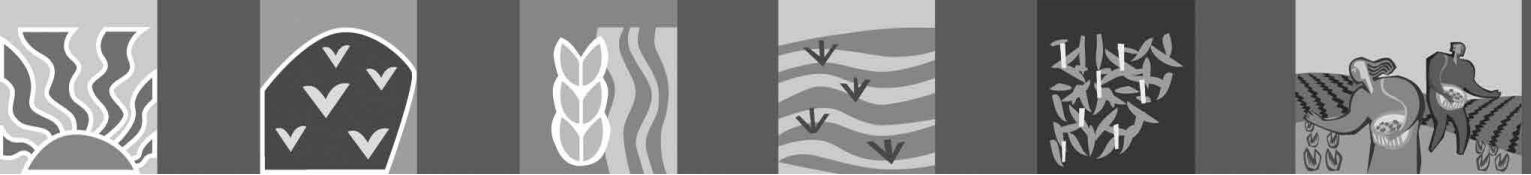
Laws on marriage and inheritance are strongly rooted in the Islamic tradition, which is highly patriarchal. Moreover, the country’s laws on land draws from Islamic law when addressing Muslim citizens (comprising 87% of the population), and from civil law for the others. This means that for the majority, men benefit over women (Robinson & Bessel, 2003 as cited in Benbih & Katz, 2014).

However, Benbih and Katz (2014) point out that “although the Constitution can allow an individual to opt out of the *Chariaa* law and adopt the civil law, the enforcement is social. The implementation of the *Chariaa* law is secured by family ties and community practices.”

In regions where customary laws are still strong like West Sumatra, women have greater rights to access land than men. In some villages, women play an important role in decision-making regarding land owned by the people, as such land is actually inherited by succeeding generations through the women. The matrilineal Minangkabau customary system, for example, allows this to happen.

## Trends

Tauchid (1952) had written that, since independence was declared, the root of the difficulties of farmers in Indonesia was the legacy



***“To make matters worse, the burden of women, who are entrusted with the tasks of providing food and maintaining the health of the family, became heavier under market- and export-oriented agricultural policies.”***

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of the colonial agrarian law: “Agrarian law that we have now, [is] aimed at securing the interests of big private capital over the interests of the Indonesian people themselves, by giving special privileges to foreigners to the land, ignoring the rights of the people behind it.” Tauchid’s words still ring true nearly 70 years since Indonesian independence.

In the New Order era, national economic development was pursued by providing incentives to local and foreign investors through the Foreign Investment Law (FIL No.1/1967). In the post-New Order government, the policy is still in force with the birth of the Investment Law (IL No. 25/2007) which replaced FIL No.1/1967, the Plantation Law, and the Natural Resources Law.

During its two terms, the government of then President Susilo Bambang Yudhuyono (SBY) had repeatedly issued policies that paved the way for land grabbing. In the second year of the first term of SBY’s administration, the government issued Presidential Regulation Number 36 of 2005 on Land Procurement for Development Activities in the Public Interest, which was then revised, after

a legal action resulting from a judicial review by the Supreme Court, into Presidential Regulation No. 65 of 2006.

Despite its revision, this policy (Presidential Regulation No. 36 of 2005) continued to provide the legal legitimacy for investors to seize land owned by the people. At the end of his term, President SBY launched the Master Plan for the Acceleration of Indonesian Economic Development, with infrastructure as the mainstay in order to facilitate the needs of investors.

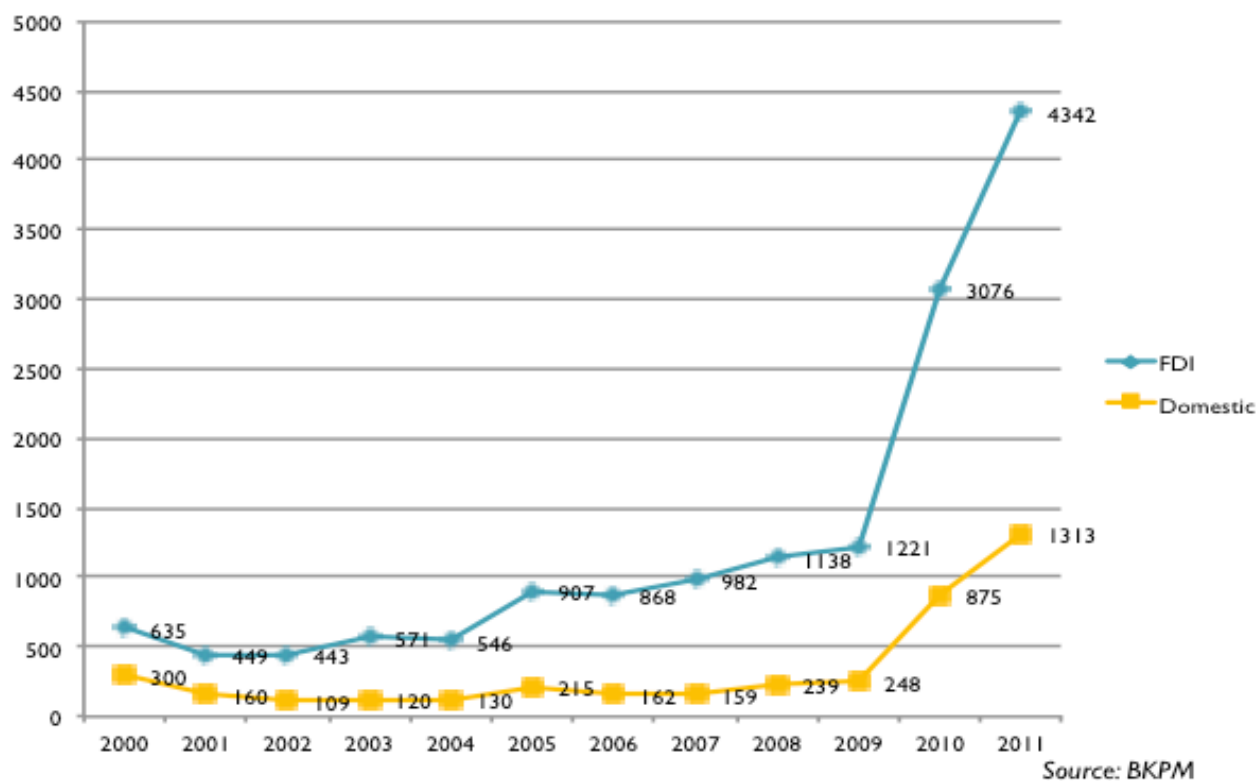
These policies have several important implications.

Farmers are being evicted from their lands. Moreover, food lands (paddy fields and moors) are being converted on a large scale into plantations (for palm oil, rice, and other food crops), highways, etc. In this context, women, especially rural women in the lowest social classes (peasants, traditional fishers), are the most threatened group.

To make matters worse, the burden of women, who are entrusted with the tasks of providing food and maintaining the health of the family, became heavier under market- and export-oriented agricultural policies.

At present, control of agrarian resources is gravely imbalanced. It is concentrated in the hands of a few people, while the majority has to make do with what is left. This situation is worsened by various policies aggravating agrarian inequality.

To illustrate, the stipulation of Act No.2/2012 on the provision of land for development and public interest has proven to be a tool for the eviction of farmer families and peasants from their lands in



**Figure 1. Investment in the Indonesian Agricultural Sector (number of licenses issued), 2000-2011.**  
 Source: BKPM (Indonesia Investment Coordinating Board), 2013

the name of public interest (see Figure 1). This law is intended to assure investors who experience many difficulties because of lawsuits and claims on the land.

### Assessment of key actors promoting or impeding women’s land rights

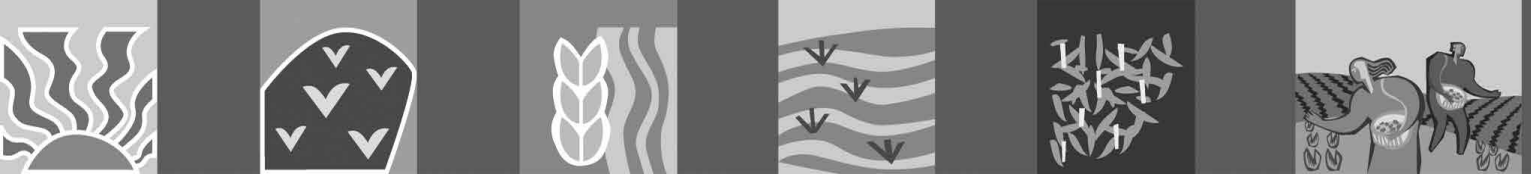
Land policies in Indonesia have fundamentally changed, with land now being considered a commodity to be traded (land liberalization).

BAL, whose spirit resists land-based colonization, has not been fully implemented. Instead, the government has issued new laws such as the Mining Law, Forestry Law, and Plantation Law that facilitate foreign investments in Indonesia.

### International financial institutions

The role of international financial institutions (IFIs) such as the International Monetary Fund (IMF), World Bank, and Asian Development Bank (ADB) cannot be ignored in encouraging such land liberalization policies.

The government, through the National Land Agency (BPN) with World Bank support, developed the land registration system, among others, with Larasita (People’s Service for Land Certification), as well as the land distribution program, known as the National Agrarian Reform Program (NARP). Both programs target clear and clean soil – not disputed land. This means that the program only provides formal administrative status for lands



that have largely been dominated by farmer families. However, these programs do not look into giving women equal access to or control over land.

### ***Civil society and social movements***

Civil society groups have changed their approach to fighting for empowerment in Indonesia over the years. The fight for civil rights through the work of grassroots organizations has been largely limited to functional management work such as improving political capabilities, increasing involvement in infrastructure development, and institutional monitoring through good governance or anti-corruption programs.

Resolving structural issues such as agrarian inequality, which is seen by Bina Desa as the root of Indonesian national problems including the food crisis, is unfortunately not a priority.

Agrarian reform is positioned as a concern to be resolved by social movements, funding agencies, and government. But in fact, most programs do not touch this basic problem. This can be seen in the direction of funding policies as well as budget allocations.

Instead of addressing the burning issue of inequality of land ownership and control, programs have instead touched on negotiations with communities and compensation. In some places, local non-government organizations even act as mediators in negotiation and compensation processes.

Similarly, social movements concerning women focus primarily on encouraging opportunities for women in politics, building women's capacity in the field of micro-economic enterprises, or preventing domestic violence. These, however,

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focus only on women's empowerment in terms of their roles in the household and the community, not specifically supporting women's access to and control over their sources of livelihoods, i.e., land.

### ***Mass media***

Media coverage of agrarian inequality leaves much to be desired. For example, news on the Mesuji case, South Sumatra, and other agrarian conflicts in Indonesia only talked about violence, conflicts between residents, and the number of victims. There was hardly any mention of the men involved.

Women who suffered from these conflicts were practically non-existent in the documentation of NGOs, because the news only talked about the people who actually died or shed blood.

The media almost never do in-depth investigation and analysis showing the real problem and the source of conflict, even though these could be powerful advocacy tools in moving the masses



to talk about agrarian inequality and how corporations work together with the government to rob the people of Indonesia of their livelihoods. Throughout the history of mainstream media in Indonesia, scant attention has been paid to championing women's access to and control over land due to the prevailing belief that only men should own the land.

### **Key opportunities and strategies to advance women's land rights**

The conditions experienced by farmer women in Indonesia cannot be separated from the layered structure of poverty and injustice referred to as "structural layering." Farmer women who live and work in rural areas are found at the bottom of the poverty pyramid.

That their condition has not been addressed in government policy can be attributed to the strong patriarchal culture in Indonesia that has created and perpetuated false concepts, such as: (1) poverty cannot be eliminated entirely, it can only be reduced; and (2) women are useful only as reproductive labor and therefore do not need to have rights over land.

Because of such perspectives, women's struggles have been left out of most policy discussions. Government has decided that economic growth guided by a neoliberal economic framework will be the solution to poverty – even if it actually serves to widen the gap between the rich and the poor. Thus, this has relegated to women the status of cheap or even unpaid laborers.

This policy has likewise led to a structural imbalance between the smallholder agricultural sector and the industrial and services sectors that have become the engines of so-called national development. With decreasing employment in

the smallholder agricultural sector as more land is taken up by large corporations, farmer women are steadily losing their access to land.

Even before the shrinking of the number of people employed in the smallholder agricultural sector, the structure of labor between men and women in rural areas was already imbalanced in favor of the men. With the shrinking of employment opportunities in the smallholder agricultural sector, farmer women will be even more eased out and marginalized.

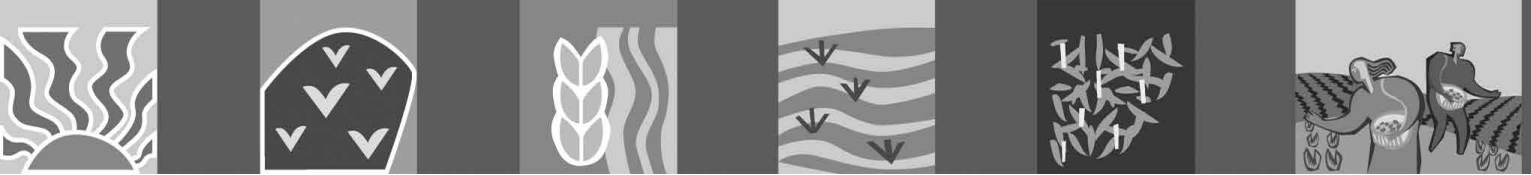
Looking at the mechanisms underlying the system and the structure of society, economy, politics, and culture that have led to rural poverty and marginalization of farmer women over the centuries, it can be concluded that the solution is not as simple as has been thought.

For one thing, policy makers have yet to truly admit the existence of the government structures and cultural systems that threaten women farmers because these are considered the natural state of affairs. Since the problem of inequality faced by women-farmers has not even been identified, not in government or in the academe, solutions have not been formulated.

The discussion on the empowerment of rural women, particularly farmer women, also cannot be separated from the issue of budget politics, or the process by which the government budget is formulated and used.

At first glance, budget politics in Indonesia appear to have improved, especially when looking at the National Medium Term Development Plan (NMTDP) 2010-2014. The NMTDP has set three national mainstreaming development strategies: good governance, sustainable development, and gender mainstreaming. These three pillars





are the foundation of the implementation of all policies, programs, and activities at the national, provincial, and district/city levels.

Specifically, Presidential Instruction No. 9 of 2000 on Gender Mainstreaming in National Development mandates every ministry/agency to integrate gender at each stage of the development process (planning, drafting, implementation, monitoring, and evaluation).

Even so, one of the most frequently encountered problems related to the implementation of gender mainstreaming is that decision-makers do not realize that decisions/measures and the processes of making them are often gender-neutral. This means that they only pay attention to the duties and functions of the agency or national priorities, without looking at the different groups involved and the target beneficiaries.

Therefore, efforts are needed to minimize the gap between the participation and development utilization by men and women in government programs by implementing Gender Responsive Planning and Budgeting (GRP). A Gender Responsive Budget (GRB) is one that accommodates mainly two things: equal access of men and women to control over various resources, as well as equal access of men and women to the benefits of development.

The GRB model approach to rural development emphasizes gender analysis by mapping the roles, conditions, needs, and problems of both men and women. Thus gender analysis includes diagnosing and providing a more precise answer to address the needs of women and men in the determination of programs/activities and the corresponding budget, who the target groups of a program/activity should be, and when and how the program/activity will be carried out.

As a concept of budget politics, GRB has advanced considerably over the last 30 years. However, GRB is still a concept and instrument that needs to be tested in actual communities. The success of GRB is highly dependent on the political will of the government and the legislature.

In society, especially for CSOs including farmer women's movements, GRB provides a good chance to fight for the rights of farmer women who have never received legal protection and social protection from the state. It is acknowledged that GRB has not yet been fully implemented; but as a policy, it does present opportunities to improve the lives of farmer women.

## Recommendations

Based on the issues discussed, the following are recommended to strengthen the bargaining position of farmer women in rural areas.

- Document local knowledge on control and management of resources that is based on the values of social culture and women's political economy.
- The government should issue a policy providing poor women with access to and control over land considering the different impacts of poverty on women and men.
- Donors should encourage and support initiatives on land control and management by women. They should also help CSOs conduct policy advocacy on land rights concerning gender equality.
- All parties should empower farmer women in the implementation of agrarian reform.
- GRB and GRPB issues should be included in every meeting of farmer women's groups, in training programs, and in the preparation of action agenda, especially those that deal with agrarian reform and food sovereignty. ■



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