

Expert Group Meeting

Good practices in realizing women's rights to productive resources, with a focus on land

Geneva, Switzerland

25-27 June 2012

**Women's land rights in Brazil:
good practices and lessons from the case of Ponte do Maduro**

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Abstract

Brazilian land laws are considered progressive and innovative, but in practice this legislation has not reduced inequality between men and women and Brazil still has some of the worst rates of inequality and inequity.

In this paper we will describe and analyze how a group of grassroots women in Brazil are challenging existing land administration and, through a regularization process of an informal settlement in the central area of Recife, implementing land laws and policies in order to give women equal opportunity as men to attain land titles. It is also a case in which grassroots women are claiming space in relation to public policies implementation in their communities, and by doing that transforming their own lives.

Key words: empowerment, women's land rights, participation, and grassroots women.

Brazilian context

Brazil is the world's 5th largest country in territory, with an area of more than 8.5 million Km², and is the 6th biggest economy in the world. However, Brazil still has some of the world's worst social indicators, especially on wealth and land distribution. To date, land remains concentrated in the hands of a few landowners. Roughly 40% of the national wealth is controlled by .01% of the population or just 5,000 families.² Large landholders or "latifundos" make up 1.6% of the total landholders but own 46% of the land. Most of the country's 16.5 million rural poor are landless or lack adequate land for subsistence. Since "Sesmarias"³, when latifundios were formed in the sixteenth century, and the Lei das Terras in 1850, women and black population have been excluded from land ownership and considered inferior by the white elite.

Brazil is one of few countries in Latin America to have never had a land reform⁴ or an intervention (re-distribution) in terms of fundiary structure since colonization.

The situation is not different in the cities, where poor people face a enormous housing deficit and the poor conditions of the Brazilian Favelas. With a deficit of 7,2 million houses⁵, the poor, particularly poor women, face an intensely difficult housing situation; a state of affairs that is worsened by the lack of infrastructure and basic services. In 2007⁶, 35 million people in Brazil did not have access to running water, 60 million people did not have access to sanitation or any type of sewage and 42 million people did not have access to garbage services.

² (2010) Need and Basis for Agrarian Reform. Friends of the MST's Website.<http://www.mstbrazil.org/about-mst/agrarian-reform-need-basis>

³ Sesmarias – Division of land in Brazil during the period of colony (1536)

⁴ According to Solon Barraclough, (UNRISD,2001) - A country can say that implemented an agrarian reform if in a period of 10 years promoted a redistribution of at least 20% of its agricultural land to the benefit of 10% of poor population.

⁵ MCidades, 2004, Política Nacional de Habitação, Governo do Brasil.

⁶ MCidades 2007

If we analyze the property ownership from a gender perspective, in Brazil women own only 11% of property and make up 75% of the homeless working poor population.⁷ Reflective of the high degree of urbanization in Brazil, most of Brazil's poor are urban—well over 64% or 18 million people.⁸

Legislative and policy reforms in Brazil

Brazil has an advanced legal framework regarding equal rights between men and women. Social processes, the level of social organization and especially the role of women's and other social movements in Brazil are key to understanding the development of legal reforms in Brazil.

The 1988 Constitution is called the Citizen Constitution due to the mobilization and participation of civil society in its formulation. It recognizes equal rights and responsibilities between men and women, and incorporated most of the claims and proposals made by civil society and social movements. Also, it creates and recognizes rights to different citizens – such as elderly and black populations – and establishes new obligations for the State with respect to individuals and collectives.

In 2001 the City Statute was approved by the Brazilian National Congress. The City Statute is a federal law that aims to regulate the chapter on urban policy found in the 1988 Constitution (articles 182 and 183). It supports significant changes in planning and property laws. One of the most significant changes contained in the City Statute involves the conversion of illegal or informal property claims to legal property rights through the fundiary regularization tool.

The City Statute also incorporates the principle of the right to the city, which provides a clear understanding that land is a public commodity, and should be used for the common good. It has allowed for advancements in terms of civil society engagement and enhanced transparency of land processes, both of which provide key areas of influence for civil society and social movements. However, it hasn't change the dramatic situation of informality and inequity in terms of access to agricultural land or to urbanized land.

The Brazilian Civil Code was promulgated in 2002. It deals with family, inheritance and property rights. The Civil code introduced major advances in terms of gender equality and women's civil rights⁹. It recognized shared responsibility of conjugal relations and gives men and women the same rights to property, recognizing that women have 50% of a family's properties in the case of their husband's death or a divorce.

Moreover, Brazil ratified several international treaties and conventions, such as the Convention to Eliminate All forms of Discrimination Against Women (CEDAW) (1979) and Beijing Declaration (1995), in which the principle of equity in terms of rights and opportunities between

⁷ Emanuelli, M. S. (2004). *Vivienda Con Rostro De Mujer*. Rep. Mexico: HABITAT.

Freire, P. *Pedagogy of the Oppressed*. (2000) 30th anniversary ed. New York: Continuum.

⁸ Instituto Brasileiro Geographica e Estatistica (2004)

⁹ A more detailed description about Civil Code can be found in Brazil – Law, Land Tenure and Gender Review: Latin America, 2005 UN Habitat.

men and women are central. Ratification of these treaties also gives the State the responsibility to ensure and promote gender equality and respect diversity.

It also is important to mention the creation of the National Council of Women's Rights (CNDM) and the National Plan for Women's Policies. This plan's main objectives are to ensure women's economic and financial autonomy, as well as gender, race and ethnic equality in labor relations. Further objectives are to introduce affirmative policies that promote women roles as social and political actors, increase their participation in agrarian reform and family based agriculture programs, and promote women's right to adequate living conditions in the city with access to assets and public services.

Finally, In 2010 Brazil elected the first women president, Dilma Rousseff who has worked towards increasing women's presence in her cabinet and also in high-level posts of Brazilian Government. President Dilma has worked to approval of important laws and public policies to protect women's right to property and access to secure tenure.

However, a good law or an advanced legislation is not sufficient to ensure these citizenship rights for the most marginalized segments in Brazilian society.

Our contribution to the Expert Group Meeting on Good Practices discusses how Espaço Feminista developed ways to implement women's rights to access productive resources, with a focus on land. For this we will use the case of Ponte do Maduro in Recife. In Ponte do Maduro four informal settlements with approximately 9,000 families have been struggling for half a century to have their land regularized. The regularization project promises women the same opportunity as men to receive the land titles. Below we will describe how grassroots women are challenging the notion that poor women are the objects of development, and through that process proving that organized groups of women are themselves capable agents of development.

Women's right to land in practice – the case of Ponte do Maduro

Ponte do Maduro is one of the oldest informal settlements in one of the oldest cities in Brazil: Recife, the state capital of Pernambuco. Recife is the second largest city of the northeastern region of Brazil and it is a city in which inequality and informality is evident. Recife is a coastal city of towering skyscraper residences, hotels, open air markets, historic architecture sites and informal settlements that are transected by the two main rivers that run through the city. Informal settlements cover expansive patches of the center city, line the riverbanks and exist in the shadows of gated high-rise buildings. Irregularity is more the rule than the exception, and is arguably the dominant mode by which the cities' residents are housed. Notably, Recife is home to the highest proportion of informal residents in Brazil. Of the 3.7 million residents living in Recife metropolitan areas, estimates of the percentage of the population living informally range from 40% (World Bank 2003) to 62% (Cohen 1996 and Sobreira de Moura 1987). Recife is only surpassed by Brazil's two megacities: São Paulo and Rio de Janeiro in terms of the absolute number of residents living in slums (World Bank 2003).

It is in that context that, over the last two years, a group of around 50 grassroots women leaders from four communities have been acting to ensure that women have the same right as men for land titles. Land titles will be ensured by the State Government of Pernambuco as an outcome of

the ongoing regularization process. That group of women has been challenging the norms and standards of the regularization process, and as a consequence creating a reference in terms of process and women's engagement. Most of all, what differentiates the process of Ponte do

Maduro is how Espaço Feminista and its partners are applying existing laws and policies to ensure equality in land titles.

Espaço Feminista is a feminist organization based in Recife. It is a campaign style umbrella organization for rural and urban women, primarily leaders and activists from social movements. The organization both champions their movements and builds the capacity amongst the female leadership to address the question of gender within their respective movements. Working as a process based organization, rather than project based, EF has developed a process that combine three main components: i) knowledge building; ii) knowledge sharing; and iii) advocacy and partnership building.

Ponte do Maduro is one of the areas in which Espaço Feminista has worked since 2008, acting towards the recognition and implementation of women's right to land and housing. The area called Ponte do Maduro includes four communities— Chié, Santa Teresinha, Ilha de Joaneiro e Santo Amaro—. It is located in the central area of Recife and it has a total of 9,000 families registered by Companhia Estadual de Habitação e Obras (CEHAB) to receive land titles under the program of land regularization¹⁰ of Government of Pernambuco. These families have been fighting for the right to remain in the area and within the communities that they have effectively built over five decades.

Through the support of the Huairou Commission and the UN-HABITAT Global Land Tools Network, Espaço Feminista was able to intensify the work in Ponte do Maduro, setting up a network of support from local, national and international partners. Partners range from local groups to the National Research Foundation and international networks. A permanent committee was set up to plan and monitor the entire process and committee members are following the process (of regularization) through regular meeting. In these meetings women residents are taking the lead and benefiting from technical and political support around land issues.

However, delivering land titles in an informal settlement present for more than a century is not easy, and a series of entitlement and inheritance issues have arisen during the process. There are a number of issues to be solved prior to the issue of land titles or deeds. First of all, since the community was built more than 50 years ago, most residents are now descendants of those who effectively build the houses, which creates problems concerning inheritance. Second, there are many single women responsible for their households, some of whom were abandoned by their husband or partners. Third, a high number of houses are not occupied by their owners, they are rented. According to the land tool applied in the case of Ponte do Maduro - Special Concession for Housing Use - CUEM, land titles will be given either to who own the house or to who has effectively occupied them for the last 5 years without dispute. Therefore, a huge debate has arisen about who has the right – owners or occupants? Finally, as a characteristic of a poor and informal settlement of Recife, there are a number of families living in the same house (sometimes sharing a house no bigger than 40 square meters), which we call co-habitation.

¹⁰ In the Brazilian context, land regularization usually occurs on a small scale but includes the upgrading, the provisioning of public services and a variety of technicians.

A regularization process must consider all these aspects: inheritance problems, women's marital situation, possibility to regularize or give land titles to more than one family, and finally since it is a concession, give priority to those effectively living and maintaining the house. Our challenge is to find legal background in the present legislation in order to combat (institutional) gender bias, and give priority to those who are effectively living and maintaining their houses over the last five years and among those, how to ensure and protect women's right, once gender bias is entrenched in our institutions and communities.

In order to deal with that issue Espaço Feminista and partners have set up two different mechanisms. The first is a community conflict mediation group comprised of community members in leadership positions. The women's group has the challenge of dealing with conflict among community members concerning land and housing rights. The main objective of this group is to resolve or to arrive to a conciliation around land disputes between community members, based on the principle that women leaders have the knowledge and means to promote conflict resolution without taking the cases to the court. The second mechanism is establishing a legal assistance support group, set up with the participation of lawyers (with an outstanding experience in land rights and land regularization mechanisms), the support of a public defendant and – more recently - a woman judge specialized in family rights. The support group will intervene in the regularization process making sure that women will have their rights enforced during the process and if necessary, supporting and assisting women to claim their rights in court.

Beyond ensuring land rights, building gender governance

As mentioned before, according to Espaço's experience and evaluation there are two sides to the process of women's empowerment and equal right to land and other productive resources to be observed and tackled. The first one is related to how institutions deal or are prepare to deal with gender and race equality. The State, according to our Constitution has the obligation to implement rights attained by civil society and women's movements during constitutional assembly and later integrated into the constitution. Therefore, governments, legislative bodies and the judiciary in all three levels have not only the role but also the obligation to ensure equal rights between men and women, as well as the right to adequate housing and to food security. The second side of the process is how women and grassroots women organize; create spaces and strategies to participate in land process, not just as beneficiary but also as protagonists, creating what we call gender governance in land processes.

Women have their own organizations and are organized in many levels from local to national movements. Women's and feminist movements have given a decisive contribution to legislative and policy reforms and to the establishment of an affirmative agenda at all levels – national, state and local or municipal level. In almost all States of Brazil, women are organized in women's forums and national and sub-regional¹¹ networks and coalitions¹². These networks are formed by a large number of organizations from a wide range, varying from rural and domestic workers to

¹¹ There are 5 sub-regions in Brazil according to a political division of the country: North or Amazon region, northeast, center, South and southeast.

¹² Examples of these networks are: Articulação das Mulheres Brasileiras – AMB, a Marcha das Margaridas and

also the Marcha Mundial das Mulheres.

lesbians and black women's organization, from small and community organizations to large national movements.

For the women of Ponte do Maduro being engaged in the process is emotionally taxing and chock-full of familiar signs that land titling might not happen yet again. Being a part of a network of women and supporters is a huge part of what gives social movements, such as this one, their endurance. When asked what gave women faith that the process is moving forward, in spite of a history of broken promises and the delays, a seventy-two years old community leader called Dona Vilma responded, "the only difference is that angels have appeared to us, the fight has gone beyond the community." The women are no longer alone in their struggle.

The Ponte do Maduro case offers an analysis of how these grassroots women are organizing and through a continuum process of political and technical education – empowering themselves, challenging old leaderships and proving that they are capable of bringing solution to their own communities. This is a story of how a well-organized, networked and tenacious group of grassroots women is fighting collectively and with solidarity among different groups for an exceptional outcome: to be the community that actually *completes* land regularization in a city that has a 3% completion rate. And this also is the story of how by transforming themselves, the women of Espaço Feminista are transforming the system in the incredible but limited ways that individuals can.

Espaço Feminista and the women of Ponte do Maduro are capitalizing on the opportunity to participate in spaces opened to them within the formal structure of land governance by the constitutional and legal reforms of the 80's. This however, meant that Espaço Feminista had to work with the resident organizers to improve their leadership skills so that the women would be more effective agents in the participatory land governance process. Espaço Feminista's intervention towards preparing women is important because *women are not inherently political partners or inclined to disrupt entrenched gender inequities*. Now, Espaço Feminista's resident organizers are empowered, not only to understand the technicalities of the process, but also to address land regularization through a gendered lens and to intervene in the process to guarantee gender equality.

Lessons learned

Gender equity requires more than just the presence of women in governance; it requires transforming both gender relations and the institutions that shape the behavior of all involved in these processes. A patriarchal society is built not only on relations but also on cultural behavior, and institutions are entrenched with such values and behavior. Proof of this is how judges and policies are reacting to Lei Maria da Penha.¹³ To build a better society it is still necessary to make a massive effort to sensitize and provide political education about gender relations, and how they affect women and communities. **Recommendation:** Public institutions must incorporate gender sensitization in their capacity building or training programs and also need to have budget to enable that process of internal capacity building.

¹³ Lei Maria da Penha is a law enacted in 2006 to address violence against women.

Changing power relations is not an easy or a rapid process and is full of setbacks. It is important to understand and also recognize that individuals have different timing and capacities; therefore it is very important when designing policies, programs and projects that we consider the following two aspects. First, there are no constant gains in the process of women's empowerment, but advances and setbacks. Shifting power relation can lead to reaction from those who feel they are losing their position. Second, individuals have different capacities and timing, programs or policies towards women's empowerment have to take such differences into account, especially concerning monitoring and evaluation programs. **Recommendation:** Any policy or program that has gender equality or women's empowerment as an outcome need to take differences in learning or to incorporate gender dimension in their actions into consideration, especially when designing indicators or programs of monitoring and evaluation.

Empowering women, or building their capacity through education and creation of support networks with other women activists and professional allies, has a **transformative effect** on others involved in the process. Empowered women are able to translate theory into practice through a nuanced, community-based understanding of the relationship between gender and secure tenure that is essential to land governance. Institutions should receive incentive to implement policies and programs incorporating grassroots women participation, recognizing their capacity to act as agents of change.

Partnerships are essential to advance in our struggle. Grassroots organization must learn how to build good relationship with other stakeholders, recognizing that there is a necessity to both incorporate and rely on different knowledge and experiences that they do not already possess. This is true in the case of researchers and academics, for instance. Based on our experience, we have learnt that such partnerships are beneficial to everybody once we all recognize our differences and objectives. To establish a dialogue between different knowledge and experiences is a way of reinforcing our capacities and also changing others. As Srilatha Batliwala (2012) said during the AWID Forum in Istanbul, "we have to learn how to talk with others outside our comfort zone." **Recommendation:** Academics and researchers should understand and recognize the value and knowledge of grassroots women therefore, when realizing researches and studies involving communities and/or studies about women's issues they should consider grassroots women and community leaders as part of the process and establish a dialogue between knowledge.

Building **strategic alliances** is also very important in advancing women's empowerment and enforcing women's land rights. Institutions are not homogeneous and are made by people with different understanding and sensitivity. Therefore is crucial to have good and strategic allies inside institutions, especially when talking about governments, legislative bodies and judiciary system. It is easier to change individuals in order to change institutions.

Global problems and challenges need global response. Land grabbing and slow pace or insufficient measures to eradicate hunger and poverty means that we have to build global strong women's movements to support local efforts. To be part of a global network, such as Huairou Commission, is a great advantage for grassroots women and for community leaders since it represents a chance to be part of a changing global process and an opportunity to influence women's access to land in other countries and regions. It also gives women the privilege and

benefit to exchange their practices and knowledge with other grassroots organizations. The importance of being part of a national or global network is fundamental for grassroots women.

And finally, we have to recognize that inequalities can only be overcome if differences are respected and equality can only be established if based in equity.

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