

Women Access to Land and Legal Security of Tenure in Ohafia Abia State Nigeria

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ABSTRACT

Across the developing world, rural women suffer widespread gender-based discrimination in laws, customs and practices which cause severe inequalities in their ability to access, control, own and use land and limit their participation in decision-making at all levels of land governance. Most literature on land tenure in sub-Saharan Africa has presented women as a homogenous group. This study uses cases from Ohafia to show that women have differentiated problems, needs, and statuses in their quest for land access and tenure security. Ohafia in Abia State, Nigeria was the study area. The study employed both qualitative and quantitative methods including household surveys, semi-structured interviews, key informant interviews and observations. The experience of women revolved around fear of been cheated (19.7%), need a supporting hand (46.8%) and need approval from their husband (33.6%). The consequences of perceived exclusion and/or marginalization of women as revealed by women owner-occupiers are women subordination (70.2%) and marginalization of widow (29.8%). The study recommends the promotion of gender integration at all levels of projects and programmes by integrating gender perspectives in all future activities as it is required, for example, the FAO Gender Plan of Action and the UNCHS. To ensure gender inclusiveness in project and programme planning and in policy and decision-making, aiming towards a balanced representation of men and women in these bodies.

Keywords: Land, Land Rights, Land Tenure, Women, Legal Security of Tenure.

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INTRODUCTION

Across the developing world, women are among the most disadvantaged people. Widespread gender-based discrimination in laws, customs and practices cause severe inequalities in their ability to access and control land and other natural resources, and limit their participation in decision-making in land governance, from the household to local and national institutions. Gender justice in land governance is a fundamental pillar in the rights, their position in family law and marriage, and their participation in public life. They also provide access to the most important physical asset in agrarian societies and land (Daley, 2013; Chris, 2013; Luca, 2013).

The phrase legal security of tenure is an amalgam of two terms: legal security and tenure. According to the Chambers 20th Century Dictionary, legal security means the protection offered to a person under the law in a given circumstance and over a particular subject matter. On the other hand, tenure can be described as a person's holding, or interest in a thing (e.g. land, housing,

office, etc) (UNCHS, 2007).

Within the sphere of creating access to land, certain privileges, opportunities and claims are conferred on the individual user of land. But, the complexity of land tenure in Nigeria is the result of the co-existence of several systems (whether customary; sometimes with Islamic influence or state), none of which is completely dominant. This legal pluralism causes a degree of uncertainty about land rights, particularly for vulnerable groups (women, pastoralists, migrants, etc) and leads to conflicts for which the many different arbitration bodies (customary, administrative and judicial) are unable to find lasting solutions (Aluko, 2015).

Under the land tenure system, which is still very much prevalent, the distribution of rights is based on socio-political system (the political history of the village and region from which the alliances and hierarchical relationships between lineages are derived) and on family relationships (access to land and resources depending on one's social status within the family), so

that social networks govern access rights (Subedi, 2009). It is, also, worth noting that in most of these customary landholding systems, community-level decisions about land are taken by chiefs or headmen on behalf of and in trust for the clan or family. Chiefly authority is generally ascribed to a patriarchal lineage, and most major decisions are taken by men. Nonetheless, women have ways of bringing their views to the attention of such authorities, although, they usually do not participate in decision-making. Again, women claim to land within customary systems are generally obtained through their husbands or male kinsfolk hence may be considered 'secondary' rights (Abdullahi and Hamza, 2009).

Statement of problem

Although the state established elaborate institutional and administrative machinery to govern land tenure and land administration, it has not been effective. There is a lack of complementarity and networking and even conflicts among some of the institutions. The identified problems and constraints that have bedeviled women access to land and legal security of tenure such as a weak land administration system; general indiscipline in the land market; indeterminate boundaries of stool/skin lands; inadequate land tenure security due to conflict of interest among and within land-owning groups and the state; land racketeering and the slow disposal of land cases by the courts. These include indigenes of the stool who have customary freeholds but no written agreement confirming their interest in the land; women, whose rights are usually secondary to those of their husbands, fathers, brothers, or sons; and migrants without a firm written claims to land. Further, the poor, most of whom are women, find it difficult to gain access to land, given the need for substantial "drinks money" to confirm transactions.

Yet, women have more limited access to resources than their male counterparts, especially with regard to access to and control over land, education and credit. These limits and restrict their ability to increase productivity and enhance their livelihoods.

The multifaceted causes of tenure insecurity and gender disparity in access to land are shaped by Ghana's inheritance systems, tenure arrangements and land-use patterns. These are addressed under the following: Inheritance; Marital relations; Lack of information and Exclusion from decision-making.

Inheritance

Lineage authority allocates land to the male household head. Women have secondary rights or cultivation rights that they obtain through male family members. Succession laws also affect women's access to land. Under customary law, one of the most important ways women acquires land is through inheritance, even though women's inheritance rights are severely limited in both patrilineal and matrilineal systems.

By granting men and boys primary rights of inheritance of land and property, and granting women and girls user

rights mediated through their relationship to men, a situation of unequal power relations drawn along gender lines is entrenched in land tenure and production relations.

Among the matrilineal communities, upon the death intestate of a man, his individually acquired property becomes the family property and is distributed to his family in accordance with customary law. Under the system, the composition of the man's matrilineal family does not include his wife and children. They are thus not entitled to succeed to any specific portions of the intestate's estate even though they have certain limited rights with regard to maintenance from the intestate's estate and residence in the matrimonial home. (Asiimwe, 2014).

Thus, while women benefit in some cases from matrilineal inheritance, they generally do so as lineage members and not as wives or children, if the parent involved is a man. Among the patrilineal communities, the right to succeed to property is derived from membership in the family through one's father. The children of the deceased are entitled to succeed to his estate, but the respective entitlements or specific shares allocated to them are subject to considerations based on gender.

Even though the position of children in patrilineal societies is better than that of children from matrilineal communities, the rules on intestate succession in some cases are discriminatory against female children. Indeed, in the past, women were not entitled to succeed to rights in property except for chattels nor were they considered in the distribution of immovable property on intestacy. Even though the rule has now been relaxed considerably, in general, male children are still given preference over female children.

Marital relations

Marital relations and divorce have a powerful influence on women's property rights and economic empowerment. Under customary law, a woman is under obligation to assist her husband on his farm. This, coupled with her extensive domestic obligations, effectively reduces the amount of time and effort she can spend developing her own farm. Further, stability of marriage and good relations with male relatives are critical factors in maintaining women's land rights. A married woman may gain access to land with the permission of her husband, but it is not uncommon for a woman to lose her land and crops after a divorce or upon the death of her husband. A woman's right to land obtained through marriage may also change if her husband remarries under a polygamous arrangement (Abdullahi and Hamza, 2009).

Lack of information

Women have relatively little access to relevant information on their land rights and modes of enforcement of such rights. This has been attributed to the fact that women have a lower literacy rate than men but it is also a result of cultural norms, perspectives and

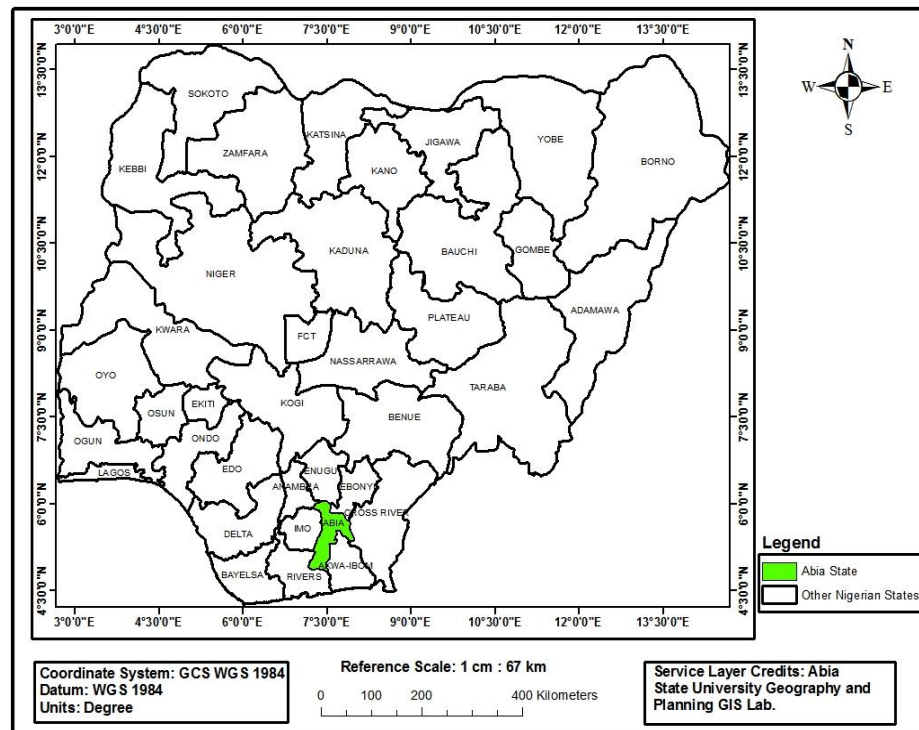


Figure 1: Map of Nigeria Showing Abia State. Source: Abia State Geography and Planning Lab (GIS) Year- 2021.

gender-power relations at all levels of community life.

Exclusion from decision-making

In most customary land tenure systems, community-level decision-making about land is the exclusive preserve of chiefs or family heads who exercise that role on behalf of the community, clan or family. Thus, whether women are in matrilineal or patrilineal cultures, it is the men in their families who more or less preside over the allocation of family resources.

The study aims to examine Women's Access to Land and Legal Security of Tenure in Ohafia, Abia State Nigeria. With objectives to identify factors that determine women access to land and legal security of tenure in Ohafia, Abia State Nigeria; to determine the gender-biased level of accessibility to land with legal security of tenure in Ohafia Abia State Nigeria and to evaluate the consequences of the level of accessibility of women to secured land for legal security of tenure in Ohafia Abia State Nigeria.

METHODOLOGY

Study area

Ohafia is located within latitudes 5° 30' N to 5° 45' N and longitudes 7° 45' E to 7° 55' E. It consists of eight autonomous communities, covering a land area of approximately 1,050 km. Annual average temperature ranges and rainfall is 23°C to 32°C, and 1,400 mm, respectively (Eke and Igbokwe, 2011).

Ohafia is a town in the Ohafia local government area (LGA) in Abia State, Nigeria (Figures 1-3). It is an Igbo-

speaking region. The ancestral capital of Ohafia town is the centrally located village of Elu. Ohafia Local Government Area is an administrative jurisdiction assigned by the Nigeria Government, which covers the entire Ohafia villages and other clans such as Abiriba and Nkporo, with its Administrative Headquarters at Ebem Ohafia.

Ohafia encompasses twenty-six villages with population strength ranging between 800,000 and 916,000 as of 2014. And it is at a distance of 50.1 km away from the Capital city Umuahia in Abia State. The villages in Ohafia are Elu, Ibina (Ihenta), Nde Okala, Nde Anyaorie, Amuma, Amaekpu, Ebem, Nde Amogu, Okagwe, Nde Uduma Ukwu, Oboro, Nde Nku, Nkwebi, Amuke, Asaga, Ndi Uduma Awoke, Amankwu, Nde Ibe, Nde Orieki, Okon-aku, Amangwu, Ufiele, Eziafor, Abia, Akanu, Isiuwu.

The area is saddled with numerous hills and valleys, and only a few flat terrains occasioned by frequent erosions and landslides. The area is located in the southeastern part of the Anambra Basin, a late Cretaceous – Palaeocene proto Niger – Benue Delta complex located in the southern part of the regionally extensive northeast-southwest trending Benue Trough. The geology of the area comprises deltaic marine sediments of the Cretaceous age to recent, with three formations which include the Ajali, Bende-Ameki and Asata Nkporo Formations.

Population and sample

The primary data used for the study were sourced through field survey conducted with the administration of questionnaires, interviews and on-the-spot assessment through observations made during site visitations. Two



Figure 2: Map of Abia State Showing Ohafia. Source: Abia State Geography and Planning Lab (GIS) Year- 2021.

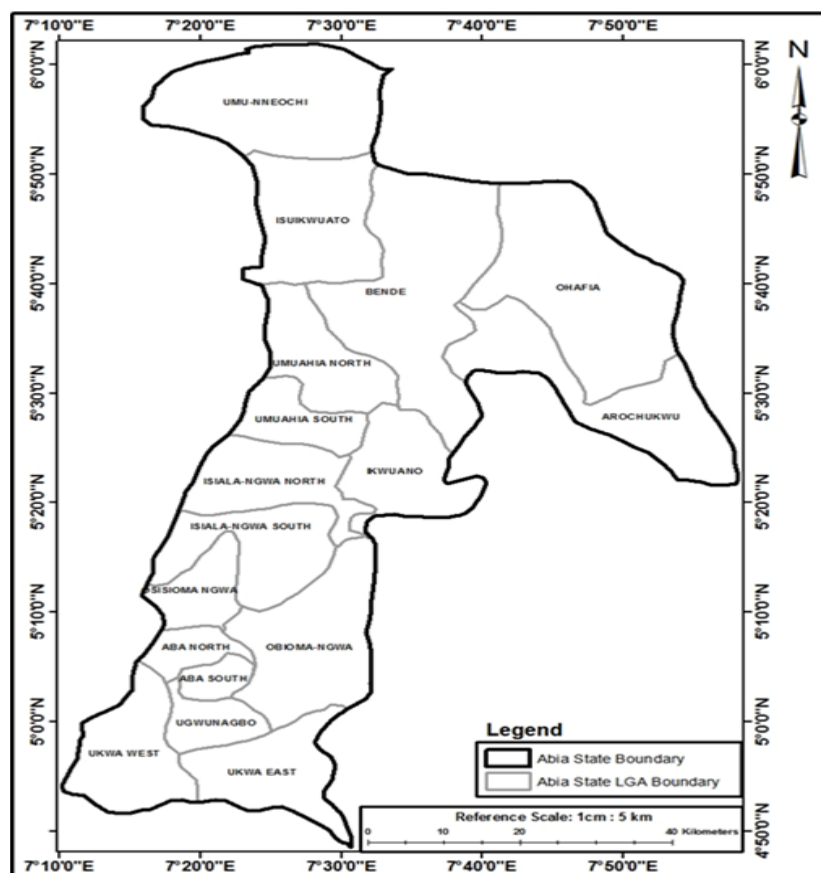


Figure 3: Map of Ohafia Source: Abia State Geography and Planning Lab (GIS) Year- 2021.

sets of questionnaires were used to elicit relevant primary data for the study. The first set of questionnaire focused on the heads of households, who were

homeowners. The questionnaire contained questions that probed into location information, socioeconomic characteristics of the respondents and their housing

Table 1: Rationales behind Female Discrimination.

Rationale	No. of Respondents	Total
Financial strength	95	16.5%
Social status	47	8.2%
Level of education	143	24.9%
Cultural belief	57	9.9%
Connection	133	23.1%
No Response	100	17.4%
Total	575	100.0

Table 2: Experience of Land Acquisition.

Experience	No of Respondents	Total
Fear of been cheated	113	19.7%
Need a support hand	269	46.8%
Approval from husband	193	33.6%
Total	575	100.0

characteristics such as nature of tenure, means of gaining access to housing units. Other questions also probed on the determinants of access to residential land, legal security of tenure, factors that determined access to land and legal security of tenure; among others.

The multi-stage random sampling method was used for the administration of the house-owner questionnaire. The first stage was the identification of the 8 autonomous communities in Ohafia, Abia State. At the second stage, a simple random sampling technique was used to select three enumeration areas (EAs) from each of the communities. The third was the numbering of all the villages in each of the selected EAs, and 5 villages were randomly selected. At the fourth stage; using Ohafia Map, a sampling frame was developed by listing all the clans in the selected villages. At the final stage, 3 percent of the clans were selected using a systematic random sampling method. In each of the selected clans, the house owner was picked for interview. At the end of the survey, 575 house-owners were interviewed.

Data Instrument

The primary research instrument used for field data collection was research schedule version of the questionnaire. Questionnaires were used to elicit relevant primary data for the study.

Data Collecting Instruments

Two sets of questionnaires were used to elicit relevant primary data from household heads and officials of land management authorities. Other instruments used were key informant and Focus Group Discussion (FGD) guides.

Data Analysis

The household head questionnaire was edited to ensure legibility consistency and uniformity. In order words, they were thoroughly scrutinized for consistency errors. This is with a view to assuring the integrity of the data. The statistical package for the social sciences (SPSS)

version 15.0 was used to enter and analyze the data collected. Data were analyzed using both descriptive and inferential statistics. Simple descriptive statistics such as frequencies and percentage distribution were extensively used. Chi-square, Pearson product-moment correlation (PPMC) and multiple regression as well as paired T-test statistical technique was used in testing the stated hypothesis.

RESULTS AND DISCUSSION

Experience of Women in Acquiring Secured Plots

The factors include the financial ability of prospective house owners (16.5%), social status (8.2%), level of education (24.9%) cultural belief (9.9%) and connection (23.1%). However, 17.4% of respondents believed that men are more favoured than their female counterparts in the process of gaining access to residential land (Table 1). The implication of this is that, if 50% of the entire population of the state (NNPC 2006) who are discriminated against and found it difficult to access residential land for either of the above reason, it means growth and development for housing production would be adversely affected and development would be negatively affected.

The 575 female respondents interviewed were divided when asked to highlight their experience in acquiring secured residential plots. As shown in Table 2, the experience of women revolved around fear of been cheated (19.7%), need a supporting hand (46.8%) and need approval from their husband (33.6%). The consequences of perceived exclusion and/or marginalization of women as revealed by women owner-occupiers are women subordination (70.2%) and marginalization of widow (29.8%).

Ways of Improving Women Access to Land and Legal Security of Tenure

From Table 3, female empowerment (28.3%) is a significant factor in women's accessibility to land. This is

Table 3: Ways of Improving Women Access to Land and Legal Security of Tenure.

Way	No. of respondents	Total
Female education	75	13.0%
Female empowerment	163	28.3%
Public enlightenment	32	5.6%
Gender equity	144	25.0%
Improving women access to mortgage finance	46	8%
Creation of more jobs for women	115	20%
Total	575	100

Table 4: Ways of Sustaining Improvement in Land and Legal Security of Tenure

Way	No of Respondents	Total
Free legal aid to women	115	20%
Due process	166	28.9%
Proper education	221	38.4%
Job creation	73	12.7%
Total	575	100.0

followed by the enforcement of gender equity policy which accounts for about (25.0%). Other important variables of improving women's access to plots and legal security of tenure are the creation of more jobs for women (20%), female education (13.0%), improving women's access to mortgage finance (8%) and public enlightenment (5.6%).

Table 4 shows ways of sustaining women's improvement as access to land and legal security of tenure. An analysis of the table shows that sustaining free legal aid to women (20%), due process in granting access to secured residential land and legal security of tenure (28.9%), proper education for women (38.4%) and job creation (12.7%).

CONCLUSION

This paper examined how women's access to land and the legal security of tenure have touched on women's land rights in Ohafia. Access to land in Ohafia, including land for the poor and vulnerable, is based on four tenure arrangements: allodial title, freehold title, leasehold, and lesser interests. African culture and traditions are the glue that holds people together and allows communities to function. Against the foregoing, any attempt to eliminate the traditional authority's input into land management, either through land nationalization or the centralization of land administration under the Act or by the facilitating the growth of land markets, is to invite the growth of parallel unofficial land management or land market system, thus creating confusion in land management. The cultural laws and practices of the family rather than individual rights are the basis of Africa's celebrated social security system; a system that is still relatively cost-effective and unlikely to be replaced by the state social security system for quite some time into the future.

RECOMMENDATIONS

Promoting gender integration at all levels of projects and programmes by:

- Ensure the full integration of gender perspectives in all future activities as it is required, for example, FAO's Gender Plan of Action and the UNCHS.
- Ensure gender inclusiveness in project and programme planning and in policy- and decision-making, aiming towards a balanced representation of men and women in these bodies.

Promote gender integration through education and sensitization by:

- Ensure that effective and culturally appropriate mechanisms are in place for input, discussions, conflict resolution, and negotiations regarding gender issues.
- Provide opportunities to discuss and explore gender issues related to land in a neutral forum as possible.

The re-orientation of land administration professionals:

Land administrators should not underestimate their role, in conjunction with other professions, in allocating, adjudicating, protecting, and changing the way in which people hold rights to land. In the past, the major impact of land administration was on the size and shape of land parcels and the granting and adjudicating of associated rights. Today, land administrators also have a role in broad tenure reforms and in improving the security of tenure through the law, land economics, and information management. They should be ensuring that the land administration systems, laws and procedures that are put in place during such reforms do not adversely affect the rights of groups and individuals.

Ensure effective access to land through other support

Providing equitable access to land is not enough. To be effective, access to land must also include access to other resources (such as financing, technology, and training) and required support systems (e.g., roads, marketing co-operatives). Without gender-inclusive

access to these resources and support, the projects may leave behind nothing but paper titles and boundary markers.

Support gender-inclusive participation in land administration organizations

This will help the project implementers ensure that foreign project members and recipient organization staff have a better understanding of the issues related to gender and land locally. This gender inclusiveness can also open up communication bridges to the community reducing gender barriers in project participation. Projects can also enhance sustained gender-inclusive participation in a land project through education and training. Some donors require that women and men should participate equally in land administration training and education abroad and this strategy has been very successful in enhancing the sustainability of any gender-inclusive policy.

Enhancing Women's Security of Tenure by Enhancing Access to Law Enforcement

In addition to educating women on their land rights, it is important to set up structures and avenues through which they can assert and enforce their rights, thereby enhancing their security of tenure. It has been noted that women's security of tenure in land is affected by a host of factors including social and cultural norms, rules and values which effectively inhibit women from obtaining security for their land rights. This gives rise to "de facto" discrimination even though formal and customary laws in the main are not overtly discriminatory.

In this regard, the concerned authorities will have to work with traditional authorities, community leaders, lineage and family heads on the need to ensure secure land tenure for women as well as men and to work with customary landowners to adapt existing mechanisms and procedures to enhance the protection of the land rights of women and the poor in situations of land conversion, compulsory acquisition of land, etc. With regard to the enforcement of women's land rights, vigorous efforts must be made to enhance the use of alternative dispute resolution methods at the community level for the resolution of land-related disputes as envisaged under the proposed customary land secretariats.

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