Taking the Woman's Perspective: Gender Risks of Regulatory Reforms

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The paper examines two reforms from the World Bank's Doing Business Reports and analyses their effect on women in the economy. It highlights the importance of integrating women's perspective in the Doing Business project and suggests including a Gender Index in the Doing Business Report. The paper also puts forward problems associated with reforms in land titling and debt-settlement, arguing that these reforms pose risks of institutionalising social gender disparities.

Gender and economic growth

The seminal work of Danish economist Ester Boserup (1970) served as an international benchmark for the investigation of critical but oft-underestimated roles women play in the process of economic growth. However, almost half a century later, a gender bias in several development policies and processes still exist, resulting in the failure of many countries to achieve full growth potential. For example, unequal education and employment opportunities for women in Sub-Saharan Africa are estimated to have retarded annual per capita growth by 0.8% between 1960 and 1992. This is significant, as a boost of 0.8% yearly per capita would have doubled economic growth in the region over the same period (Ellis et al., 2006).

Long before development research became gender sensitive, policy and processes tended to leave women out of modernisation (Braig, 2000). The result was a widening of gender-related inequalities in productive factors such as land distribution and credit access. Society and even fundamental legislation of many countries today preclude women from owning property or entering financial agreements without a man's consent. In many countries women are ineligible to access resources such as education, land and credit which are necessary factors for economic independence (Todaro and Smith, 2006). Thus, women make up a substantial majority of the world's poor, and are generally restricted to low-productivity, low-paying informal occupations compared to men (Chen, 2004).

Research shows however, that gender and economic growth are significantly linked. When women are faced with gender-specific disincentives such as lack of access to resources,

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economic output was shown to shrink by 10 - 15% (Udry et al., 1995). Shifting resources from men to women - tested in agricultural production in Burkina Faso, Kenya, Tanzania and Zambia - invariably resulted in increased output and productivity by a range of 10 - 44% (Blackden and Bhanu, 1999). In terms of education, raising women's secondary schooling levels by 1% was shown to increase national per capita growth by up to 0.3%. Raising women's primary schooling levels was directly linked to a drop in total fertility rate from 5.0 to 3.9 in a span of 12 years from 1988 to 2000 (Uganda Bureau of Statistics, 2000; Dollar and Gatti, 1999). Using the 'gender intensities of production' approach, the World Bank estimated that despite starkly differing concentrations of gender among sectors, men and women each contribute about half of the country's gross national product (Ellis, Manuel et al., 2006).

Clearly, removing gender-based barriers constraining the economy would allow poor countries to flourish and develop more rapidly - and that is exactly what the World Bank attempts to achieve with the *Doing Business* project. Results from the worldwide *Doing Business* survey are translated into suggested institutional reforms that promise more opportunities and larger pay-offs for women. However, development experience worldwide show that gender-blind policies tend to fail to deliver equitable, widespread economic outcomes and also fail to elevate the status of women. Instead of wide-sweeping reforms, development experience shows that what is needed are policies that specifically establish equal rights and opportunities for women and men (International Food Policy Research Institute, 2006; Todaro and Smith, 2006).

The rest of the paper is structured as follows. After examining the *Doing Business* from women's perspective and analysing how the project impacts females in the economy, the paper will then discuss the World Bank's effort to integrate a "gender perspective" within the *Doing Business*. The paper acknowledges this development as a way forward in recognizing women's contributions but suggests a further step through the inclusion of a *Gender Index* among other *Doing Business* indicators. Finally, the paper will examine "Registering Property" and "Getting Credit", two of the World Bank's ten *Doing Business* indicators. The paper will argue that reforms targeted towards individual land titling and out-of-court debt settlement are at risk of aggravating existing gender-discriminatory practices in society.

A Gendered Perspective on the *Doing Business* Reports

The *Doing Business* Project

The *Doing Business* Project provides objective measures of business regulations and enforcement practices compiled for 178 countries - from Afghanistan to Zimbabwe - and tracked over time. Project members work closely together with thousands of professionals worldwide. The yearly report is a guide for evaluating regulations that directly impact economic growth, downloading underlying laws, making cross-country comparisons and identifying good practices for successful reforms.

Regulations affecting ten stages of business life are measured: starting a business, dealing with licenses, employing workers, registering property, getting credit, protecting investors, paying taxes, trading across borders, enforcing contracts and closing a business. The indicators are used to analyse "Ease of Doing Business" and identify which reforms were successful, where and why. The *Doing Business* Report 2008 was the fifth in a series of annual reports, focusing for the first time on gender specific constraints that women entrepreneurs in many countries face.

Doing Business from Women's Perspective

One of the suggestions of the *Doing Business* Project is that payoffs from reform can be large. Higher rankings on Ease of Doing Business are associated with higher growth, more jobs and a smaller share of the economy in the informal sector. One example is Mexico, where reforms were successful in reducing the time to establish a business from 58 to 27 days. A recent study analysed the payoffs: the number of registered businesses rose by nearly 6 percent, employment increased by 2.6%, and prices fell by 1% due to competition from new entrants (World Bank, 2008a). The *Doing Business* Report accounts for this development: less contact between entrepreneurs and public officials - and less chances for bribery - when complex regulations to start a business are reduced. In Mexico 43 % of female entrepreneurs reported harassment from government officials, while only 25% of all entrepreneurs did. Increase in first-time business owners was 33% higher for women than for men (Ellis and Cutura, 2007).

Some examples of countries explicitly discriminating in laws against women, which are enforced by effects of complex regulations, were shown in the 2008 *Doing Business* Report. In the United Arab Emirates, Yemen and, since a new law passed in June 2007, in Kuwait, women are forbidden to work at night. In the Democratic Republic of Congo, where women run only 18% of small businesses, women need their husband's permission to start a business. The *Doing Business* Report suggests that these regulations have a negative impact on the business environment, taking work away from potential workers and business opportunities away from entrepreneurs (World Bank, 2008a). As a result, women often end up in the informal economy: in most developing countries there are three times more women than men employed in the informal sector. In these jobs women receive no social benefits. And in case of abuse by their employer, they have limited legal recourse or are considered as legal minors and are not allowed to stand in court. Instead, a woman must be represented by her husband, father or brother. This means, several countries do not allow married women to start a business without their husband's permission (Ellis and Cutura, 2007).

Beyond the scope of *Doing Business* there are several other areas of regulation, which also reduce opportunities for women to be integrated into the labour market or to start a business. In some regions, such as East Africa, women have fewer inheritance rights than men. As a consequence they have limited chances to obtain a credit without collateral, a precondition for starting a business. Other regulatory requirements — such as the need to obtain the husband's permission before getting a passport, or to locate a business in licensed commercial premises — may also indirectly affect women's ability to participate fully in business (World Bank, 2008a).

From the discussion above, we can summarize that conditions and reforms in the regulatory business environment create a huge discernible impact on entrepreneurship among women and subsequently, on private sector development and economic growth. However, specific gender dimensions are not evident among the current indicators used to measure the ease of doing business. Therefore, efforts to include explicit gender-related dimensions in the project will not only bring women's issues to the forefront but will successfully portray the gender-interplay within society.

Including a Gender Perspective into the *Doing Business* Report

The World Bank maintain that regulatory reforms recommended by *Doing Business* reports are encouraging signs of change for women in business although they also admitted that gender dimensions are not evident in all ten indicators for the 2006 output (Ellis and Cutura, 2007). It is for this reason that the *Doing Business* project commits to a two-year research program on reforms that improve job and business opportunities for women. The new analysis focuses on three issues. First, research will analyse legal restrictions that women entrepreneurs face such laws pertaining to access to, and ownership of land, and access to credit. Second, analysis will identify laws and regulations in 181 countries covering seven indicators: starting a business, employing workers, registering property, getting credit, protecting investors, paying taxes, and enforcing contracts. Reforms that reduce informality and increase the share of women among workers and entrepreneurs will be analysed. Data on civil codes and laws will be compiled to study the impact on women's ability to operate businesses. These reforms will provide the largest benefits for women, because women's labour makes up a large share of the informal economy. Third, the *Doing Business* team will prepare case studies on women entrepreneurs and delineate reasons for their success as well as main obstacles they face when expanding their businesses. The aim is to identify additional beneficial reforms that might have been missed when analysing laws and regulations. The report *Doing Business: Women in Africa* (World Bank, 2008b) is the first report in a series of regional reports focusing on women entrepreneurship in Africa. Expected output from this research project is an expansion of job and business opportunities for women and a large positive impact on economic growth (Ellis, Manuel et al., 2006).

However, this paper advocates a further step: to develop and include a Gender Index among *Doing Business* indicators. The *Doing Business* Report has already shown that burdensome business regulations hurt women most. Therefore, a more useful output of analysis, aside from identifying what type of reforms are most beneficial for working women (World Bank, 2008a), is to create an index that measures the institutional environment for female workers. This development will allow countries worldwide to be ranked according to how their governments manage and safeguard the rights of economically active women. Ranking countries according to their Gender Index in the *Doing Business* report will not only bring gender-issues to the forefront but also enable governments to be more proactive in elevating the status of women in their societies.

The following sections will now discuss two important issues greatly affecting the economic role of women in society: land and property ownership, as well as access to credit. The focus of the discussions will be on the significance of property and credit for women and the obstacles women face with regards to obtaining them.

Women, Property Ownership and Credit

Why property rights are important for women

The right to possess property is a basic requirement for *registering* property. Yet, principal among the range of gender-based inequalities are women's widespread exclusion from owning or controlling land and other property. Women's limited access to, and control over land and property, restricted by tradition and formal laws, means that they are often excluded from effectively engaging in economic activities and having a secure and sustainable livelihood.

Equal access to and control over landed property in and outside marriage are matters yet to be fully resolved in both law and practice in most developing countries. For example, in Zimbabwe, married women need permission from their husband to register land. Until 2006 Lesotho's law hindered women from becoming landowners and engaging in legal acts such as entering into a contract (World Bank, 2008a). Insecure land rights discourage women from making necessary investments that would increase land's productivity and economic value (Ellis and Cutura, 2007). Land is vital because of the predominance of agriculture within the economy, the centrality of agriculture to poverty reduction, and its importance in providing collateral for business finance. In Sub-Saharan Africa, women perform about 70% of the entire agricultural labour and comprise about 60% of the informal sector (Blackden and Bhanu, 1999).

The study "Gender and Economic Growth in Tanzania" has pointed out that more than 46% of GDP and 54.2% of export earnings are generated by the agricultural sector (Amanda Ellis et al., 2007a). Agriculture is an important source of employment for 84% of economically active women and 80% of economically active men (Blackden and Rwebangira, 2004). In fact, approximately 98% of economically active rural women are engaged in agriculture (Amanda Ellis, Mark Blackden et al., 2007a). In Zanzibar women constitute 74% of the labour force in agro enterprises and predominate in onshore fisheries. Women carry out most of weeding, harvesting, transportation, threshing, processing, and storage activities and are also responsible for preparing food, fetching water, and gathering firewood. Statistical data for Ghana show that women account for about half of the agricultural labour force and produce around 70% of Ghana's food crops (Dowuona-Hammond, 2007).

Despite women's contribution to the agricultural sector, women are estimated to own only about 19% of titled land in Tanzania, with an average land holding size of 0.21–0.30 ha, compared to 0.61–0.70 ha for men. The situation is more precarious when looking at women's limited access to production resources. Ninety-one percent of female farmers in North Zanzibar, for example, do not use agricultural inputs at all, 86% do not have access to formal means of credit, and 80% have no access to extension services. Since men tend to carry out most of marketing activities, women do not have control over proceeds of their labour (Amanda Ellis, Mark Blackden et al., 2007a).

Gendered **nature of rights to land and property**

In developing societies, the most common way to acquire rights to land are through (1) lineage or inheritance, (2) marriage, or (3) by contractual arrangements (Dowuona-Hammond, 2007). Despite the fact that most developing countries have worked to enhance property rights in recent years, many women still lack full transfer rights (Sompolvorachai, 2006). Virtually everywhere, land tenure systems discriminate heavily against women making it harder for them to enter and flourish in commercial and economic activities (Sen, 2001, and Deininger, 2003). In many developing countries, women have few inheritance rights, whether by law or custom. Women possess secondary rights to land because men are traditionally believed to be custodians of family property[3] (Dowuona-Hammond, 2007 and Nukunya, 1969). Upon dissolution of marriage or death of the male spouse, customary law in Ghana transfers land rights to male relatives of the male spouse, even if the woman has been cultivating the land for years (Bortei-Doku, 2002). The same is observed in Tanzania, Uganda and Kenya where cultural and customary norms are sustained above the national constitution limiting women's control over land.

[3] Ghanian secondary rights are "very insecure" rights derived from membership in households and lineages secured through marriage.

Table 1. Gender-based obstacles in access to land and credit for women

Institutional Level	*Factors Influencing Women's access to Land*	*Factors Influencing Women's access to Credit*
Social Embededdness *(Religious/ Cultural)*	Customary prohibitions and negative traditional perceptions about women's ownership of property	• Lack of education, skills, information and experience on how to obtain credit • Limited role in decision-making with regards to household finances • Limited women's mobility • Beliefs: Women are "property" or minors, and that economically independent women ruin families
Formal Institutional Environment *(Political/Legal)*	• Manner in which legal orders allocate resources, lack of, or incomplete national laws with regards to women's access to, and rights over land • Gap between law and reality (implementation and sanctions)	• Lack of legal and informal protection of women's rights to assets in divorce or husband's death. • Women's equal rights to assets that are useful for collateral are not defined or implemented
Informal Institutional Environment *(Social)*	• Patriarchal social ordering favouring males • Patri-lineal inheritance systems and statutory laws that favour male ownership of properties	• Women are not aware or lack confidence to claim rights • Banks do not see women as potential market
Governance Structure *(Technological/ Transactional)*	Globalization and technological development impact access, ownership and control of land	• Limited monetary support from informal credit • Women bank-borrowers not taken seriously
Resource Allocation *(Time/Income)*	• (Time allocation) Despite bearing the brunt of domestic tasks, women still need to contribute to food crop production to ensure household food security • (Income allocation) Women have disincentive to expand agricultural production because they do not control household income from cash crops	• Men decide on household money while women lack control over own income within household • Household credit channelled to husband • Community credit resources available exclusively for women borrowers are few

Source: adapted from Johnson, 2007:1 Williamson, 2000: 597, and author's own (Hampel-Milagrosa)

Factors that influence the context within which women's access to land is formed, occurs at various institutional levels as shown in Table 1 (Williamson, 2000[4] and Kameri-Mbote, 2006). The second column of the table illustrates that religious and traditional perception of gender with regards to land and property rights originate at the social Embededdness level. At this level roles and realms of operation of men and women are set and translated into power relationships where masculinity and femininity roles differentiate entitlement to resources.

[4] According to Williamson, social analysis could be conducted on four levels of institutions: *Embededdness, Institutional Environment, Governance Structures and Resource Allocation.* Social Embededdness is the highest level of institutions that refers to customs, traditions and societal norms requiring centuries to change. The institutional environment refers to the formal and informal social laws and rules that change at the rate of decades. Governance structures are the ways of putting into action the framework for operations outlined by the institutional environment, requiring change that occur more frequently, at the rate of one year up to a decade. At the lowest level is the resource allocation level where change is continuous and institutional efficiency is measured in marginal changes in profits, production and output. Each level influences the other.

According to the World Bank, negative attitudes towards women's land acquisition run deep in people's culture. Women are traditionally considered to "*come after a man*" and therefore their inheritance rights should be treated accordingly (Ellis et al., 2007). Laws and patriarchal social ordering of women with regards to land ownership form within the institutional environment. In Kenya, a survey of 75 laws governing land showed that although legislation did not prevent women from owning land, laws were found to be outdated, obsolete and conflicting with each other. Formal land registration practices in the country as well as the allocation of government-owned land have excluded women in the process because registered plots tended to be registered under that of the male family member.

Further on, legal and social rules formed at the institutional environment influence governance structures used for land allocation. For example, policies that encourage technological development could further displace women from claiming rights to land. Labour-saving technologies for land clearing could replace traditional roles and responsibilities that women perform in the production process. The problem arises when traditional female roles and responsibilities that are attached to land-based production establish and reinforce women's land rights (Meinzen-Dick et al., 1997). Therefore, when new technologies that replace women's functions are introduced, these could have substantial negative effects on women's claim to property, and equally negative effects towards their economic development and empowerment.

Marginal changes in the allocation of resources such as time and income also affect women's access to land and property. For example, time allocation for agriculture-based activities is a trade-off issue for many women who assume "double workdays" because they need to balance domestic tasks with non-domestic productive activities during the day. Income allocation within the household affect women's access to land since women who do not control family income from agriculture face diminished economic incentives to expand agricultural production. As a result, women would rather contribute labour to food crop production than to cash crop production to ensure household food sustainability.

Why credit access is important for women

Banks in general do not give particular attention to micro-, small- and medium enterprise (MSME) financing because of high transactions costs, perceived higher risk and their own lack of experience in MSME lending. Women are not encouraged to go to banks for financing because they lack credit history. Their limited control over land affects their ability to secure finance because they are unable to provide collateral. This means that any growth objectives they have are impeded (International Labour Organization and African Development Bank, 2004). Access to finance is a serious constraint for women entrepreneurs. It is estimated that despite constituting 43% of MSMEs, only 5 percent of Tanzanian women are banked. Only 0.53% of female-headed households have access to credit (Amanda Ellis, Mark Blackden et al., 2007a). Only 6% of female business owners have any type of banking relationship, compared to 11% of male business owners. The most common type of banking service used by males and females is a savings account (ibid).

Women, especially in developing countries, bear an unequal share of the burden of poverty. Microfinance helps the poor to borrow for business expansion, to save and buy other relevant products like micro insurance and to improve their standard of living. A survey on micro credit initiatives targeted at women has pointed out that women have superior credit repayment records and lending to women has a more positive effect on household welfare compared to men (Stotsky, 2006). Although donor-funded micro-finance programmes exist, contrary to popular impression, women-owned MSMEs are not major recipients. For example, women's share of micro-finance clients is 38% in Ethiopia, where women are estimated to own two-thirds of informal and micro enterprises (International Labour Organization and African Development Bank, 2004).

Although microfinance is a great poverty reduction tool, it offers only limited support for women who wish to expand their enterprises beyond the micro level. Thus, women entrepreneurs who need credit beyond the maximum loan limits from microfinance institutions have difficulties obtaining a credit higher than a micro credit. Women are forced to participate in lending groups, and very few are individually able to access financing, because they do not have resources (property, collateral) to act on an individual basis (ibid). A Ghanaian enterprise survey of women-owned businesses showed that women who managed to expand their micro-enterprises to the status of small and medium-scale enterprises did this with little or no formal financial support. Access to finance is the single biggest constraint preventing them from expanding businesses. As already highlighted, because of limited land ownership, few women are able to provide collateral needed for loan requests. Consequently, even though women entrepreneurs make up nearly half of all MSME owners and 40% of smallholder farm managers, they have less than 10% of available credit and less than 1% of agricultural credit (World Bank, 2007).

Gendered **nature of access to finance**

In the developing world, women's access to credit is limited because lending offices usually require tangible collateral from borrowers to guarantee loans. The most commonly accepted tangible form of collateral is land. However, many women do not own property that can be exploited as collateral because gender relationships play a central role in the way in which land rights are determined (Dowuona-Hammond, 2007)[5]. Statutory laws in some countries explicitly restrict women's access to formal credit. Other laws that hamper women from obtaining credit are inflexible. For example Kenya's current framework regulating the creation and realization of non-land secured interests does not permit loans to be taken out without land-based collateral (Ellis, Cutura et al., 2007). Despite having no official rule with regards to women in terms of taking out loans, bank officials prefer to deal with men and do not take women seriously (Ellis, Cutura et al., 2007). In Uganda, the constitution provides for equality between both sexes, but most commercial banks require a husband's co-signature to open an account. Bank officials feel that women are not key decision makers, despite the fact that the enterprise could be owned and operated by them (Cutura, 2007).

The third column of Table 1 shows the occurrence of gender bias in credit access in various levels of society (Johnson, 2007 and Williamson, 2000). At the Embeddedness level, customs and beliefs regard women as property and unproductive members of the society thereby resulting in women receiving restricted education, skills and credit access (Ellis, Manuel et al., 2006). These beliefs could be translated to legislation that explicitly prevent women from economic participation or to the banks' general perception that women are not potential customers for credit markets (Ellis and Cutura, 2007). Women's lack of credit access as an individual and lack of control of household income could originate from the perception that men manage household money and economically independent women are negatively perceived. If credit was approved for women, it is commonly channelled to the husband, even if it is the woman who requested and applied for it.

[5] According to Ellis et al (2007: 46) Kenyan women own "movable property" such as livestock, machinery and book debts these assets are infrequently used as security loan.

From the table it is shown that credit access for women is a multidimensional institutional phenomenon. Constraints that women face interact and reinforce each other because it branches out from the individual to the society and back. A woman may be able to overcome financial and legal constraints at the community and national level to obtain credit, but when basic education and skills are lacking, this may overpower women's attempts to participate productively in the economy. The table shows that there could be more basic impediments that create binding constraints to women entrepreneurs. These include social norms with regards to women's education or weak national laws that do not elevate women's status in society.

Such national laws may come in the form of institutional reforms that intend to uplift women's social and economic status but end up doing the opposite. Policymakers tend to forget that due to embedded beliefs and traditions, women face a different set of social and economic parameters than men; and therefore respond to development approaches differently from men. When reforms forget to take women's perspective into consideration, gender inequalities could be institutionalized into the economy. From the *Doing Business* reports, two suggested reforms seem to risk increasing economic and social disparities between genders. These are: individual property titling and out-of-court enforcement of collateral as a means to improve women's credit access. The two reforms will be discussed in the following sections.

Risks of Regulatory reforms on Women's Land Ownership and Credit Repayments

The *Doing Business 2008* indicated at several disproportionate barriers facing women in the economy and showed several examples wherein regulatory reforms resulted in positive pay-offs for females. However, this paper argues that there are also possible risks for women which are associated with reforms. In particular, institutional reforms pertaining to individual property titling and out-of-court debt settlement pose the risk of exposing women to situations that will make them more vulnerable to discrimination.

Registering Property: Cheaper, easier, faster

The World Bank maintains that property registration is good for entrepreneurs because with formal property titles, they can obtain mortgages for assets, and use this to start businesses. By making property transfer cheaper and faster, more lands will be registered, increasing access to finance, opportunities to invest and business expansion (World Bank, 2008b). However, in other parts of the world individual and private ownership may exacerbate current difficulties women face in gaining access to or controlling land and resources (Coulmin, 2005). In Africa where most land tenure systems – social relations established around who, what and how land could be used - are customary, access and control to land are based on marriage and inheritance laws and practices. When Western-style land titling and privatization methods were introduced in parts of Africa, male community leaders and male household heads were the ones who benefited and acquired total legal ownership of household land. Women who in formerly traditional land tenure systems had little rights but could still insist on legal and moral grounds of their access to land and compensation for labour, lost all these rights during transition (Lastarria-Cornhiel, 1997). Policies that advocate generalized privatization involving the transfer of property from the community to the individual cuts off many women who could have customary access rights to use the resource for the production of goods and services (Meinzen-Dick, Brown et al., 1997). This is because, compared to formal titles, traditional systems recognize multiple users and rights. Citing the Sub-Saharan experience Coulmin (2005) agrees that the introduction of a central registration system for land may actually allow elite groups to assert claims over land which was not theirs under customary law. This further erodes secondary rights of women, as these rights do not appear in the register and is easier to dismiss. Both authors agree that many of the expected benefits assumed to stem from land-titling in some circumstances may have the opposite impact.

Where women's rights are not stipulated, they are likely overlooked (Meinzen-Dick, Brown et al., 1997). For this reason, national policies on land rights should attempt to work with the knowledge that there is no level playing field and that there exists differential capacities for land access between men and women. Where customary property rights are strong, it is likely to dominate land distribution and ownership. Thus, policies should be made to conform with local norms in order to be effective. Undertaking policies that aim to improve property rights without examining gender asymmetries in rights, responsibilities and access leads to incorrect conclusions, wasted resources and widening the economic and power gap between genders.

Getting Credit: Out-of-court enforcement of collateral

According to the World Bank, one way to revolutionize credit and make it widely available, particularly for women, is to enforce out-of-court collateral enforcement. However, the World Bank acknowledges that reforming laws pertaining to credit, in particular, allowing out-of-court enforcement of collateral, is one of the toughest reforms to create and implement, as both the borrowers and judiciary are opposed to it (2008a). This is because summary proceedings that give lenders sufficient legal authority to enforce collateral when a borrower defaults is prone to abuse and exploitation. The reform may facilitate obtaining loans in the beginning, but doesn't account for borrower protection in the event that the loan remains unpaid. The reform allows creditors to both seize and sell collateral *out-of-court* without restriction.

The World Bank argues that even women borrowers will benefit most from the reform because creditors are more likely to lend them money when creditors know that they can enforce collateral upon default. As an example in the *Doing Business 2008*, the World Bank cited India where out-of-court collateral enforcement was in effect. The time it took to enforce collateral fell from nine years to as little as six months (World Bank, 2008a). However, in a study submitted to the ADB, OECD and the World Bank, PricewaterhouseCoopers in India reported several legal challenges in this regard as early as 2003. A tremendous outcry among borrowers hailed out-of-court enforcement as against the principles of Indian Natural Justice. As a result, "*a number of petitions are currently pending before the Supreme Court that challenge the right of lenders to take over and sell the borrower's assets with limited opportunity to borrowers to challenge the action in a court of law*" (Puri, 2003). This shows that when borrowers and creditors fail to reach an agreement with regards to debt settlement, there might be a need for courts to intervene in the end, an event that could have been prevented if courts were used in the enforcement of collateral in the first place.

Women in the developing world could experience a setback in their remaining few legal rights when this type of reform is institutionalised. Instead of increasing women's access to credit, this reform could actually discourage women from borrowing because of the fear that their small holding that was used for collateral will be quickly disposed of in the case of a simple delay in repayment. As compared to court arbitration, arguments that will allow the borrower to extend payment duration will be non-existent in out-of-court debt settlements. This is a real threat for women borrowers whom banks do not take seriously to begin with. It might trap women entrepreneurs into microfinance, which, as mentioned earlier, is not always sufficient to expand businesses. Out-of-court debt enforcement could push more women into poverty and expose women borrowers to more exploitation.

Conclusions

The paper showed that despite advances in the absolute status of women, all societies still exhibit varying levels of gender asymmetries. Despite research showing that men and women each contribute equally to the economy and that shifting resources from men to women could significantly increase productivity, in no region of the developing world are women equal to men in legal, social and economic rights. Using examples from around the world, the paper argued that removing gender-based barriers that constrain growth would allow developing countries' private sector to flourish and achieve growth potential.

The removal of gender-based barriers through regulatory reforms is exactly what the *Doing Business* project attempts to do. The *Doing Business* believes that companies must possess a degree of flexibility that allows them to create new businesses and capture new opportunities for growth. However, for the first time, the *Doing Business* will focus on gender specific constraints that women entrepreneurs face by introducing a gender perspective in the project. The paper argues that it will be the right way for the *Doing Business* to take one more step further, by developing a gender index and including it among the indicators which have been developed earlier. Ranking countries according to their Gender Index in the *Doing Business* report will not only bring gender-issues to the forefront but also enable governments to be more proactive in elevating the status of women in their societies. We argue that expected pay-offs from Doing Business reforms could be larger if particular attention was given to how these can positively influence female entrepreneurs in the private sector. Reforms that are direct results of gender index will provide the largest benefits for women and the society as a whole in many countries, and lead more meaningful economic development.

After discussing the importance of land and credit access on women, the paper focused on two reforms advocated by the *Doing Business* and examined their potential risks. Individual land titling procedures were seen to possibly exacerbate difficulties women face accessing land and property because male community leaders and household heads were the ones who benefited and acquired total legal ownership of land. Many women who previously have customary access and tenure rights to use the resource could be cut off with individual land titling programs. In addition, long term positive pay-offs that out-of-court settlement of collateral will bear on women's credit access is doubted by this paper. Indeed, the rationale that creditors are more likely to lend women money when creditors know that they can enforce collateral upon default makes sense. However, women borrowers will be made more vulnerable to abuse with this reform because their right to contest lenders who re-sell their collateral upon default is legally removed. The paper concludes that *Doing Business* is in the right direction in terms of stimulating regulatory reforms that could boost private sector development and lead to economic growth. However, much remains to be done particularly in the area of including women's perspective among the indicators and making reforms gender-sensitive.

References

Amanda Ellis, Mark Blackden, Jozefina Cutura, Fiona MacCulloch and Holger Seebens (2007) *Gender and Economic Growth in Tanzania*, The World Bank, Washington DC

Blackden, C. M. and M. Rwebangira (2004) *Tanzania Strategic Gender Assessment*, The World Bank, Washington D.C.

Blackden, M. and C. Bhanu (1999) *Gender, Growth and Poverty Reduction in Sub Saharan Africa* World Bank Washington DC

Bortei-Doku, A. (2002) 'Behind the norms: Women's Access to Land in Ghana' in C. Toulmin, P. L. Deville and S. Traore (ed.), The Dynamics of Resource Tenure in West Africa, IIED,

Boserup, E. (1970) *Women's Role in Economic Development*, Saint Martin's Press, New York

Braig, M. (2000) *Women's Interests in Development Theory and Policy from Women in Development to Mainstreaming Gender* D+C Development and Cooperation May/June 2000: 13-16

Chen, M. (2004) *Rethinking the Informal Economy: Linkages with the Formal Economy and the Formal Regulatory Environment*, EGDI and UNU-WIDER Conference on Unlocking Human Potential: Linking the Informal and Formal Sectors Helsinki Finland

Coulmin, C. (2005) *Securing land and property rights in sub-Saharan Africa: the role of local institutions* World Economic Forum Switzerland

Cutura, J. (2007) *Voices of Women Entrepreneurs in Kenya* International Finance Corporation Gender Entrepreneurship Markets and Foreign Investment Advisory Service, and the World Bank Washington DC

Deininger, K. (2003) *Land Rights for Poor People key to Poverty Reduction, Growth*. Feature Service Article, Center for International Private Enterprise 2 DOI November 2007

Dollar, D. and R. Gatti (1999) *Gender Inequaltiy, Income and Growth: Are Good Times Good for Women?* Development Research Group, World Bank

Dowuona-Hammond, C. (2007) *Improved Land and Property Rights of Women in Ghana*, Enterprise Development - African Global Lessons for More Effective Donor Practices from Women's Perspectives Donor Committee for Enterprise Development Accra, Ghana

Ellis, A. and J. Cutura (2007) *Doing Business in 2008, Background Paper on Opportunities for Women* World Bank Group Washington DC

Ellis, A., J. Cutura, N. Dione, I. Gillson, C. Manuel and J. Thongori (2007) *Gender and Economic Growth in Kenya, Unleashing the Power of Women*, The International Bank for Reconstruction and Development/World Bank, Washington DC

Ellis, A., C. Manuel and C. M. Blackden (2006) *Gender and Economic Growth in Uganda, Unleashing the Power of Women*, The World Bank, Washington DC

International Food Policy Research Institute (2006) *Women, Still the Key to Food and Nutrition Security* International Food Policy Research Institute Washington DC

International Labour Organization and African Development Bank (2004) *Supporting Growth Oriented Women Entrepreneurs in Ethiopia, Kenya and Tanzania, An Overview Report* ILO, AfDB Geneva

Johnson, S. (2007) *Gender and Microfinance: Guidelines for Good Practice* Global Development Research Center

Kameri-Mbote, P. (2006) 'Women, Land Rights and the Environment: The Kenyan Experience ', *Development* 49: 43-48

Lastarria-Cornhiel, S. (1997) 'Impact of Privatization on Gender and Property Rights in Africa', *World Development* 25: pages 1317-1333

Meinzen-Dick, R., L. R. Brown, H. S. Feldstein and A. R. Quisumbing (1997) *Gender, Property Rights and Natural Resources* International Food Policy Research Institute Washington DC

Nukunya, S. (1969) *Kinship and Marriage among the Anlo Ewe*, Athone Press, London

Puri, A. (2003) *Developing the Asian Markets for Non-Performing Assets* Forum for Asian Insolvency Reform (FAIR) Maximising Value of Non Performing Assets Asian Development Bank, Organization for Economic Cooperation and Development, World Bank Seoul, Korea

Sen, A. (2001) *Many Faces of Gender Inequality* Frontline Delhi, India 18

Sompolvorachai, M. (2006) *Enhanced Land Rights, Access to credit and Farmers' Behaviour: The case of Thailand* Department of Agricultural and Resource Economics, University of California Davis 7

Stotsky, J. (2006) *Gender and its Relevance to Macroeconomic Policy: a Survey* IMF Washington D.C:

Todaro, M. P. and S. C. Smith (2006) *Economic Developmet*, Pearson Education Limited, Edinburgh Gate, Harlow, Essex, England

Udry, C., J. Hoddinott, H. Alderman and L. Haddad (1995) 'Gender Differentials in Farm Productivity: Implciations for Household Efficiency and Agricultural Policy ', *Food Policy* 20: 407-423

Uganda Bureau of Statistics (2000) *Uganda National Housing Survey 1999/2000. Report on the Socio-economic Survey.* Entebbe: UBS

Williamson, O. (2000) 'The new institutional economics: taking stock, looking ahead', *Economic Literature* 38: pages 595-693

World Bank (2007) *Gender and Economic Growth Assessment for Ghana* The World Bank Washington D.C.

World Bank (2008a) *Doing Business in 2008: Comparing Regulation in 178 Economies* World Bank/IFC Washington DC

World Bank (2008b) *Doing Business Women in Africa*, The World Bank, Washington D.C.