

MIGRATION, DEVELOPMENT, AND THE PROMISE OF CEDAW FOR RURAL WOMEN[†]

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October 15, 2008 marked the first International Day of Rural Women.¹ The United Nations proclaimed:

The International Day of Rural Women directs attention to both the contribution that women make in rural areas, and the many challenges that they face. Women play a critical role in the rural economies of both developed and developing countries. In most parts of the developing world they participate in crop production and livestock care, provide food, water and fuel for their families, and engage in off farm activities to diversify the family income. In addition, they carry out vital functions in caring for children, older persons and the sick. Women make an important contribution to food production.²

The United Nations selected October 15 because it is the eve of World Food Day, thus linking this recognition of rural women to their critical role in food production and food security.³

* * *

1. G.A. Res. 62/136, ¶ 8, U.N. Doc. A/62/433 (Dec. 18, 2007).

2. U.N. Inter-Agency Network on Women and Gender Equality, WomenWatch: International Day of Rural Women (Oct. 25, 2008), <http://www.un.org/womenwatch/feature/idrw/index.html> (emphasis omitted) [hereinafter International Day of Rural Women]; see also INT'L LABOUR OFFICE, GLOBAL EMPLOYMENT TRENDS FOR WOMEN (2008), http://www.ilo.org/wcmsp5/groups/public/--dgreports/--dcomm/documents/publication/wcms_091225.pdf.

3. *International Day of Rural Women*, *supra* note 2. Various nations have commemorated "World Rural Women's Day" since international non-governmental organizations (NGOs) proposed it in 1995 at the Fourth World Conference on Women. *Id.* Food security is defined as "all people, at all times, hav[ing] physical, social, and economic access to sufficient, safe, and nutritious food to meet their dietary needs and food preferences for a healthy and active life." WORLD BANK ET AL., GENDER IN AGRICULTURE SOURCEBOOK 11 (2009) [hereinafter SOURCEBOOK] (quoting FOOD & AGRIC. ORG., THE STATE OF FOOD INSECURITY IN THE WORLD 2001 49 (2001)).

Perhaps it is contrarian to talk about rural people and places⁴ when invited to participate in a panel titled “Urban Territory in a Global World,” which is part of a symposium about “Territory Without Boundaries.” But surely a panel with a title using the word “urban” invites—at least implicitly—a discussion of the rural “other.”⁵ Indeed, a necessary complement to thinking about and studying global cities is thinking about and studying the global countryside. I use the term “global countryside” deliberately, to refute rurality’s long-standing association with the local, because our global economy is bringing country dwellers to the city and sometimes, more recently, sending them back.

To understand contemporary world migration patterns is to consider both rural and urban.⁶ Demographers tell us that we have probably just (in December, 2008) passed the day on which the world became more urban than rural.⁷ Migration accounts for most of that shifting balance.

4. The U.N. Population Division defines the percentage of rural populations as the “[p]roportion of the midyear de facto population living in areas not classified as urban according to the criteria used by each country or area.” U.N. DEP’T OF ECON. & SOC. AFF., POPULATION DIV., RURAL POPULATION, DEVELOPMENT AND THE ENVIRONMENT 2007, at n.7, U.N. Doc. ST/ESA/SER.A/275, U.N. Sales No. E.08.XIII.10 (2007) [hereinafter RURAL POPULATION 2007]. The United Nations calculates rural and urban populations using national statistical sources based on the “urban” criteria used by each country or area. *Id.* The U.S. Census Bureau similarly defines “rural” as that which is not urban. U.S. CENSUS BUREAU, CENSUS 2000 URBAN AND RURAL CLASSIFICATION, http://www.census.gov/geo/www/ua/ua_2k.html (last visited June 21, 2009) (defining “urban” as including “all territory, population, and housing units located within an urbanized area (UA) or an urban cluster (UC)” and delineating the UA and UC boundaries to encompass densely settled territory, consisting of: “(1) core census block groups or blocks that have a population density of at least 1,000 people per square mile and (2) surrounding census blocks that have an overall density of at least 500 people per square mile”); see also Martin Ravallion et al., *New Evidence on the Urbanization of Global Poverty* 3–4 (World Bank, Policy Research Working Paper No. 4199, 2007) available at http://siteresources.worldbank.org/INTWDR2008/Resources/2795087-1191427986785/RavallionMEtAl_UrbanizationOfGlobalPoverty.pdf (last visited June 21, 2009) (commenting on challenges and inconsistencies with the various definitions of urban and rural).

5. Indeed, I commend the editors and planners of this Symposium for using the term “urban” because so much in law and legal scholarships assumes the urban, without acknowledging that orientation. See Katherine Porter, *Going Broke the Hard Way: The Economics of Rural Failure*, 2005 WIS. L. REV. 969, 970 (2005) (arguing that an implicit assumption of legal scholarship is that laws are assessed by their impact in urban places); Lisa R. Pruitt, *Toward a Feminist Theory of the Rural*, 2007 UTAH L. REV. 421 (2007).

6. Martha Nussbaum notes the lack of attention to the rural-urban divide and the power disparities manifest in that binary. See MARTHA NUSSBAUM, *FRONTIERS OF JUSTICE* 225 (2006).

7. See Posting of Lisa Pruitt to Legal Ruralism Blog, <http://legallruralism.blogspot.com/2008/12/yesterday-was-one-of-those-days.html> (Dec. 17, 2008, 19:38 EST) (last visited June 21, 2009) (“Did the world become more urban than rural yesterday?”) (reporting Professor Ronald C. Wimberley’s post to the rural studies listserv of the Rural Sociological Society). The United States became more urban than rural almost a century ago, as marked by the 1920 census. Ken Deavers, *What is Rural?*, 20 POL’Y STUD. J. 183 (1992) (noting also that by 1990, half of the country’s residents lived in metropolitan areas with populations greater than 1 million); see also ROGER A. LOHMANN & NANCY LOHMANN,

An understanding of rural-to-urban migration dynamics illuminates the way in which migration alters the circumstances of those left behind. It also invites consideration of the role law might more constructively play for those who are essentially the rural remnant—many of them women—in the developing world.⁸

With the goal of assessing the potential of human rights and development to improve the livelihoods of rural women in the developing world, this paper proceeds in five parts. Part I provides an overview of the rural-to-urban migration phenomenon, a trend I call the urban juggernaut. This Part includes a discussion of forces compelling the migration, and it also considers consequences for those who are left behind when their family members and neighbors migrate to cities. Part II explores women's roles in food production in the developing world, and it considers the extent to which international development efforts encourage or entail urbanization. Part III attends to the potential of human rights for this population, analyzing the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which, in Article 14, enumerates particular rights for rural women. This Part further considers how four countries—China, Ghana, India, and the Republic of South Africa—have responded to their Article 14 commitments. Part IV concludes with thoughts on how law and legal institutions—including those related to development efforts—might best serve rural women. It begins also to consider how the role of law might differ in rural contexts. Part V, as postscript, contemplates the consequences of letting migration's urban juggernaut run its course. This Part queries whether the current trajectory of greater world urbanization will ultimately prove unsustainable by, for example, undermining global food security and environmental well-being.

I. RURAL-TO-URBAN MIGRATION IN THE DEVELOPING WORLD

Worldwide, almost 800 million people have moved from rural areas to urban ones in the last half century.⁹ The vast majority of migrants re-

Introduction, in *RURAL SOCIAL WORK PRACTICE* XI, xv-xvi (Roger A. Lohmann & Nancy Lohmann eds., 2005) (tracking the conversion of the U.S. population from rural to urban as reflected in each decennial census between 1900 and 2000).

8. I use the term "developing world" in the way the term "the global South" is often used. See *infra* note 13 (detailing World Bank and U.N. classifications).

9. Press Release, U.N. Food & Agric. Org., Farm Investment Helps Slow Migration (June 2, 2006) <http://www.FAO.org/newsroom/en/news/2006/1000313/index.html> (last visited June 21, 2009).

locate internally to urban centers, while fewer relocate internationally.¹⁰ Still, the total number of international migrants reached almost 191 million in 2005.¹¹ Over the last several decades, these significant population shifts have occurred primarily in less developed regions, where more than 90% of the world's rural residents live.¹² In 2007, 56.2% of those living in less developed regions lived in rural areas.¹³ That figure

10. *Id.* In China, for example, over 32% of the 34.1 million migrants during the period between 1985 and 1990 were internal migrants. See Canfei He & Patricia Gober, *Gendering Interprovincial Migration in China*, 37 INT'L MIGRATION REV. 1220, 1226 (2003). More recent estimates suggest that about 126 million rural Chinese workers, 70% of whom are men, now work in cities. All-China's Women's Federation, *Rural Women Left Behind at Home Need Attention*, WOMEN OF CHINA, Oct. 8, 2008, www.womenofchina.cn/issues/marriage_family/206759.jsp (last visited June 21, 2009). In Vietnam, 4.3 million were internal migrants, compared to the 300,000 who migrated abroad. Ronald Skeldon, *Migration and Poverty: Some Issues in the Context of Asia* in INT'L ORG. FOR MIGRATION, WORLD MIGRATION 2005: COSTS AND BENEFITS OF INTERNATIONAL MIGRATION 253, 261 n.29 (2005) [hereinafter WORLD MIGRATION 2005]. Richard Blissborrow comments on the dearth of information about internal migration in developing countries, as well as the consequences of this knowledge gap for development and other efforts. See Richard E. Blisborrow, *The State of the Art and Overview of the Chapters*, in U.N. POP. FUND, MIGRATION, URBANIZATION, AND DEVELOPMENT: NEW DIRECTIONS AND ISSUES, 3, 21 (Richard E. Blisborrow ed., 1998).

11. U.N. Dep't of Econ. & Soc. Aff., *Trends in Total Migrant Stock: The 2005 Revision*, at 1, U.N. Doc. POP/DB/MIG/Rev.2005/Doc (2006) [hereinafter *Migrant Stock 2005*], available at http://www.un.org/esa/population/publications/migration/UN_Migrant_Stock_Documentation_2005.pdf. This estimate is based on census data collected on foreign-born populations living in countries in a given year and does not reflect the flow of migrants entering countries in a given year. *Id.* at 8; see also Nicola Piper, *International Migration and Gendered Axes of Stratification*, in NEW PERSPECTIVES ON GENDER AND MIGRATION: LIVELIHOOD, RIGHTS AND ENTITLEMENTS 1, 4 (Nicola Piper ed., 2008) [hereinafter NEW PERSPECTIVES] (noting that "most surveys [of international migration] underestimate those entering in an irregular manner and the undocumented as well as the extent of transient circulation"). Female migrants from developing countries make up about 46% of all migrants, a proportion that has remained fairly stable since 1960. *Migrant Stock 2005*, *supra*, at 3. Female migrants constitute almost 50% of all migrants. Nicola Piper & Keiko Yamanaka, *Feminised Migration in East and Southeast Asia*, in NEW PERSPECTIVES, *supra* note 11, at 159, 164. Increasingly, women are migrating independently for employment. U.N. DEP'T OF ECON. & SOC. AFF., DIV. FOR THE ADVANCEMENT OF WOMEN, *RURAL WOMEN IN A CHANGING WORLD: OPPORTUNITIES AND CHALLENGES 20* (Oct. 2008) [hereinafter *RURAL WOMEN*], available at <http://www.un.org/womenwatch/daw/public/Women%202000%20-%20Rural%20Women%20web%20English.pdf> (last visited June 21, 2009). Today, more migrants move temporarily for longer periods of time and eventually return to their home countries. Irena Omelaniuk & Thomas Lothar Weiss, *Introduction: Migration Challenges in the 21st Century*, in WORLD MIGRATION 2005, *supra* note 10, at 13, 14.

12. *RURAL POPULATION 2007*, *supra* note 4.

13. U.N. DEPT. ECON. & SOC. AFF., POPULATION DIV., *URBAN AND RURAL AREAS 2007*, U.N. Doc. ST/ESA/SER.A/276, U.N. Sales No.E.08.XIII.13 (2008) [hereinafter *URBAN AND RURAL AREAS 2007*]. The World Bank classifies countries as low-income, middle-income and high-income economies based on their gross national income (GNI) per capita. It notes that low- and middle-income economies are sometimes referred to as developing countries. However, the World Bank acknowledges that "[t]he term is used for convenience; it is not intended to imply that all economies in the group are experiencing similar development or that other economies have reached a preferred or final stage of development." WORLD BANK, 2008

is expected to fall to 44% by 2025¹⁴ as urban populations continue to rise.¹⁵

Rural-to-urban migration is both a cause¹⁶ and a consequence of urbanization.¹⁷ Many factors influence migration from the country to the city. These include globalization,¹⁸ rural poverty,¹⁹ and un- or underemployment in rural areas.²⁰ Jeffrey Sachs asserts that rural-to-urban

WORLD DEVELOPMENT INDICATORS xxi (2008). The U.N. Population Division uses two other categories: “less developed regions” and “least developed countries.” URBAN AND RURAL AREAS 2007, *supra*. The first category is broader, while “least developed countries” is a subset encompassing fifty countries. *Id.* Less developed regions include Africa, Asia (excluding Japan), Latin America, the Caribbean, Melanesia, Micronesia, and Polynesia. *Id.* The United Nations characterizes the least developed countries as the “poorest and weakest segment of the international community.” Third U.N. Conference on the Least Developed Countries, Brussels, Belg., May 14–20, 2001, *Programme of Action for the Least Developed Countries* ¶ 1, U.N. Doc. A/CONF. 191/11 (June 8, 2001) (“These countries are characterized by their exposure to a series of vulnerabilities and constraints such as limited human, institutional and productive capacity . . . limited access to education, health, and other social services . . . poor infrastructure; and lack of access to information and communication technologies.”).

14. U.N. DEPT. ECON. & SOC. AFF., POPULATION DIV., WORLD URBANIZATION PROSPECTS: THE 2007 REVISION, EXECUTIVE SUMMARY 4 (2007), available at http://www.un.org/esa/population/publications/wup2007/2007WUP_ExecSum_web.pdf (last visited June 21, 2009) [hereinafter WORLD URBANIZATION PROSPECTS].

15. *Id.* (noting that urban inhabitants grew from 18% of the total population in 1950, to 27% in 1975, and to 44% in 2007).

16. See JEFFREY SACHS, THE END OF POVERTY: ECONOMIC POSSIBILITIES OF OUR TIME 38 (2005) (“[M]odern economic growth involves urbanization, changing gender roles, increased social mobility, changing family structures, and increasing specialization.”); see also Kwasi Nsiah-Gyabaah, Urbanization Processes—Environmental and Health Effects in Africa, Contribution to Population-Environment Research Network Cyberseminar on Urban Spatial Expansion 1–2 (2004), available at www.populationenvironmentresearch.org/seminars/112004.jsp (noting that urbanization results from “changes in land use and transformation from rural to metropolitan pattern of organization and governance” and that “urbanization processes are largely driven by market forces and government policies” that often favor urban residents over rural ones, thereby pulling the latter into the former); Elena Irwin, Market Forces and Urban Expansion, Contribution to Population-Environment Research Network Cyberseminar on Urban Spatial Expansion 1 (2004) (seeing economic growth and urbanization as inextricably linked and noting that the former “often implies the conversion of rural land to urban uses (residential, commercial and industrial) as regional economies transition from an agrarian-based economy to an urban economy based on industry and services”).

17. In Africa, rural-to-urban migration accounted for half of the urban growth during the 1960s and 1970s. In Brazil, over 20 million rural migrants moved to urban areas at the peak of the urbanization process. In India, 20.5 million rural people moved to urban areas in the 1990s. Somik V. Lall et al., *Rural-Urban Migration in Developing Countries: A Survey of Theoretical Predictions and Empirical Findings* 3 (World Bank, Policy Research Working Paper No. 3915, 2006).

18. See *infra* notes 29–40 and accompanying text.

19. IFAD, RURAL POVERTY REPORT 2001: THE CHALLENGE OF ENDING RURAL POVERTY 15 (2001) [hereinafter RURAL POVERTY REPORT] (noting that 75% of the 1.2 billion people living in poverty live and work in rural areas and defining “[p]overty” as living on less than one dollar per day); see also *infra* note 399.

20. See sources cited *infra* note 35 and accompanying text.

migration occurs “out of desperation and hunger in the countryside.”²¹ Low-skilled workers move in search of manual labor positions that are not available in rural areas.²² Educated workers may migrate because their human capital is better rewarded in cities.²³ Absent investment in rural livelihoods, this trend of outmigration from rural areas will likely continue to gain force.²⁴

In spite of this migration of millions of rural residents to urban areas,²⁵ the rural population of less developed countries has doubled since 1950.²⁶ Meanwhile, rural populations in developed countries have steadily declined.²⁷ High population growth in rural areas can increase pressure on land and other resources, creating a labor surplus that drives migration.²⁸

A. *The Force of Globalization*

Globalization of markets and labor profoundly influences rural livelihoods.²⁹ While globalization has generally been a positive force in terms of increasing employment, it has undermined traditional

21. JEFFREY SACHS, *COMMON WEALTH: ECONOMICS FOR A CROWDED PLANET* 27 (2008); cf. IDRIS JAZAIRY ET AL., *THE STATE OF WORLD RURAL POVERTY: AN INQUIRY INTO ITS CAUSES AND CONSEQUENCES* 78 (1992) (noting that “[i]nternal migration . . . converts the rural poor into urban poor”).

22. Lall et al., *supra* note 17, at 4.

23. *Id.*

24. *But see* sources cited *infra* note 87 (detailing recent reverse migration caused by constricting economies).

25. *See* sources cited *supra* note 10 and accompanying text.

26. *WORLD URBANIZATION PROSPECTS*, *supra* note 14, at 3 (showing that the rural population grew from 1.4 billion in 1950 to over 3 billion in 2007).

27. Between 1950 and 1975, the rural populations of less developed regions increased by almost 2% annually; in more developed regions they decreased by 0.44% annually. Between 1975 and 2007, rural populations in less developed regions increased by slightly more than 1%, and in more developed regions they decreased by 0.32%. During this period, urban populations increased in both developed and less developed regions. *Id.* at 3; *see also* Lohmann & Lohmann, *supra* note 7, at xv-xvi.

28. JAZAIRY ET AL., *supra* note 21, at 74. In some countries, population growth and inheritance laws result in land fragmentation to the point that plots become too small to support a family. In Syria, for example, the population doubles every 20 years. This growth, in conjunction with inheritance laws, makes it difficult for households to survive, driving male family members to Jordan and Lebanon to work in the higher paying construction industry. *See* Malika Abdelali-Martini et al., *Towards a Feminization of Agricultural Labour in Northwest Syria*, 30 *J. PEASANT STUD.* 71, 73, 86, 88 (2003). The women left behind increasingly work on their own family farms and as hired labor on other farms. *Id.* at 73, 91.

29. *See* Thomas A. Lyson, *Global Capital and the Transformation of Rural Communities* 292 in *Handbook of Rural Studies* (Paul Cloke et al. eds., 2006). This is true not only with respect to the developing world, but also the developed world. *See, e.g.*, *COMMUNITIES OF WORK: RURAL RESTRUCTURING IN GLOBAL AND LOCAL CONTEXTS* (William W. Falk et al. eds., 2003); Lisa R. Pruitt, *Gender, Geography and Rural Justice*, 23 *BERKELEY J. GENDER, L. & JUSTICE* 338 (2008).

livelihoods in agriculture and increased rural-to-urban migration.³⁰ Experts express concern that the benefits of globalization are not reaching, among others, the rural poor.³¹ When the rural poor do see benefits, they are often in the form of remittances sent home by migrant relatives, a practice that typically does not lay the groundwork for sustainable development.³²

The commercialization of agriculture is among the effects of globalization that has had a significant impact on rural people. More farmers—both large and small—produce for the market, often for export.³³ Global price fluctuations thus affect rural economies.³⁴ As commercial agriculture displaces subsistence farming, rural unemployment rises, leading rural wage labor to migrate to cities.³⁵ Developed countries' foreign investment in agriculture, similar to investment in export manufacturing, ultimately uproots rural populations of developing countries.³⁶

Agriculture is a sector in which globalization has had a pronounced impact on rural women.³⁷ Women producers, among others, struggle to

30. INT'L LABOUR ORG., WORLD COMM'N ON THE SOC. DIMENSION OF GLOBALIZATION, *A FAIR GLOBALIZATION: CREATING OPPORTUNITIES FOR ALL* 17 (2004), available at <http://www.ilo.org/public/english/wcsdg/docs/report.pdf> (last visited June 21, 2009) [hereinafter *A FAIR GLOBALIZATION*] (citing the example of China).

31. *Id.* (citing the example of India); see also SACHS, *supra* note 21, at 219–20.

32. The phenomena of emigration from rural areas and subsequent remittances illustrate the close link between the survival of rural residents and the well-being of the urban and the global economies. The ripple effects of the current economic downturn, for example, reach beyond urban spaces to affect rural areas. See *infra* note 66 and accompanying text.

33. RURAL WOMEN, *supra* note 11, at 7; see also SASKIA SASSEN, *THE MOBILITY OF LABOR AND CAPITAL: A STUDY IN INTERNATIONAL INVESTMENT AND LABOR FLOW* 96 (Cambridge Univ. Press 1988) (noting that less developed countries experienced rapid economic growth, partly as a consequence of developed countries' investment, but with limited internal markets, these countries must export their products).

34. RURAL POVERTY REPORT, *supra* note 19, at vi (noting that as countries adopt policies based on market forces, including abolition of commodity boards and domestic agricultural trade rules, "poor farmers are more fully exposed to the demands of markets" and vulnerable to their volatility); see also Carmen G. Gonzalez, *Trade Liberalization, Food Security, and the Environment: The Neoliberal Threat to Sustainable Rural Development*, 14 *TRANSNAT'L L. & CONTEMP. PROBS.* 419, pt. III.B (2004) (explaining "neoliberal trade reform" and its negative consequences for developing nations).

35. SASSEN, *supra* note 33, at 96–97. *But see* SACHS, *supra* note 21, at 27 (asserting that rural-to-urban migration is not a result of increased agricultural productivity).

36. SASSEN, *supra* note 33, at 98. While direct foreign investment stimulated economic growth and increased the number of jobs in the less developed countries, unemployment rose as large segments of previously nonworking women joined the labor force. *Id.* at 19. The mass introduction of women into the labor force, concurrent with rapid industrialization, disrupted traditional work structures and indirectly induced male migration. *Id.*

37. See *A FAIR GLOBALIZATION*, *supra* note 30, at 47–48 (noting that "trade liberalization has often allowed the import of subsidized agricultural products and consumer goods that have wiped out the livelihoods of women producers;" that farming women frequently cannot compete with foreign firms for raw materials; and finally, that biases against women producers

compete in the face of trade liberalization that allows the import of subsidized agricultural products.³⁸ At the same time, local biases against women producers and the micro-enterprise sector may make it difficult for them to enter into new economic opportunities generated by globalization.³⁹

The high levels of debt acquired by many less developed countries impact rural livelihoods in other ways, too. Such debt severely hinders these countries' ability to serve their citizenry, including their typically large rural populations. Further, rising debt severely limits state spending on education, health care, and other services. Women and children, often the beneficiaries of such spending, thus frequently bear the brunt of debt's consequences.⁴⁰ Finally, the limited resources available increasingly target urban areas,⁴¹ further disadvantaging rural women and children.

B. *The Impact of Desertification*

International economic and market pressures can lead to short-term exploitation of land in order to produce crops for export.⁴² Such exploitation can reduce the land's productive capacity, sometimes irreversibly.⁴³ The world loses an estimated twelve million hectares

and/or the micro-enterprise sector make it difficult for them to enter into new economic activities generated by globalization).

38. *Id.* (noting that women may also be unable to compete with foreign firms for raw materials).

39. *Id.*

40. See Saskia Sassen, *Two Stops in Today's New Global Geographies: Shaping Novel Labor Supplies and Employment Regimes*, 52 AM. BEHAVIORAL SCIENTIST 457, 466 (2008) [hereinafter Sassen, *New Global Geographies*] (reporting 1992 debt levels for the developing South at \$1.4 trillion, with debt servicing payments exceeding the principal, at \$1.6 million). For example, Zambia paid \$1.3 billion in debt but only \$37 million on primary education; Uganda paid \$9 per capita on debt and only \$1 per capita for health care. A great deal of research documents the disproportionate impact that such debt has on programs for women and children. Other research shows that the debt policies have worsened the situation for the unemployed and the poor. See *id.* at 466–67; see also LOURDES BENERIA & SHELLEY FELDMAN, *UNEQUAL BURDEN: ECONOMIC CRISES, PERSISTENT POVERTY, AND WOMEN'S WORK* (1992) (highlighting the burden borne by women following the debt crisis and national restructuring); Joan Fitzpatrick & Katrina R. Kelly, *Gendered Aspects of Migration: Law and the Female Migrant*, 22 HASTINGS INT'L & COMP. L. REV. 47, 98 n.254 (1998).

41. See *infra* notes 128–136, 397 and accompanying text.

42. U.N. CONVENTION TO COMBAT DESERTIFICATION, FACT SHEET 2: THE CAUSES OF DESERTIFICATION 1 (2008), available at <http://www.unccd.int/publicinfo/factsheets/menu.php> (last visited June 21, 2009) [hereinafter UNCCD FACT SHEET].

43. IFAD has funded some innovative projects utilizing local knowledge of the land to curtail desertification and restore fertility of the land. See generally JEANETTE D. GURUNG ET AL., *GENDER AND DESERTIFICATION: EXPANDING ROLES FOR WOMEN TO RESTORE DRYLANDS* (2006).

annually to desertification,⁴⁴ which can occur naturally or as a result of human exploitation.⁴⁵ Land degradation also can reduce the quantity and quality of water available for personal and agricultural use.⁴⁶

Desertification leads to prolonged periods of drought, famine, food insecurity, and poverty.⁴⁷ Those who have depended on the land for their livelihoods often must migrate in order to survive.⁴⁸ As conditions worsen at home, migrants—usually men—will leave for longer periods, sometimes relocating permanently, thus resulting in a “feminization of agriculture.”⁴⁹ The increasing scarcity of resources caused by desertification significantly contributes to internal displacement of people⁵⁰ and can be a catalyst for conflict.⁵¹

Not only does desertification drive male migration and thus result in rural female-headed households, it creates hardships for all rural households.⁵² Rural women are usually responsible for activities such as collecting water and firewood for the family.⁵³ As resources decline, women devote more time to these tasks, leaving them less time to culti-

44. IFAD, FACT SHEET ON DESERTIFICATION 2 (2008) [hereinafter IFAD ON DESERTIFICATION]. Climate change accelerates desertification, just as loss of vegetation from desertification aggravates climate change. *Id.*; see also UNCCD FACT SHEET, *supra* note 42, at 1–2.

45. About one-third of the earth’s surface is arid or semi-arid. IFAD, Rural Poverty and Desertification, available at <http://www.ruralpovertyportal.org/web/guest/topic/home/tags/desertification> (last visited June 21, 2009).

46. UNCCD FACT SHEET, *supra* note 42, at 1.

47. Extreme weather events in 2005–07, including drought and floods, caused world production of cereal to decline because of low crop yields. FAO, THE STATE OF FOOD INSECURITY IN THE WORLD 2008: HIGH FOOD PRICES AND FOOD SECURITY—THREATS AND OPPORTUNITIES 10 (2008) [hereinafter FOOD INSECURITY REPORT]. In combination with other factors, this decline in production increased food prices. *Id.*

48. IFAD ON DESERTIFICATION, *supra* note 44, at 1; UNCCD FACT SHEET, *supra* note 42, at 2.

49. See SOURCEBOOK, *supra* note 3, at 316–19; GURUNG ET AL., *supra* note 43, at 4; see also Redouane Saadi, *Migration Dynamics and Dialogue in the Western Mediterranean*, in WORLD MIGRATION 2005, *supra* note 10, at 75, 76 (reporting that urbanization and drought-related land degradation contributed to mass rural-urban migration in Mauritania); Constantina Safilios-Rothschild, *Agricultural Policies and Women Producers*, in GENDER, WORK & POPULATION IN SUB-SAHARAN AFRICA 54 (Aderanti Adepoju & Christine Oppong eds., 1994), reprinted in WOMEN AND LAW IN SUB-SAHARAN AFRICA 514 (Cynthia Bowman & Akua Kuenyehia, eds., 2003) (discussing a period of rapid population growth, partitioning of land among sons, and increased availability and profitability of non-farm employment for men in 1980s sub-Saharan Africa, culminating in a shift in land management authority from men to women).

50. IFAD ON DESERTIFICATION, *supra* note 44, at 2 (noting that “[i]f the rate of desertification remains unchecked, an estimated 50 million people will be displaced in the next 10 years”).

51. SOURCEBOOK, *supra* note 3, at 475–76.

52. FOOD INSECURITY REPORT, *supra* note 47, at 27.

53. RURAL WOMEN, *supra* note 11, at 16.

vate food for subsistence or as a source of income.⁵⁴ Compounding the problem, women left behind must also assume tasks that were previously the responsibility of men.⁵⁵

C. Migration's Consequences for Food Production

Some of the tasks women must assume when male migration leaves them behind relate to food production. Female-headed households struggle with food insecurity in part because they are limited in their ability to produce food because of gender-based constraints on accessing land and credit.⁵⁶ But male migration can have both positive and negative consequences for agricultural productivity. On the one hand, migration may result in reduced production and therefore lower income. Productivity may also be diminished because of resulting labor shortages for traditionally male activities such as clearing land and plowing.⁵⁷ Further, permanent migration can deprive rural areas of a critical labor force during peak seasons and drain rural areas of skilled and innovative community members.⁵⁸

On the other hand, migration can foster both short-term and long-term benefits. Seasonal internal migration allows rural households to increase income with off-season work without creating a labor shortage.⁵⁹ In more densely populated areas, migration can alleviate the problem of un- and underemployment, leading to a rise in wages as the labor supply diminishes.⁶⁰ Migration may also have a positive impact on local production when migrants return with newly acquired skills, knowledge, and experience, thus increasing rural human capital.⁶¹ Indeed, migrants may return with other types of knowledge, too—knowledge that

54. SOURCEBOOK, *supra* note 3, at 1, 319.

55. *Id.* at 426; RURAL WOMEN, *supra* note 11, at 10. The tasks generally designated to rural women often fill 16 hours a day. Their responsibilities include farm work, household chores, earning income to supplement family incomes, and care of children and elderly. SOURCEBOOK, *supra* note 3, at 289; *see also* JAZAIRY ET AL., *supra* note 21, at 79; Lall et al., *supra* note 17, at 41.

56. FOOD INSECURITY REPORT, *supra* note 47, at 27 (noting that female-headed households also struggle because they spend more, proportionally, on food); *see also* RURAL WOMEN, *supra* note 11, at 16.

57. RURAL WOMEN, *supra* note 11, at 18.

58. IFAD, *Roundtable 1: Migration and Rural Employment*, at 1, IFAD Doc. GC 30/INF.4 (Feb. 2, 2007).

59. Skeldon, *supra* note 10, at 258 (“An assessment in China has shown that the loss of labour due to out-migration can have a negative impact on incomes from cropping, but has no impact on crop yields.”).

60. IFAD, *Roundtable 1: Migration and Rural Employment*, *supra* note 58, at 1.

61. DHANANJAYAN SRISKANDARAJAH, GLOBAL COMM’N ON INT’L MIGRATION, MIGRATION AND DEVELOPMENT 5 (2005), available at <http://www.gcim.org/mm/File/ThematicStudy4.pdf>.

has the potential to transform rural social norms, including women's roles.⁶²

Finally, migration may also permit the accumulation of capital for investment in agricultural production.⁶³ As discussed further in the next section, if recipients invest remittances wisely in the rural community, they can reap substantial long-term benefits.⁶⁴ Among the possible benefits is empowerment of the rural women who receive and control the funds.⁶⁵

D. Remittances: Crutch or Opportunity?

Need at the household level drives migration, but migration may also reflect a government survival strategy. High levels of government debt coupled with high unemployment rates exert pressure on both governments and individuals to find financial survival strategies.⁶⁶ One government strategy is to export labor and rely on migrants' remittances.⁶⁷ For many countries, emigrant remittances exceed the combined flow of all foreign direct investment and net official development assistance.⁶⁸ Scarce income-generation opportunities in rural areas lead many families to rely on migration of one or more members and the remittances they send.⁶⁹ An estimated 500 million people—eight percent of

62. See *infra* note 375 and accompanying text.

63. Lall et al., *supra* note 17, at 5 (noting that the absence of a rural credit market can drive migration) (citing Katz and Stark, *Labor Migration and Risk Aversion in Less Developed Countries*, 4 J. LABOR ECON. 134 (1986)).

64. Lall et al., *supra* note 17, at 41 (citing a study of South African migration and remittances). In Senegal, some families use remittances to purchase or rent irrigated land to cultivate crops, such as millet and maize. In Ghana, several families invested in agricultural land by entering into long-term leases to cultivate mangos, cashews, and pineapples for export. Lorenzo Cotula et al., *Till to the Tiller: Linkages between International Remittances and Access to Land in West Africa 35 passim* (FAO, LSP Working Paper No. 14, 2004). Of course, remittances do not always lead to positive investment in agricultural productivity. IFAD ON DESERTIFICATION, *supra* note 44, at 1.

65. See *infra* notes 74–76 and accompanying text.

66. Sassen, *New Global Geographies*, *supra* note 40, at 466.

67. *Id.* at 470.

68. *Id.* at 469. Remittances to developing countries reached \$265 billion in 2007, and are estimated to have reached \$283 billion in 2008. Of the top ten remittance-receiving countries, India receives the most overall (\$30 billion) while Tajikistan receives the highest amount proportional to its GDP (45%). See Dilip Ratha et al., *Outlook for Remittances Flows 2008–2010: Growth Expected to Moderate Significantly, But Flows to Remain Resilient* (World Bank, Development Prospects Group, Migration and Development Brief No. 8, 2008), available at http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1110315015165/MD_Brief8.pdf (last visited June 21, 2009).

69. See Oded Stark & David Levhari, *On Migration and Risks in LDCs*, 31 ECON. DEV. & CULTURAL CHANGE 191 (1982) (applying risk-assessment and rational choice theory to rural-urban migration).

the world's population—receive remittances.⁷⁰ In Bangladesh, for example, remittances account for fifty-one percent of households' total income.⁷¹ In the state of Guanajuato, Mexico, remittances are the main source of income for forty-five percent of households.⁷² In Burkina Faso, fifteen percent of households—most of them rural and headed by women—receive international or domestic remittances.⁷³

Development scholars disagree on whether remittances have a positive long-term impact on development and poverty reduction. Unlike government investment or aid, remittances flow directly to individuals and households, giving individuals control of how funds are spent. Most recipients spend remittances on immediate needs, such as food, health care, and clothing. Families also make investments in human capital, including education for their children.⁷⁴ While relatively few women invest in income- and job-generating ventures,⁷⁵ women are more likely than men to make such investments.⁷⁶

Remittances have the potential to lift recipient families out of poverty,⁷⁷ but they can also create inequality within villages. This happens when remittance-receiving families become “haves,” thereby making “have-nots” of those without remittance income.⁷⁸ Remittances can hurt

70. Kathleen Newland, Migration Policy Institute, *A New Surge of Interest in Migration and Development*, MIGRATION INFORMATION SOURCE (February 2007), <http://www.migrationinformation.org/feature/display.cfm?Id=580> (last visited June 21, 2009).

71. Cotula et al., *supra* note 64, at 12–13.

72. *Id.*

73. Meera Sethi, *Migration Trends in Sub-Saharan Africa*, in *WORLD MIGRATION* 33, 40 (2005).

74. *Id.*

75. Newland, *supra* note 70; *cf.* sources cited *supra* note 64 (providing examples of long-term investment of remittance income).

76. See SRISKANDARAJAH, *supra* note 61, at 20 (reporting that “[t]he majority of remittances are spent on . . . consumption goods . . . improving housing and buying durable goods, but generally only a small part is spent on investing in productive uses. One survey suggests that just 6% of remittances sent home by the African diaspora is reinvested”). Generally, women are more likely to invest in housing, health, and education, while men are more likely to spend on consumer items. Remittances sent by women have also been used to improve housing and to invest in agricultural inputs, such as cattle or fertilizers. *RURAL WOMEN*, *supra* note 11, at 22; *NEW PERSPECTIVES*, *supra* note 11, at 12–13.

77. *NEW PERSPECTIVES*, *supra* note 11, at 10. Remittances tend to reduce the percentage of poor people: 11% reduction in Uganda, 6% in Bangladesh and 5% in Ghana. Studies show that school dropout rates in El Salvador and Sri Lanka have declined in remittance-receiving households. Dilip Ratha & Sanket Mohapatra, *Increasing the Macroeconomic Impact of Remittances and Development* (Paper for the World Bank, Development Prospects Group, 2007), available at http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1110315015165/Increasing_the_Macro_Impact_of_Remittances_on_Development.pdf (last visited June 21, 2009).

78. See *NEW PERSPECTIVES*, *supra* note 11, at 10. In villages where many households have links with internal migrants, remittances have an equalizing impact on income distributions, but remittances from international migrants tend to increase inequality. See Lall et al.,

non-migrant households in other ways. For example, increased consumption among migrant households may cause local price inflation.⁷⁹ Inflation renders all goods less affordable, while also reducing the funds available for productive investments in education, health care, and agricultural improvements.⁸⁰

Finally, remittances do not necessarily result in development, economic growth, or job creation in local rural economies.⁸¹ Because remittances are used primarily to meet basic family needs, rather than for reinvestment, any increase in the number of jobs or in local output is typically slight.⁸² In some regions, migrants pool their remittance resources to fund infrastructure and social service programs,⁸³ but this type

supra note 17, at 39; *see also* Richard H. Adams, Jr. et al., *The Impact of Remittances on Poverty and Inequality in Ghana* 20–21, 23 (World Bank Dev. Econ. Dep't., Dev. Prospects Group, Working Paper No. 4732, 2008) (finding that, while remittances reduce poverty in Ghana, international remittances have a greater impact on reducing poverty and increasing inequality than internal remittances because the former are about four times greater than the latter; few poor households receive international remittances); Cotula et al., *supra* note 64, at 23 (noting, for example, that in Pakistan international remittances led to increased concentration of land ownership by upper-income groups). This phenomenon may be explained by the fact that mostly members of middle-income families migrate internationally because of the significant resources required to do so. NANCY HART ET AL., *FAO SUSTAINABLE AGRICULTURAL AND RURAL DEVELOPMENT (SARD) POLICY BRIEF NO. 13, SARD . . . AND RURAL MIGRATION 1* (2007) (citing FAO, 2006 *Role of Agriculture Report*, <http://www.fao-ilo.org/and-more/migration/en/>); Omelaniuk & Weiss, *supra* note 11, at 18 (noting that “[f]amilies often pool their economic resources to send one member into the world to improve their lot back home”). The poor, on the other hand, are likely to be local or regional migrants, or unable to migrate at all. Finally, remittances tend to induce more migration from rural areas as families not receiving remittances perceive themselves as deprived relative to other families in the area. Skeldon, *supra* note 10, at 255–56; *see also* Sara Curran & Abigail Saguy, *Migration and Cultural Change: A Role for Gender and Social Networks?*, 2 *J. INT'L WOMEN'S STUD.* 54, 62–65 (2001) (discussing the notion of relative deprivation as a motivation for migration and arguing that gender roles influence perceptions of deprivation).

79. Cesar Nicolas Penson, *Remittances 2007: Gender, Remittances, and Development 3* (U.N. Int'l Research & Training Inst. for the Advancement of Women, Working Paper No. 4, 2007).

80. SRISKANDARAJAH, *supra* note 61, at 20 (suggesting that only 6% of remittances in Africa are used for investment purposes); *see also* Cotula et al., *supra* note 64, at 48, 39 (documenting a phenomenon in which many migrants in Ghana and Senegal use remittances to purchase land for residential purposes rather than for agriculture); *id.* at 38, 47 (noting further that investment by Ghanaians and Senegalese migrants focuses on the new urban home rather than in the former rural one, and that migrants use funds to set up small business in cities to access potential markets there).

81. SRISKANDARAJAH, *supra* note 61, at 20 (noting a negative correlation between the size of remittances and economic growth, and arguing that remittances create disincentives to work in recipient communities).

82. *Id.* (arguing that investment in productive uses can have a multiplier effect on economic growth and job creation and that consumption spending has a weaker multiplier effect).

83. Cotula et al., *supra* note 64, at 34 (describing similar public works contributions by a France-based Senegalese association); Peggy Levitt & Ninna Snyberg-Sørensen, *The Transnational Turn in Migration Studies* 5–6 (Global Comm'n on Int'l Migration, Global Migration Perspectives No. 6, 2004) (describing contributions by migrants associations in Mexico to

of investment represents only a fraction of the development and infrastructure required to ensure sustainable growth in a rural area. In short, remittance income is rarely converted into “sustainable productive capacity.”⁸⁴

Moreover, a steady flow of remittances may create unhealthy reliance by nations, as well as by individual families.⁸⁵ Economic downturns such as the current one diminish remittances, with devastating consequences for the receiving countries’ economies.⁸⁶ As migrants lose jobs, they send home less money, and some even return to their rural places of origin.⁸⁷

E. Summary

The added challenges and hardships associated with male migration can leave rural women more economically vulnerable than ever. As men migrate and women become the heads of their families, women take on more responsibility, including in the agricultural sector. But migration also has the potential to increase rural women’s agency and

public works projects in coordination with a governmental matching-funds program); Manuel Orozco, *Migrant Hometown Associations (HTAs)—The Human Face of Globalization*, in *WORLD MIGRATION 2005*, at 279, 279–83 (describing other development projects undertaken by regional associations).

84. Newland, *supra* note 70.

85. Penson, *supra* note 79, at 2; *see also* Newland, *supra* note 70 (noting that “bad infrastructure, corruption, lack of access to credit, distance from markets, lack of training in entrepreneurial skills, and disincentives to savings” all result in reliance on remittances); Omelaniuk & Weiss, *supra* note 11, at 19 (urging that remittances “be seen as an initial investment . . . rather than a way of life”); Sabrina Tavernise, *Bad Times Stall Cash Flow from Tajik Migrants*, *N.Y. TIMES*, Dec. 25, 2008, at A1 (quoting Dilip Ratha, World Bank, as stating that Tajikistan’s economy, 54% of which is based on remittances, “is not sustainable without migration”); Ratha et al., *supra* note 68, at 3 (listing the top ten countries that receive remittances as a substantial portion of their GDP).

86. Penson, *supra* note 79, at 2; *see also* Ratha et al., *supra* note 68, at 7–12 (noting that while the World Bank predicts that remittance flows to developing regions will sharply decline in 2008 and 2009 due to the global financial crisis, the World Bank predicts that remittances will be relatively resilient compared to private capital flows or official development aid); Nelson D. Schwartz, *Job Losses Pose a Threat to Stability Worldwide*, *N.Y. TIMES*, Feb. 15, 2009, at A1, *available at* <http://www.nytimes.com/2009/02/15/business/15global.html?ref=world> (last visited June 21, 2009); Elizabeth Malkin, *Money Sent Home by Mexican Workers in the U.S. Falls Sharply*, *N.Y. TIMES*, June 2, 2009, at A5, *available at* http://www.nytimes.com/2009/06/02/world/americas/02mexico.html?_r=1&scp=1&sq=migrant%20mexico%20remittance&st=cse (last visited June 21, 2009).

87. *See* Jason Beaubien, *Mexican Remittances Fall as U.S. Jobs Are Slashed* (National Public Radio broadcast Nov. 26, 2008); Keith Bradsher, *China’s Unemployment Swells as Exports Falter*, *N.Y. TIMES*, Feb. 6, 2009, at B3 (discussing efforts by the Guangdong Provincial Labor and Social Security Bureau to encourage migrants to return to rural areas and to ease their re-integration); Shai Oster, *China Fears Restive Migrants As Jobs Disappear in the Cities*, *WALL ST. J.*, Dec. 2, 2008, at A1; Edward Wong, *Factories Shut, China Workers Are Suffering*, *N.Y. TIMES*, Nov. 14, 2008 (detailing the decrease in remittances and return home of Chinese workers in the wake of massive factory shutdowns)

decision-making power, in part because of the population churn associated with migration. This population turnover diminishes the isolation that typically marks rural communities and may thus bring with it a greater awareness of law and legal rights. It can also put remittance income in the hands of women, who are more likely to use it constructively.

The next two Parts discuss the roles that international institutions can play in rural women's empowerment. Part II discusses the role of development in relation to rural populations and food security, with special emphasis on women's roles in this age of migration. Part III discusses how CEDAW might contribute to this empowerment.

II. RURALITY, GENDER, FOOD, AND DEVELOPMENT

A. Rural Women and Agriculture Around the Globe

Not only are a growing number of rural households headed by women,⁸⁸ the Food and Agriculture Organization (FAO) reports that women produce about half of the world's food for direct consumption.⁸⁹ Around the world, 428 million women work in the agricultural sector,⁹⁰ which is the primary source of women's employment in many regions.⁹¹ According to the GENDER IN AGRICULTURE SOURCEBOOK, when both self-employment and wage labor are considered, women provide more labor in agriculture than men in Asia, Sub-Saharan Africa, the Middle East, North Africa, and some Caribbean and Central American countries.⁹² The FAO reports that two-thirds of women in the labor force of less developed regions engage in agricultural activities.⁹³ Yet globally women own less than two percent of the land worldwide, and they receive less than ten percent of the available credit.⁹⁴

88. ARTURO ESCOBAR, ENCOUNTERING DEVELOPMENT: THE MAKING AND UNMAKING OF THE THIRD WORLD 173 (1995); *see also* sources cited *supra* note 49.

89. ESCOBAR, *supra* note 88, at 173.

90. International Day of Rural Women, *supra* note 2 (citing INT'L LABOUR ORG., GLOBAL EMPLOYMENT TRENDS FOR WOMEN (2008), available at http://www.ilo.org/wcmsp5/groups/public/--dgreports/--dcomm/documents/publication/wcms_091225.pdf (last visited June 21, 2009)). By comparison, 608 million men work in this sector. *Id.*

91. *Id.* (reporting that 68% and 61% of women who work in Sub-Saharan Africa and in South Asia, respectively, are employed in agriculture).

92. SOURCEBOOK, *supra* note 3, at 316–19.

93. RURAL WOMEN, *supra* note 11, at 9.

94. INT'L LABOUR ORG. WORLD COMM'N ON THE SOC. DIMENSION OF GLOBALIZATION, A FAIR GLOBALIZATION: CREATING OPPORTUNITIES FOR ALL 47–48 (2004), available at <http://www.ilo.org/public/english/wcsdgd/docs/report.pdf> (last visited June 21, 2009).

B. Food (In)Security

Although the world currently produces enough food to feed twelve billion people⁹⁵ (exceeding the current world population of 6.7 billion⁹⁶), hunger, food insecurity,⁹⁷ and malnutrition persist and are projected to increase through 2020 and beyond.⁹⁸ Three-quarters of the world's 1.2 billion poor people (as measured by the standard of income of less than one dollar per day) live and work in rural areas,⁹⁹ and the global rural-urban poverty gap is not narrowing.¹⁰⁰ Hunger remains "endemic" in most of the developing world's rural areas, where malnutrition levels consistently exceed those in cities.¹⁰¹ The World Bank observes the irony of food insecurity's "largely rural face."¹⁰²

Policymakers acknowledge that women "are the architects of food security."¹⁰³ Women are generally responsible for food selection and preparation, as well as for the care and feeding of children.¹⁰⁴ When a woman has an income, she is more likely to spend it on food and the needs of children.¹⁰⁵ Yet, according to the FAO, the International Fund for Rural Development (IFAD), and the World Bank, food insecurity is a consequence of the rural poor being net food purchasers rather than sellers.¹⁰⁶ In relation to food security, then, food production is more

95. World Bank Task Force on Science and Technology in Securing Food in the 21st Century, *Investing in Science for Agriculture & Rural Development in the 21st Century: Challenges, Issues and Options 1* (Working Paper No. 24538, July 2002) (citing M. ROSENGRANT ET AL., GLOBAL FOOD PROJECTIONS TO 2020, EMERGING TRENDS AND ALTERNATIVE FUTURES (2001) [hereinafter *Investing in Science for Agriculture & Rural Development*]).

96. WORLD URBANIZATION PROSPECTS, *supra* note 14, at 1 (projecting the world population to reach 9.2 billion in 2050).

97. Food security is a right enumerated in the Universal Declaration of Human Rights and amplified by Article 11 of the International Covenant on Economic, Social and Cultural Rights. SOURCEBOOK, *supra* note 3, at 19.

98. *Investing in Science for Agriculture & Rural Development, supra* note 95, at 1; *see also* Gonzalez, *supra* note 34, at 420 (reporting 852 million undernourished people in the world based on FAO data).

99. RURAL POVERTY REPORT, *supra* note 19, at 15; *see also* FOOD INSECURITY REPORT, *supra* note 47, at 33.

100. RURAL POVERTY REPORT, *supra* note 19, at 15.

101. AXEL WOLZ, GLOBAL DONOR PLATFORM FOR RURAL DEV., THE ROLE OF AGRICULTURE AND RURAL DEVELOPMENT IN ACHIEVING THE MILLENNIUM DEVELOPMENT GOALS 4–5 (2005), available at http://www.donorplatform.org/component/option,com_docman/task,doc_details/gid,219/ (last visited June 21, 2009).

102. SOURCEBOOK, *supra* note 3, at 17.

103. *Id.* (explaining that "(1) women make food choices and purchases (2) women are involved in food production (3) women are usually involved in selling food in local markets.>").

104. *Id.*

105. *Id.* at 12.

106. *Id.* at 17; *see also* AMARTYA SEN, POVERTY AND FAMINES: AN ESSAY ON ENTITLEMENT AND DEPRIVATION 1–2 (1981); Gonzalez, *supra* note 34, at 422 (discussing Sen's assertion that hunger is a function of poverty, not food scarcity); *id.* at 428–29 (discussing Sen's work and food security as a matter of the ability to command food using legal means,

important as a means to generate income than it is for direct family consumption.¹⁰⁷ Like others who produce to sell, rural women need access to income and markets.¹⁰⁸

C. Agricultural Development as Rural Development

Rural and agricultural development efforts are credited with a dramatic decline in poverty and hunger between 1975 and 1990.¹⁰⁹ IFAD observes, however, that these advances—along with progress in agricultural production—have more recently stalled.¹¹⁰ Many rural areas currently see no benefit from such development.¹¹¹

This situation is not surprising given that international funding for agricultural development has declined in recent years.¹¹² Between 1987 and 1998, “the absolute value of aid fell by two-thirds.”¹¹³ The proportion of official development assistance for agriculture fell from twenty percent in the 1980s to twelve percent in the early 2000s.¹¹⁴ Likewise, the World Bank’s lending to the agriculture sector declined from thirty percent of total lending in the 1980s to about eight percent (\$1.5 billion) in 2002.¹¹⁵ The Bank has acknowledged that lending to rural spaces “is not congruent with the greater incidence of poverty in rural areas.”¹¹⁶

Yet many international organizations encourage broad-based rural development that entails job creation as a way to alleviate poverty and reduce migration pressures.¹¹⁷ The World Bank in 2003 called for agricultural growth to be at the top of the development agenda in order to reach the millennium goals of cutting hunger and poverty.¹¹⁸ Further,

meaning that food security is less determined by scarcity or plenty than by the “institutions that determine how available food is distributed”).

107. Gonzalez, *supra* note 34, at 428–29.

108. *Id.* (noting that this is especially true for poor rural women).

109. RURAL POVERTY REPORT, *supra* note 19.

110. *Id.*

111. *Id.*

112. JAZAIRY ET AL., *supra* note 21, at 217–19 tbls. 8.5–8.6.

113. RURAL POVERTY REPORT, *supra* note 19, at iv.

114. *Id.* at iv, 2.

115. World Bank, *Reaching The Rural Poor: A Renewed Strategy for Rural Development* 10–11 (Report No. 26763, 2003) [hereinafter *Reaching the Rural Poor*]. The World Bank’s lending to the rural sector comprised 25% of total lending (\$5 billion annually), while only 11% was dedicated to projects coded for urban development. The Bank estimates, however, that the remaining funds, which cannot be attributed to either urban or rural spaces, “predominantly focused on city dwellers.” *Id.*

116. *Id.*

117. RURAL POVERTY REPORT, *supra* note 19, at 71.

118. *Reaching the Rural Poor*, *supra* note 115, at 40.

agriculture tends to be more resilient than other sectors during severe economic crises.¹¹⁹

Indeed, the agricultural sector might provide a safety net of sorts for developing countries because of its potential to absorb some of those who lose their jobs during economic downturns. The FAO observes that increases in agriculture and related sector employment can help to maintain and enhance population balance between rural and urban by decreasing migration pressures.¹²⁰ It estimates that agricultural growth is as much as four times more effective at poverty reduction than is growth in other sectors.¹²¹ In particular, the FAO advocates rural development that enhances the capacity of small-farmholders,¹²² noting that income generated by 500 million such farms supports three billion rural people worldwide.¹²³ Success on the part of these farms has great potential to reduce poverty by increasing food availability and lowering food prices.¹²⁴ It also can result in higher incomes and may generate demand for locally produced goods and services.¹²⁵

Although developing the agriculture sector enhances food security and narrows the rural-urban development and poverty gaps, national policies tend to favor urban development and investment.¹²⁶ Such policies disproportionately neglect the needs of the rural developing world. In the 1970s and 1980s, between nine percent and thirty-four percent of total government expenditures went to the rural sector, percentages that are well below respective rural population shares.¹²⁷

1. Urban Bias

Despite the capacity of development to improve the lives of rural residents, some development theorists object to the discourse of development, including the objectification of developing countries as “other”

119. FAO, *SOCIO-ECONOMIC ANALYSIS AND POLICY IMPLICATIONS OF THE ROLES OF AGRICULTURE IN DEVELOPING COUNTRIES: RESEARCH PROGRAMME SUMMARY REPORT 2004*, at 4–5 (2004).

120. *Id.* at 12–13 (listing related sectors, including mechanization and repair services, input supplies, and transportation).

121. *FOOD INSECURITY REPORT*, *supra* note 47, at 35.

122. *Id.* at 33.

123. *Id.* at 35 (defining small farms as under two hectares).

124. *Id.* at 33.

125. *Id.* at 35.

126. *See* JAZAIRY ET AL., *supra* note 21, at 69; Michael Lipton, *Urban Bias*, in *ENCYCLOPEDIA OF INTERNATIONAL DEVELOPMENT* 724, 724 (Tim Forsyth ed., 2005); WOLZ, *supra* note 101, at 10.

127. In Tanzania, for example, 86% of the nation’s population was rural, but only 25% of government expenditure went to rural areas. *RURAL POVERTY REPORT*, *supra* note 19, at 15. Similarly, Pakistan spent less than 10% on the rural sector, where 71% of the population lived. JAZAIRY ET AL., *supra* note 21, at 217–19.

to be developed. Balakrishnan Rajagopal, for example, writes: “Development has always been a hegemonic idea in that it has always been clear about who needs to be developed, who will do the ‘developing’, how and in which direction.”¹²⁸ Because of development’s postcolonial and Cold War roots, some development theorists view development efforts as forms of cultural imperialism.¹²⁹

Similar criticisms can be leveled at rural development efforts in particular. Rural development tends to focus narrowly on efficient production as a means to reduce poverty.¹³⁰ These efforts sometimes ignore “structural factors such as the precarious availability of land, deficient soil quality, and the strong resistance of rural communities to produce for the market.”¹³¹ As agricultural development efforts encroach on small farmers, these farmers sometimes become objects of development, rather than subjects with a voice in the development process.¹³²

Arturo Escobar is among those who see a fundamental problem with rural development strategies’ focus on mass production as the only means by which rural populations can accelerate into modernity.¹³³ He criticizes the focus on quantity of production, which discounts the notion that rural livelihoods are simply a way of life. For some, that way of life reflects quality and choice.¹³⁴

An urban bias—indeed, an urban hubris—is thus reflected in much development theory, planning, and execution. The *ENCYCLOPEDIA OF INTERNATIONAL DEVELOPMENT* even features an entry for “urban

128. Balakrishnan Rajagopal, *Counter-Hegemonic International Law: Rethinking Human Rights and Development as a Third World Strategy*, in *INTERNATIONAL LAW AND THE THIRD WORLD: RESHAPING JUSTICE* 63, 71 (Richard Falk et al. eds., 2008).

129. *Id.* (noting use of development during the Cold War as a means of limiting the communist threat and resistance efforts in the rural countryside).

130. ESCOBAR, *supra* note 88, at 161 (quoting *World Bank Rural Development Sector Policy Paper*, Washington D.C. (1975)).

131. *See id.* at 157 (quoting DNP/UEA EXPERIENCIAS DE LA FASE I DEL PROGRAMA DRI Y RECOMENDACIONES PARA LA FASE II (1982)).

132. *Id.* at 155; *see also* Ruth E. Gordon & John H. Sylvester, *Deconstructing Development*, 22 *WIS. INT’L L.J.* 1, 17 n.63 (2004) (illustrating the danger of blindly favoring supposedly good, modern techniques over local agriculture in developing countries).

133. *Contra* SACHS, *supra* note 21, at 219–20 (declaring that “India’s challenge . . . is to transform a densely populated subcontinent of subsistence farmers into a modern and largely urban society”); *id.* at 26–27 (citing the United States as an example of the benefits of intensive production agriculture because very few persons produce sufficient food for the remainder of the population).

134. ESCOBAR, *supra* note 88, at 162 (“[R]ural development discourse repeats the same relations that has defined development discourse since its emergence: the fact that development is about growth, about capital, about technology, about becoming modern.”); *see also infra* notes 402–404 and accompanying text (detailing the parallel, ongoing debate in the United States between aesthetic and intensive production agriculture).

bias.”¹³⁵ To the extent that agricultural and rural development focus primarily on increasing productivity, they drive rural-to-urban migration. This is because mechanization and reliance on technology diminish the need for agricultural labor. If such intensive production agriculture does not employ ecologically sustainable practices, it has adverse consequences for the environment. This puts the developing world on the same path that the developed world has already traveled—one of greater urbanization.¹³⁶ This often unstated urban bent in development is akin to—even an aspect of—the Western hubris that has been so criticized by postcolonial scholars such as Escobar.

2. Gender Bias

In addition to an urban bias, rural development strategies often reflect gender biases. Escobar is among those who assert that women’s exclusion from agricultural development programs sometimes diminishes their status and that of their work.¹³⁷ Along with other flaws, he notes that development planners have tended to embrace the U.S. model of agriculture. That model assumes men to be the productive workers, while relegating women to near invisibility. Women’s programs have been limited to “health, family planning, nutrition, child care, and home economics For women, the consequences of development include increased workloads, loss of existing employment, changes in the reward structures for their work, and loss of control of land.”¹³⁸ Indeed, throughout the 1970s, women featured in international rural development policies only in relation to pregnancy, lactation, feeding children, procuring clean water, handling children’s diseases, and cultivating home gardens to supplement the family diet.¹³⁹ This focus on “agriculture for men and home economics for women” cabins and undervalues rural women.¹⁴⁰

135. Michael Lipton, *Urban Bias*, in *ENCYCLOPEDIA OF INTERNATIONAL DEVELOPMENT*, *supra* note 126, at 724–25 (referring to disproportionate allocation of resources to cities and towns, but also a “disposition among the powerful to allocate resources in such a way”); *see also* Michael Lipton, *WHY POOR PEOPLE STAY POOR: THE URBAN BIAS IN WORLD DEVELOPMENT* (1977).

136. *See* SACHS, *supra* note 21, at 26–27 (citing the United States as an example).

137. *See* ESCOBAR, *supra* note 88, at 171; *see also supra* notes 399–403 and accompanying text.

138. *See* ESCOBAR, *supra* note 88, at 171–72 (quoting CAROLYN SACHS, *WOMEN: THE INVISIBLE FARMERS* (1985)).

139. *Id.* at 172; *see also infra* note 302.

140. Escobar, *supra* note 88, at 172; *see also id.* at 173–74 (detailing a case study in the Cauca Valley, Colombia, in which women’s societal status was diminished as a direct result of development intervention); *SOURCEBOOK*, *supra* note 3, at 16, 175, 264 (observing that farms managed by women are typically less mechanized and lower in productivity than those managed by men); FITZPATRICK & KELLY, *supra* note 40, at 98 n.254 (arguing that International

Clearly, rural women should be involved in development efforts—be it in agricultural or other forms. Yet abundant evidence suggests that women are not consistently included.¹⁴¹ Even when women have access to land, they often do not also have access to credit, technology, and extension services.¹⁴² Nevertheless, rural women's agency and potential have not been entirely overlooked by international institutions. The following Part discusses the opportunity presented by CEDAW to empower rural women, with a particular focus on development.

III. CEDAW AND HUMAN RIGHTS PROTECTIONS FOR RURAL WOMEN

Equality for women has been a fundamental principle of the United Nations since its inception in 1945. Acting on this principle, the United Nations adopted CEDAW in 1979.¹⁴³ The Convention recognizes that women “suffer from various forms of discrimination because they are women.”¹⁴⁴ The Convention requires parties to “eliminate direct or indirect discrimination in all spheres of life, improve women's *de facto* position within society; and, address prevailing gender relations and discriminatory stereotypes.”¹⁴⁵ More than ninety percent of the United Nations' members—185 countries—are parties (hereafter “Member

Monetary Fund structural adjustment policies tended to undermine women's status by requiring States to reduce spending on social programs and eliminate subsidies for basic commodities).

141. SOURCEBOOK, *supra* note 3, at 16 (reporting that women are often omitted from capacity development such as agriculture technology transfer because of the expectation that husbands and fathers will share the information with them).

142. *Id.*; see also ESCOBAR, *supra* note 88, at 173–74 (discussing Colombian case study). “Extension services” refers to expert advice regarding farming techniques. These services are often provided by the State, but may also be delivered by NGOs. See SOURCEBOOK, *supra* note 3, at 265 (describing extension services as providing information and training); U.S. Department of Agriculture, Cooperative State Research, Education, and Extension Service, <http://www.csrees.usda.gov/qlinks/extension.html> (last visited June, 3, 2009) (describing extension services provided by the U.S. Department of Agriculture to farmers in the United States).

143. Convention for the Elimination of all Forms of Discrimination Against Women, G.A. Res. 34/180, U.N. GAOR Supp., 34th Sess., Supp. No. 46 at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981.

144. Simone Cusack & Rebecca J. Cook, *Combating Discrimination Based on Sex and Gender*, in INTERNATIONAL PROTECTION OF HUMAN RIGHTS: A TEXTBOOK 205 (Catarina Krause & Martin Scheinin eds., forthcoming 2009) (citing CEDAW, *supra* note 143, pmb. ¶ 6).

145. CEDAW art. 4(1); U.N. doc. HRI/GEN/1Rev.8, at 337–45, ¶ 4; see also Cusack & Cook, *supra* note 144, at 206 (citing CEDAW, *supra* note 143, General Recommendation no. 25, at 4).

States” or “States”) to the Convention.¹⁴⁶ The United States is the only country to sign but not ratify the treaty.¹⁴⁷

A. CEDAW's Article 14

CEDAW is unique among human rights treaties in that it specifically addresses the circumstances of rural women. Indeed, CEDAW's Article 14 is entirely about this population. Article 14(1) recognizes “the particular problems faced by rural women” as well as “the significant roles which women play in the economic survival of their families” and calls on States Parties to “ensure the application” of the entirety of CEDAW to “women in rural areas.”¹⁴⁸ This provision thus requires Member States to ensure that rural women, like their urban counterparts, enjoy all rights addressed by the Convention.¹⁴⁹

Article 14(2) goes further, enumerating particular rights for rural women. It provides:

146. U.N. CEDAW States Parties, <http://www.un.org/womenwatch/daw/cedaw/states.htm> (last visited June 21, 2009) (noting that States may ratify CEDAW with reservations by declaring that certain parts of the Treaty are not binding on them).

147. U.N. CEDAW States Parties, *supra* note 146. The United States has twice considered ratification of CEDAW, most recently in 2002, but has yet to ratify the treaty. See SALLY ENGLE MERRY, HUMAN RIGHTS & GENDER VIOLENCE: TRANSLATING INTERNATIONAL LAW INTO LOCAL JUSTICE 79 (2006); see also Julia Ernst, *U.S. Ratification of the Convention on The Elimination of All Forms of Discrimination Against Women*, 3 MICH. J. GENDER & L. 299, 333 (1995) (noting that Article 14(2) might require additional federal spending on, for example, healthcare programs).

148. CEDAW, *supra* note 143, art. 14(1).

149. Article 10 also mentions rural women and deals specifically with ensuring women have equal rights in the field of education. It provides in relevant part:

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training.

CEDAW, *supra* note 143, art. 10(a). Article 10 changed considerably over the course of its drafting, as suggested replacements for words often resulted in the inclusion of both words in the final text (e.g., “career and vocational guidance”). LARS ADAM REHOF, GUIDE TO THE TRAVAUX PRÉPARATOIRES OF THE UN CONVENTION ON DISCRIMINATION AGAINST WOMEN 112 (1993). There is no clear indication of the reason behind the specific inclusion of rural women in this section, though earlier mention of the applicability of Articles 10 and 14 to rural women in particular had been made in Draft 4 in 1974. It was in this draft that Article 10's education rights were applied to women in “rural as well as urban areas.” *Id.* at 153. Finland found this term too ambitious, noting the impossibility of establishing universities in both rural and urban areas of the country. ECOSOC, *Draft Convention on the Elimination of All Forms of Discrimination Against Women*, ¶ 115, U.N. Doc. E/CN.6/591 (June 21, 1976).

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
- (a) To participate in the elaboration and implementation of development planning at all levels;
 - (b) To have access to adequate health care facilities, including information, counseling and services in family planning;
 - (c) To benefit directly from social security programmes;
 - (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
 - (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;
 - (f) To participate in all community activities;
 - (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
 - (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.¹⁵⁰

This eight-item list suggests that the drafters recognized specific ways in which rural women were or might be disadvantaged in comparison to or as distinct from their urban counterparts. Indeed, one might read this list as suggesting that rural women generally do not enjoy particular benefits, such as social security, health care, and education.¹⁵¹ In the same vein, one might interpret it as implying that women tend to be excluded from development planning, self-help groups, and community activities. The articulation of these guarantees would otherwise not have been deemed necessary. Alternatively, one might simply see this list as articulating the rights most valuable and fundamental to rural women even

150. CEDAW, *supra* note 143, art. 14(2).

151. Zagorka Illic, *Reporting Requirements Under Article 14*, in UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH (UNITAR): MANUAL ON HUMAN RIGHTS REPORTING, at 305, U.N. Doc. HR/PUB 91/1, U.N. Sales No. E.91.XIV.1 (1991).

though some of them, such as the right to health care, are included elsewhere in CEDAW.¹⁵² Finally, inclusion of rights such as that to social security suggests the association of rurality with the informal (non-cash) economy.¹⁵³

1. The Drafting History

As the first international human rights instrument to recognize expressly rural populations,¹⁵⁴ CEDAW implies the legal relevance of rural-urban difference. According to the *Travaux Préparatoires*, an article devoted to the rights of rural women was not suggested until Draft 5, three years into the drafting process, in 1976.¹⁵⁵ The Article was incorporated after Egypt, India, Indonesia, Iran, Pakistan, Thailand, and the United States offered it as an amendment.¹⁵⁶ India introduced a draft resolution proposing the additional article on rural women because it believed the draft did not yet sufficiently consider this population.¹⁵⁷ In discussing whether to include what became Article 14 in the draft, the FAO saw an explicit distinction between rural and urban women desirable because of the dearth of health and welfare resources in rural areas.¹⁵⁸

The ultimate inclusion of rural women in CEDAW appears to have been largely uncontroversial,¹⁵⁹ though many countries commented on Article 14's text during the drafting process.¹⁶⁰ Several countries'

152. CEDAW, *supra* note 143, art. 12.

153. See REHOF, *supra* note 149, at 159 (noting France's proposal that rural women enjoy the right to social security "when such a system exists in rural areas, at least for wage-earners"). Japan noted the lack of provision for social security for urban women who were not employed. REHOF, *supra* note 149, at 161 (citing U.N. Doc. A/C.3/33/L.47/Add.1, ¶ 172-74). The FAO urged the Commission on the Status of Women to give greater consideration to rural women—particularly those working in agriculture—within Article 11, which focuses on women's employment. *Id.* at 154.

The association of rurality with the non-cash economy has persisted in the United States. See Pruitt, *supra* note 29, at 352. This Article 14 provision mandating social security for rural women might also be seen as suggesting the absence of law in rural places. Informal employment situations are common in rural places, and they are often accompanied by a lack of compliance with laws such as those regarding state-mandated benefits. See also *infra* notes 350-353 (discussing the relative absence of law and legal actors in rural places).

154. Illic, *supra* note 151, at 305.

155. REHOF, *supra* note 149, at 153.

156. *Id.*

157. *Id.* at 154.

158. The U.N. Branch for the Advancement of Women clarified the reason for including "access to health care and family planning services" in Article 14(2)(b), explaining that health resources often did not reach this population, even when intended for them. *Id.* at 158-59 (citing U.N. Doc. A/C.3/SS/L.47/Add.1, ¶ 149).

159. But see REHOF, *supra* note 149, at 154 (noting Finland's concern about the difficulty of providing equal access to higher education in rural and urban places).

160. See *id.* at 155-61.

comments were of a general character. Chad, for example, recognized the Article's particular importance for developing countries.¹⁶¹ Argentina thought Article 14 should include disadvantaged groups in both rural and urban areas,¹⁶² while Hungary preferred to limit Article 14 to rural women.¹⁶³

Other countries commented on specific provisions of Article 14.¹⁶⁴ Subsections 2(a) and 2(g) make clear that a prominent goal of Article 14 is to allow women to participate equally with men in areas of agricultural and rural development.¹⁶⁵ Nevertheless, States disagreed about the details of subsection 2(a)'s right to participate in development planning. Countries debated the merits of the "at all levels" language versus specific mention of "local, regional or national levels."¹⁶⁶ Regarding 2(c) about education, Kenya proposed the part that notes the purpose of improving women's "technical efficiency," while the United Kingdom suggested including functional literacy and access to extension services.¹⁶⁷ The United Kingdom also recommended inclusion of a provision relating to women's ability to gain access to "credit and loans [and] appropriate technology."¹⁶⁸ The International Labor Organization (ILO) explained that the term "appropriate technology" suggested a realistic assessment of country conditions, including "human resources, currency available, impact on the labour market, labour-intensive versus capital-intensive technology, and the social consequences that the specific technology brings into a society."¹⁶⁹

Bangladesh proposed inclusion of what would become paragraph 2(d), which provides for the right to organize self-help groups and coop-

161. *Id.* at 156.

162. *Id.* The drafters discussed the issue of having provisions dealing with rural women apply also to urban women. *Id.* at 161. *See* Comm. for the Elimination of all Forms of Discrimination Against Women, *Initial Report of States Parties: South Africa*, U.N. Doc. CEDAW/C/ZAF/1 (Feb. 25, 1998) [hereinafter *South Africa*] ("[T]he separation of rural women raises the question as to why other marginalized or vulnerable groupings—for example, those living in informal settlements, the disabled, the girl child—were not similarly separated. This issue perhaps needs to be considered by CEDAW.").

163. The Secretary-General, *Report of the Secretary-General on the Draft Convention of Discrimination Against Women*, add. 2, ¶ 16, delivered to the General Assembly, U.N. Doc. A/32/218/Add.2 (Sept. 21, 1977) [hereinafter *Secretary-General Report on CEDAW*].

164. *See* REHOF, *supra* note 149, at 158–61 (summarizing the country representatives' revisions and concerns with respect to each subsection of Article 14).

165. CEDAW, *supra* note 143, arts. 14.2(a), (g).

166. *Secretary-General Report on CEDAW*, *supra* note 163, ¶ 140.

167. *Id.* ¶ 154; *see also* REHOF, *supra* note 149, at 161 (citing U.N. Doc. A/C.3/32/WG.1/CRP.6/Add.2, ¶ 20) (detailing the participation of Kenya and the Netherlands, among others).

168. REHOF, *supra* note 149, at 160 (citing U.N. Doc. A/C.3/33/L.47/Add.1, ¶¶ 164, 166).

169. *Id.*

eratives “in order to obtain equal access to economic opportunities through employment and self-employment.”¹⁷⁰ Countries as diverse as Ghana and Sweden supported the proposal, noting that discrimination in these sectors exists in some countries.¹⁷¹ Bangladesh also proposed what became part of Article 14(2)(f), “the right to participate in all community activities.”¹⁷²

2. State Accountability

While not requiring a State Party to incorporate CEDAW’s tenets directly into their domestic legislation, CEDAW imposes a stronger burden than other conventions, like the International Covenant on Economic, Social and Cultural Rights (ICESCR).¹⁷³ The ICESCR requires only that States “take steps ‘progressively’ to achieve the full realizations of rights.”¹⁷⁴ By comparison, States that have ratified or acceded to CEDAW “are obliged to undertake all legislative and other appropriate measures to eliminate discrimination against women without delay.”¹⁷⁵ Member States must also submit national reports within one year of ratification, and they must then submit reports at least every four years.¹⁷⁶ The reports, required by Article 18 of CEDAW, should describe the measures the countries take to comply with their treaty obligations.¹⁷⁷

Article 18 gives Member States broad discretion regarding what information to include in their reports. They may include, for example, “factors and difficulties affecting the degree of fulfillment of obligations under CEDAW.”¹⁷⁸ The CEDAW Committee draws on the reports to craft

170. *Id.* at 160 (noting also that the USSR promoted a more general approach, encompassing “different economic activities” rather than cooperatives and self-help groups).

171. *Id.* (citing U.N. Doc. A/C.3/33/L.47/Add.1, ¶¶ 160–62, 171).

172. *Id.*

173. MERRY, *supra* note 147, at 80.

174. *Id.* (quoting Hanna Beate Schöpp-Schilling, CEDAW: A Key Instrument for Promoting Human Rights of Women, Address Delivered in St. Petersburg (Nov. 13, 2000)); *see also* Cusack & Cook, *supra* note 144, at 208–09 (expanding on the scope of state obligations under CEDAW and asserting the power and significance of the Convention).

175. MERRY, *supra* note 147, at 80 (quoting Schöpp-Schilling, *supra* n. 174).

176. CEDAW, *supra* note 143, art. 18.

177. *Id.* art. 18(1). In addition to Article 18’s reporting requirements, the United Nations Development Fund for Women published guidelines in 2006 that elaborate on how government budgets and budget policy-making processes can be monitored for compliance with human rights standards, particularly with CEDAW. *See generally* DIANE ELSON, BUDGETING FOR WOMEN’S RIGHTS: MONITORING GOVERNMENT BUDGETS FOR COMPLIANCE WITH CEDAW (U.N. Dev. Fund 2006). Other guidelines are available to assist States in preparing these reports; they encourage the initial report to be a “detailed and comprehensive description . . . [and] to provide a benchmark against which subsequent progress can be measured.” *See* U.N. Div. for the Advancement of Women, CEDAW Reporting, <http://www.un.org/womenwatch/daw/cedaw/reporting.htm#guidelines> (last visited May 18, 2009).

178. CEDAW, *supra* note 143, art. 18(2).

specific recommendations and questions for hearings held with high-ranking officials of States.¹⁷⁹ Many scholars recognize that while CEDAW is a binding treaty with admirable goals, it appears aspirational in nature, with an expectation-setting agenda that has the air of soft law.¹⁸⁰ Human rights treaties generally contain monitoring provisions, and CEDAW imposes only periodic reporting requirements of measures taken to implement the Convention.¹⁸¹ Although Member States' reports may expose non-performance or breach, according to Hilary Charlesworth and Christine Chinkin, "there is no tradition of censure by the treaty bodies but rather one of 'constructive dialogue,' which is unlikely to lead to change in the face of intransigence."¹⁸² Additionally, States often submit late or erroneous reports.¹⁸³

In response to these concerns, the General Assembly adopted the Optional Protocol to CEDAW on Oct. 6, 1999.¹⁸⁴ The Optional Protocol was intended not only "to improve on and add to existing enforcement mechanisms for women's human rights" but also "to improve States' and individuals' understanding of CEDAW."¹⁸⁵ To these ends, the Optional Protocol introduces two new features: an individual complaints procedure and an inquiry procedure.¹⁸⁶ Under Article 6, individuals or groups may make complaints against States that are parties to the Optional Pro-

179. See Comm. on the Elimination of All Forms of Discrimination Against Women, *Ways and Means of Expediting the Work of the Committee on the Elimination of Discrimination against Women*, U.N. Doc. CEDAW/C/2007/I/4/Add.1 (Oct. 25, 2006), available at <http://www.un.org/womenwatch/daw/cedaw/37sess.htm#documents> (last visited June 21, 2009).

180. See Upendra Baxi, *What May the 'Third World' Expect from International Law?*, in *INTERNATIONAL LAW AND THE THIRD WORLD: RESHAPING JUSTICE*, *supra* note 128, at 9, 17; Amanda Ulrich, *Can the World's Poorest Women Be Saved?: A Critical Third World Feminist Analysis of the CEDAW and Alternative Approaches to Women's Economic Empowerment*, 45 *ALTA L. REV.* 477, 492-93 (2007) (arguing that CEDAW's "failure to take into account the status and societal context of rural woman" makes it unlikely to help rural women reach their full economic potential without attention to local practices concerning power structures, co-ops, and other self-help groups).

181. HILARY CHARLESWORTH & CHRISTINE CHINKIN, *THE BOUNDARIES OF INTERNATIONAL LAW: A FEMINIST ANALYSIS* 122 (Dominick McGoldrick ed., 2000).

182. *Id.*

183. Laboni Amena Hoq, *The Women's Convention and its Optional Protocol: Empowering Women To Claim Their Internationally Protected Rights*, 32 *COLUM. HUM. RIGHTS. L. REV.* 677, 687 (2001).

184. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, G.A. Res. 54/4, U.N. Doc. A/54/49 (2000) *entered into force* Dec. 22, 2000 [hereinafter OP-CEDAW].

185. U.N. Div. for the Advancement of Women, *Why an Optional Protocol?*, <http://www.un.org/womenwatch/daw/cedaw/protocol/why.htm> [hereinafter *Why an Optional Protocol?*].

186. INTER-PARLIAMENTARY UNION & U.N. DIV. FOR THE ADVANCEMENT OF WOMEN, *THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN AND ITS OPTIONAL PROTOCOL* 73 (2003).

to col, but only after exhausting domestic remedies.¹⁸⁷ These procedures allow the Committee to recommend changes that affect the structural causes of violations and to “address a broad range of issues in a particular country.”¹⁸⁸ States that are parties to the Optional Protocol must publicize its procedures, thus increasing public awareness of CEDAW, the Optional Protocol, and these procedures.¹⁸⁹ Nevertheless, the Optional Protocol is not meant to be a legally enforceable tool, but rather a way to encourage Member States to take steps toward full implementation of CEDAW by changing discriminatory laws and practices.¹⁹⁰ To date, no complaint adjudicated under the Optional Protocol relates to Article 14 or to a rural context.¹⁹¹

B. *State Responses to CEDAW’s Article 14: The Tales of Four Countries*

To get a sense of how Member States have responded to Article 14, this Section considers the most recent reports filed by four countries pursuant to their Article 18 obligation. China, India, Ghana, and South Africa were selected because of the geographic variety they represent, and also because each features a relatively sharp divide between rural and urban. That is, each country has at least one major city, as well as dramatically less developed rural areas.

The country reports submitted by China (covering 1998–2004),¹⁹² Ghana (covering 1991–2004),¹⁹³ India (covering 1999–2005),¹⁹⁴ and South Africa (initial report, filed in 1998)¹⁹⁵ reveal common themes with regard to the problems rural women face. They also reveal commonalities among Member States’ responses to these challenges,

187. OP-CEDAW, *supra* note 184, art. 6. The complaints may not be made anonymously. *Id.* Complaints may not be based on events that pre-date a State’s adoption of the Optional Protocol. *Id.* art. 4(2)(e). The Committee has, to date, issued decisions on 10 complaints. U.N. Div. for the Advancement of Women, CEDAW: Decisions/Views, <http://www.un.org/womenwatch/daw/cedaw/protocol/dec-views.htm> (last visited June 21, 2009) [hereinafter CEDAW: Decisions/Views].

188. Why an Optional Protocol?, *supra* note 185.

189. OP-CEDAW, *supra* note 184, art. 13.

190. Why an Optional Protocol? *supra* note 185.

191. See CEDAW: Decisions/Views, *supra* note 187.

192. Comm. for the Elimination of all Forms of Discrimination Against Women, *Combined Fifth and Sixth Periodic Reports of States Parties: China*, U.N. Doc. CEDAW/C/CHN/5–6 (June 10, 2004) [hereinafter *China*].

193. Comm. for the Elimination of all Forms of Discrimination Against Women, *Combined Third, Fourth and Fifth Periodic Reports of States Parties: Ghana*, U.N. Doc. CEDAW/C/GHA/3–5 (Apr. 18, 2005) [hereinafter *Ghana*].

194. Comm. for the Elimination of all Forms of Discrimination Against Women, *Combined Second and Third Periodic Reports of States Parties: India*, U.N. Doc. CEDAW/C/IND/2–3 (Oct. 19, 2005) [hereinafter *India*].

195. *South Africa*, *supra* note 162.

responses that have more often been programmatic than in the nature of law reform.

A 1991 UNITAR manual on reporting requirements under CEDAW suggests that States report the percentage of women in agriculture and other statistical information, such as the balance between the rural and urban population.¹⁹⁶ It also suggests that reports include information about the pay rates for men and women in rural areas.¹⁹⁷ While none of the four countries considered provides pay rate information,¹⁹⁸ all provide some population demographics data. China reports that almost sixty-four percent of the population lives in rural areas,¹⁹⁹ but the majority of its report focuses on major urban centers. In fact, only one of the tables in China's report addresses the nation's rural population.²⁰⁰ India reports that seventy percent of the nation's female population is rural.²⁰¹ Ghana does not specify its rural female population but indicates that sixty-six percent of the county's population is rural.²⁰² South Africa states that women dominate its rural population but provides no further detail.²⁰³

1. Access to Land

Each of the four Member States' reports discusses the importance of land access to rural women's circumstances and opportunity,²⁰⁴ including their right to inherit.²⁰⁵ Statistics from India and Ghana illustrate the dramatic inequality between men and women. Although nearly ninety percent of the entire Indian female workforce is concentrated in the agricultural sector, most women are not land owners.²⁰⁶ Ghanaian women's rights to land are very limited, even though women are responsible for seventy percent of the food produced and ninety percent of the food chain (that is, production, processing, and distribution).²⁰⁷

196. Illic, *supra* note 154, at 355, 363–64.

197. *Id.*

198. See China, *supra* note 192; Ghana, *supra* note 193; India, *supra* note 194; South Africa, *supra* note 162 (providing no pay rate information).

199. China, *supra* note 192, at 3.

200. *Id.* at 83.

201. India, *supra* note 194, at 85.

202. Ghana, *supra* note 193, at 62.

203. South Africa, *supra* note 162, at 94.

204. China, *supra* note 192, at 53; Ghana, *supra* note 193, at 59; India, *supra* note 194, at 12; South Africa, *supra* note 162, at 95–96.

205. E.g., India, *supra* note 194, ¶ 279 (noting further that a “proposed amendment to the Hindu Succession Act would provide that daughters get equal rights in ancestral property”).

206. India, *supra* note 194, ¶ 319.

207. Ghana, *supra* note 193, ¶ 145.

Some reports suggest that they are, however, making progress toward greater access to land for women.²⁰⁸ In China, the Rural Land Contracting Law of 2002 (RLCL) reportedly requires gender equality in land contracting.²⁰⁹ During a new round of land contracting in 1999–2000, China’s State Council requested “county governments to supervise land contracting transactions and immediately remedy any violations of women’s rights and interests in land contracting.”²¹⁰ The National People’s Congress consequently promulgated RLCL, which addresses issues of land contracting by married, divorced, or widowed women.²¹¹ Contract issuers who violate the RLCL face civil liability.²¹²

India’s law reform efforts to ensure greater female access to land appear more extensive than China’s. The Indian government issues title deeds for new land grants jointly in the name of the wife and husband.²¹³ A pilot program attempts to improve women’s access to land by providing leases on community wasteland, fallow land, or surplus land to women’s self-help groups (SHGs).²¹⁴ India also encourages its states to implement measures that promote effective land rights for women²¹⁵ and recognizes the need to create institutional capability in the rural housing sector.²¹⁶

The reports of the African nations are less positive, citing patriarchy and polygamy among other obstacles to women’s access to land.²¹⁷

208. SOURCEBOOK, *supra* note 3, at 126–27 (observing that formal legislation giving women rights in land is rarely sufficient because of difficulty in enforcing the laws, especially outside major urban areas); *see also* Marjolein Benschop & M. Siraj Sait, *Progress Report on Removing Discrimination Against Women in Respect of Property and Inheritance Rights*, § 4.3 (UN-HABITAT, Tools on Improving Women’s Secure Tenure Series No. 2, 2006) [hereinafter UN-HABITAT] (“[S]tatutory or Constitutional interventions are ineffective in circumstances where local laws and customs do not recognise gender equal inheritance rights to land, property and housing for women.”).

209. *China, supra* note 192, at 53.

210. *Id.* at 52–53.

211. *Id.* at 53.

212. *Id.* Further, the law protects “a woman’s responsibility [for] fields even after she gets married or divorced,” in other words, a woman’s responsibility for fields for growing grain rations and land for housing construction. *Id.*

213. *India, supra* note 194, ¶ 28. A joint title deed grants some protection to the wife’s land rights, even if the marriage ends. *Id.* ¶ 280. Further, house rentals allotted under the low-income housing program, Indira Awas Yojana (IAY), are issued in the name of the female member of the household, or in the joint names of the spouses. *Id.* ¶¶ 82, 299. Joint title deeds to spouses are also issued when India periodically redistributes surplus land. *Id.* ¶ 102.

214. *Id.* ¶ 281.

215. *Id.* Such schemes are reported to be quite successful. For example, the Scheduled Caste Development Corporation (SCDC), in the state of Andhra Pradesh, provides subsidized credit to women’s self-help groups (SHGs) to purchase or lease private land on the marketplace. *Id.*

216. *Id.* ¶ 319.

217. Studies indicate that women held land in only 10% of Ghanaian households while men there held land in 16–23% of households; women are 5% of registered landholders in

Ghana acknowledges that the traditional patrilineage system²¹⁸ and widespread polygamy²¹⁹ seriously impede women's ability to acquire and retain land.²²⁰ Its report also notes barriers to *de facto* gender equality in land access.²²¹ Under customary laws, the male head of the family administers all property belonging to the family. The Intestate Succession Law (ISL) of 1985 radically changed how property is distributed if the head of the family dies without a will.²²² Prior to the ISL, the extended family inherited a greater portion of the deceased's estate than did the wife and children, who were "left with very little, or nothing at all."²²³ The ISL "provides a uniform system of property distribution,"²²⁴ but its implementation is rife with problems. Among these problems is polygamy, which results in fragmented land parcels.²²⁵ Another issue is the valuation of the wife's contributions to acquisitions of property. Currently, "proof of substantial contributions for claiming part or full ownership of the property" is required.²²⁶ Ghana has suggested that the law should be changed to reflect the value of women's domestic contributions.²²⁷

South Africa's report notes that customary laws prevent women from owning land. The report indicates, however, that the government is working to raise women's awareness of their rights under the new Land Reform Programme.²²⁸ The Programme has three components: (1) redistribution of land to the poor (that is, to labor tenants, farm workers, etc.); (2) land restitution, "which covers cases of forced removals that took place after 1913," at which time only men were allowed to own land; and (3) land tenure reform, which includes community tenure.²²⁹ Because land is traditionally held only in the name of the male member of a

Kenya. Further, the size of men's land holdings were, on average, almost three times those of women. SOURCEBOOK, *supra* note 3, at 15 (citing Carmen D. Deere & Cheryl Doss, *Gender and the Distribution of Wealth in Developing Countries* (World Institute for Development Economics Research of the United Nations University, Research Paper No. 2006/115, 2006)).

218. *Ghana, supra* note 193, ¶¶ 191, 193.

219. *Id.* ¶¶ 7, 204. The practice of multiple marriages by one husband (women are not allowed to have multiple husbands) seems to lessen as the social foundations for the existence of polygamy gradually erode. In rural areas, however, subsistence farming may require as many children working as farmhands as possible. *Id.* ¶ 204(j).

220. *Id.* ¶¶ 176, 191, 204–05. Land access in northern Ghana is especially low, with women comprising only 2% of landholders. *Id.* ¶ 176(b). Women who organize cooperatives are better able to access land. *Id.* ¶ 176(c).

221. *Id.* ¶ 205; *see also* Cotula et al., *supra* note 64, at 37 (noting that customary and statutory land tenure systems often co-exist in Ghana).

222. *Ghana, supra* note 193, ¶ 205(a).

223. *Id.*

224. *Id.*

225. *Id.* ¶ 205(b).

226. *Id.* ¶ 205(e).

227. *Id.* ¶ 205(f).

228. *South Africa, supra* note 162, at 95.

229. *Id.*

household, and because the new legislation tends to favor the named tenant, the South African government is studying ways to reform the law to provide equal access to women in tenancy.²³⁰

Further, the government established the Women's Land Rights Sub-directorate (WLR) of the Ministry of Land Affairs. The WLR devised a Land Reform Gender Policy: a plan of legislative and administrative measures to give women equal rights to economic resources.²³¹ In many traditionally male-dominated rural South African communities, however, the current gender-neutral legislation has been inadequate in providing women land access (that is, both land ownership and leasing).²³² This situation points out the significance of attending to CEDAW's overarching goal of achieving substantive equality, which includes challenging traditional gender roles and stereotypes where they undermine that goal.

2. Earmarked Funds to Assist Rural Women

India, China, and, to some extent, Ghana have earmarked funds to assist individual women, or women's self-help groups (SHGs) and collectives.²³³ In India, the Women Component Plan guarantees that women receive at least thirty percent of all developmental disbursement funds.²³⁴ Moreover, the Indian rural antipoverty program earmarked about forty percent of its funds for women's SHGs.²³⁵ India's Common Minimum Programme proposed further expansion of earmarked funds, setting aside as much as one-third of the total available funds for women's development projects.²³⁶ Such designated funds are used to establish education centers and boarding schools,²³⁷ student dormitories or hostels,²³⁸ health-care centers,²³⁹ female-only wash-houses and

230. *Id.*

231. *Id.*

232. *South Africa, supra* note 162, at 96.

233. *China, supra* note 192, at 44, 50; *Ghana, supra* note 193, ¶¶ 31(f), 175, 192; *India, supra* note 194, ¶¶ 82, 313.

234. *India, supra* note 194, ¶ 313. The Women Component Plan is aimed at ensuring that the "benefits from other developmental sectors do not by-pass women." *Id.* This strategy is "multi-sectoral" and "enables holistic development and advancement of women." *Id.* "Substantial amounts of money are flowing to women through both women-specific and women-related schemes, which are implemented by fifteen Central Ministries/Departments." *Id.*

235. *Id.* ¶ 82.

236. *Id.* ¶ 53 (committing the government to introduce legislation for not less than one-third of seats to be reserved for women in the Parliament and the State legislatures; "commit[ting] to introduce legislation on domestic violence and gender discrimination," to amend existing laws that are deemed discriminatory, and to enact legislation that would give women equal rights in housing and land ownership; and encouraging rural women's participation in "development schemes related to drinking water, education, health etc.>").

237. *Id.* ¶ 98.

238. *Id.* ¶¶ 191, 200.

239. *Id.* ¶ 152.

latrines,²⁴⁰ literacy centers,²⁴¹ and other poverty alleviation programs²⁴² aimed at assisting rural women.

In Ghana, the Ministry of Women and Children's Affairs (MOWAC) established the Women's Development Fund (WDF), which distributes microloans to women's SHGs and coordinates skills training and other programs.²⁴³ The WDF "is exclusively targeted at women in small-scale enterprises in selected economic activities."²⁴⁴ By 2005, the WDF had distributed loans to over 200,000 women.²⁴⁵ WDF loan applicants do not have to show collateral if they have formed SHGs.²⁴⁶

The Chinese government similarly formulated a development strategy with a particular focus on women and children living in its poor, western rural regions.²⁴⁷ The program consists of government-sponsored projects for anti-desertification and reforestation of land, micro-credit schemes, literacy and technology training, and infrastructure enhancement.²⁴⁸

3. Self-Help Groups, Cooperatives, or Women's Federations

All four countries have used SHGs, cooperatives, and women's federations to improve the living conditions of rural women. The Indian government uses SHGs,²⁴⁹ or women's collectives,²⁵⁰ as a primary strategy for enhancing rural women's livelihoods. About 84% of the Indian SHGs are women-only groups,²⁵¹ and India reports that SHGs have enabled nearly two million poor, rural families to gain access to the "formal banking system."²⁵² These collectives are organized at the village level and provide opportunities for women to discuss specific problems, explore solutions, and vie for local political office.²⁵³

240. *India, supra* note 194, ¶ 82.

241. *Id.* ¶ 98.

242. *See, e.g., id.* ¶ 28 (describing action taken under the GOI-UNDP Food Security Programme); *id.* ¶ 107 (detailing the Indira Awaas Yojana (IAY), which provides dwelling units to poor rural people, 60% of which is earmarked for scheduled castes (SCs)).

243. *Ghana, supra* note 193, ¶¶ 31(f), 175.

244. *Id.* ¶ 175.

245. *Id.* ¶ 31(f).

246. *Id.* ¶ 175.

247. *China, supra* note 192, at 55.

248. *Id.* at 55–56.

249. *India, supra* note 194, *passim*. The rural poverty alleviation program, Swarnajayanti Gram Swarozgar Yojana (SGSY), emphasizes the importance of SHGs to facilitating access by the rural poor to the financial system, infrastructure support, and technology and marketing contacts. *Id.* ¶ 294. About half of the SHGs under this program operate exclusively for women. *Id.*

250. *Id.* ¶¶ 65, 200.

251. *Id.* ¶ 292.

252. *Id.*

253. *Id.* ¶¶ 65, 200.

In China, women's federations are similarly major actors in the implementation of governmental policy.²⁵⁴ Women's federations "coordinate with pertinent sectors to provide on-the-job training"²⁵⁵ and they participate in disbursing micro-loans to rural women.²⁵⁶ The governments of Ghana and South Africa encourage the establishment of rural women's SHGs.²⁵⁷ Such cooperatives receive funds directly,²⁵⁸ are platforms for women's education²⁵⁹ or the establishment of day care programs,²⁶⁰ and operate as political fora.²⁶¹

4. Micro-Credit Programs

Each of the four Member States considered has established micro-credit programs and organizations to assist rural women in their efforts to open small businesses.²⁶² These often function in connection with SHGs or cooperatives.²⁶³ India's Rural Women's Development and Empowerment Project, for example, allocates income-generating funds to many SHGs.²⁶⁴ The National Bank for Agricultural and Rural Development similarly focuses on micro-financing SHGs.²⁶⁵ In spite of these institutions' efforts, fewer than fifteen percent of the loans they disbursed

254. *China*, *supra* note 192, at 49–50, 56–57.

255. *Id.* at 49.

256. *Id.* at 49, 55–56.

257. *Ghana*, *supra* note 193, ¶¶ 175, 192; *South Africa*, *supra* note 162, at 96.

258. *Ghana*, *supra* note 193, ¶¶ 175, 192; *India*, *supra* note 194, ¶ 78. Formal collateral arrangements are waived in Ghana by lending institutions, provided that loan applicants formed formal or informal groups. *Ghana*, *supra* note 193, ¶¶ 175, 192. Women's cooperatives often provide a vehicle for relatively easy land access. *Id.* ¶ 176(b).

259. *India*, *supra* note 194, ¶ 65.

260. *Id.* ¶¶ 200, 303.

261. *Id.* ¶¶ 65, 200.

262. *See China*, *supra* note 192, at 49–50, 55–56; *Ghana*, *supra* note 193, ¶¶ 175, 183, 192; *India*, *supra* note 194, ¶ 82; *South Africa* *supra* note 162, at 68, 96.

263. *See supra* notes 249–262 and accompanying text.

264. *India*, *supra* note 194, ¶¶ 200, 310; *see also id.* ¶ 82 (noting how SGSY, the rural poverty reduction program, distributed micro-credit loans to over 220,000 SHGs); *id.* ¶ 103 (explaining that government sponsored SHGs of asset-less scheduled caste (SC) women are able to access micro-credit financing for income-generating activities); *id.* ¶ 107 (reporting that the National Scheduled Castes Finance and Development Corporation introduced a micro-credit scheme that has served almost 60,000 SC women from very poor families); *id.* ¶ 281 (detailing a similar Scheduled Caste Development Corporation that operates in Andhra Pradesh, providing subsidized credit to SC women's groups to purchase or lease land for community cultivation); *id.* ¶ 286 (describing a state program in Kerala, which created an informal bank that provides rural women with savings and credit operations, thus encouraging them to take up micro-enterprises); *id.* ¶ 285 (noting further that some programs allow for a higher loan-to-value percentage for projects lending to women entrepreneurs).

265. *Id.* ¶ 225 (describing micro-finance institutions that operate as credit cooperatives or credit unions, as well as several other NGOs that set up micro-finance schemes for the rural poor).

went to “women as ‘small borrowers.’”²⁶⁶ The government of Ghana has also established specialized schemes, such as the Women’s Development Fund, to provide micro-loans through rural banks to women’s enterprises.²⁶⁷ In South Africa, the Department of Welfare provides resources to facilitate the establishment of day-care centers in rural areas.²⁶⁸ Another proposed South African program would grant “women the right to use property registered in the name of their spouses” as collateral for loans.²⁶⁹ China similarly provides micro-credit to rural women-owned enterprises.²⁷⁰ These loans are either underwritten by local women’s federations²⁷¹ or via rural credit cooperatives.²⁷² Such small loans have between a ninety-five and ninety-nine percent loan return rate, making them a sound investment.²⁷³

In addition, China, India, and Ghana have established programs to organize rural women in creating new “green” industries. These programs address reforestation and land reclamation,²⁷⁴ in addition to solar,²⁷⁵ electric,²⁷⁶ natural gas,²⁷⁷ and other energy improvement projects.²⁷⁸ China reports that about 120 million women participated in its reforestation programs between 2001 and 2004.²⁷⁹

5. Specialized Schools for Rural Girls, Adolescents, and Women

Recognizing that addressing the gender gap in education is a primary vehicle for empowering socially and economically marginalized women, China and India have implemented a number of programs to

266. *Id.*

267. *Ghana*, *supra* note 193, ¶¶ 31(f), 175, 192. Several schemes are available to rural women farmers, including, for example, the Agricultural Development Bank’s credit lines, the District Assembly Common Fund, and the Land Conservation and Small Holder Rehabilitation Project. *Id.* ¶¶ 192(a)–(b). The NPRP Social Investment Fund targets rural communities, providing micro-credit to rural women. *Id.* ¶ 192(i). Other programs are aimed at improving women’s technological knowledge, such as the Technological Capitalization for Training for Rural Women and the Women in Agricultural Development Division. *Id.* at ¶ 192(c).

268. *South Africa*, *supra* note 162, at 68.

269. *Id.* at 96.

270. *China*, *supra* note 192, at 49.

271. *Id.*

272. *Id.* at 49–50.

273. *Id.* Ghana also estimates a high return rate (98%) on micro-loans to women. *Ghana*, *supra* note 193, ¶ 31(f).

274. *China*, *supra* note 192, at 55.

275. *Id.* (reporting over 380,000 solar energy stoves installed by the end of 2001).

276. *Ghana*, *supra* note 193, ¶ 192(f).

277. *China*, *supra* note 192, at 55 (reporting the installation of more than 9.5 million methane tanks for household use).

278. *India*, *supra* note 194, ¶ 378.

279. *China*, *supra* note 192, at 55 (“These efforts have not only improved the environment, but also reduced the burden of household work on women.”).

close this gap.²⁸⁰ Female illiteracy is higher than male illiteracy in each of the four countries,²⁸¹ and the traditional priority given to educating male children persists.²⁸² In addition, rural women's health education is generally deficient, especially with regard to contraception and reproductive health.²⁸³ Further education with respect to hygiene and sanitation is also necessary.²⁸⁴

India has established a national education program aimed specifically at rural girls' primary education.²⁸⁵ This initiative succeeded in bringing about ninety percent of rural children within one kilometer of a primary school.²⁸⁶ China's compulsory primary education program provides girls greater flexibility, allowing them to attend schools part-time,²⁸⁷ and together with a younger sibling.²⁸⁸ The Chinese program combines girls' literacy programs with farming and vocational education.²⁸⁹ To close the persistent gender gap in science and math, Ghana established clinics focusing on those subjects for girls in rural areas,²⁹⁰ along with a variety of other programs to enhance girls' education.²⁹¹ South Africa enacted a compulsory education law,²⁹² but its report

280. *Id.* at 32, 53; *India, supra* note 194, ¶¶ 65, 110.

281. *China, supra* note 192, at 34; *Ghana, supra* note 193, ¶¶ 128–29, 131, 190(c), 190(i); *India, supra* note 194, ¶¶ 212–14; *South Africa, supra* note 162, at 61.

282. *China, supra* note 192, at 17, 33, 48, 58; *Ghana, supra* note 193, ¶ 122; *India, supra* note 194, ¶ 380; *South Africa, supra* note 162, at 63–64.

283. *See China, supra* note 192, at 45; *Ghana, supra* note 193, ¶¶ 152, 169.

284. *See Ghana, supra* note 193, ¶ 130; *India, supra* note 194, ¶¶ 82, 311.

285. *India, supra* note 194, ¶¶ 193 (describing the National Programme for Education of Girls at the Elementary Level, which was designed to be implemented in rural areas with low female literacy rates); *see also id.* ¶ 195 (reporting that the National Programme of Nutritional Support to Primary Education has proven effective in improving attendance and reducing attrition among female pupils).

286. *Id.* ¶ 196. Special boarding schools aim to improve the educational opportunities of girls in remote areas. *Id.* ¶ 207.

287. *China, supra* note 192, at 33.

288. *Id.*

289. *Id.* at 33–34 (noting further that in remote areas, boarding arrangements are made to facilitate girls' attendance). Further, several NGOs have lent support to the compulsory education effort. For example, The Hope Project, launched by the China Youth Development Foundation, raised sufficient funds to build over 8,000 "Hope Primary Schools," thus helping 2.3 million drop-out children return to school. Similarly, the All China Women's Federation and the China Children and Teenagers' Fund jointly organized and launched the "Spring Bud Plan" to support schooling of girls from poor families. So far, the Plan has helped 1.3 million girls return to school. *Id.*

290. *Ghana, supra* note 193, ¶ 44.

291. *See, e.g., id.* ¶ 122 (describing the Girls' Education Unit (GEU), and reporting that GETFund funds a GEU Scholarship for free school uniforms and supplies for poor pupils, especially girls); *id.* ¶ 188 (noting that Ghana's Education Strategic Plan increased per capita funding assistance for girl students' tuition, alleviating part of their families' financial burdens).

292. *South Africa, supra* note 162, at 63 ("The South African Schools Act of 1996 (SASA) makes schooling compulsory for all children from the beginning of the year in which

acknowledges that “religious, cultural, and social practices” still prevent girls’ school attendance.²⁹³

Correspondence schools or broadcast programs, which are free to women,²⁹⁴ provide a significant portion of rural adult education in China.²⁹⁵ Other programs provide both literacy education and skills training.²⁹⁶ India established women-only schools for adults, as well as day-care centers, in rural areas.²⁹⁷ Other specialized programs also provide skill and literacy education to rural women in India.²⁹⁸

In South Africa and Ghana, on the other hand, rural adult basic education and training programs are scarce,²⁹⁹ and female drop-out rates are high.³⁰⁰ Even where such programs exist, they teach primarily traditional women’s vocations.³⁰¹ Socio-cultural inhibitions persist as barriers to the training of women in trades that are traditionally the preserve of men.³⁰²

they turn seven, until they reach the age of fifteen, or reach the ninth grade.”). *But see* Daria Roithmayr, *Access, Adequacy and Equality: The Constitutionality of School Fee Financing in Public Education*, 19 S. AFR. J. HUM. RTS. 382 (2003) (arguing that SASA may be unconstitutional).

293. *South Africa, supra* note 162, at 63 (reporting further that “[i]n some areas, when girls reach the age of 13 or above, they are sent to initiation schools from which they graduate as women, ready to be married” and that “some principals make arrangements with families that after initiation school girls . . . are accepted back into school,” but this is “dependent upon co-operation by the family”).

294. *China, supra* note 192, at 53.

295. *Id.* at 35, 53.

296. *Id.* at 54. Many of these are collaborative efforts between the Chinese government and NGOs. For example, a recent campaign with the All China Women’s Federation integrated literacy and practical skills training for rural women. It attracted over 120 million participants. *Id.* at 34, 53. In a new follow-up program, experts are sent to remote areas to promote modern agricultural technologies. *Id.*

297. *India, supra* note 194, ¶ 200 (detailing the Mahila Samakhya scheme “started in 1989 for the education and empowerment of women in rural areas,” which has served almost 1.8 million women in nine states).

298. *Id.* ¶ 98. The Indian Ministry of Rural Development established a program to organize training workshops and seminars to educate rural women, to encourage them regarding participation in the political process, and to transform their gendered roles. *Id.* ¶ 174. Additionally, “Community Polytechnics have been started with the aim of bringing community/rural development through science and technology applications and skill-oriented non-formal training with focus on women,” especially minority or lower caste women living in remote, rural areas. *Id.* ¶ 204. The Mahila Mandal Programme and the Welfare Extension Project both provide adult literacy and social education services to rural women and children. *Id.* ¶ 305.

299. *See Ghana, supra* note 193, ¶ 128 (“In the Northern [rural] regions, nearly 70% of women have never gone to school.”); *South Africa, supra* note 162, at 64, 99.

300. *Ghana, supra* note 193, ¶¶ 132–33.

301. *Id.* ¶¶ 134(b), 136; *South Africa, supra* note 162, at 64, 79 (“[P]revious research suggests that women farm workers are largely confined to courses such as home economics.”).

302. *Ghana, supra* note 193, ¶ 132; *South Africa, supra* note 195, at 63–64.

6. Health Care Delivery

All four countries acknowledge that urban women are in better health than rural women.³⁰³ Each has developed different solutions to this problem, responding to geographic features such as the size of the territory and the nature of the terrain covered. South Africa grants free health care to all residents³⁰⁴ and offers mobile clinics that provide rural women with access to general and reproductive health services.³⁰⁵ India established a subsidized Universal Health Insurance Scheme³⁰⁶ and rural health centers under the National Rural Health Mission.³⁰⁷ Sixty percent of Ghanaian women have health care facilities within eight kilometers of their residence.³⁰⁸ China earmarks funds for the provision of maternal and infant health centers in rural areas.³⁰⁹ As a result, between 1995 and 2000, China established more than 3,000 new maternal and infant health centers in rural areas.³¹⁰ Nevertheless, in many rural parts of China, especially those with high poverty rates, the lack of health care facilities and personnel persists.³¹¹

7. Countering Oppressive Traditions

Each of the four countries surveyed has unique cultural traditions that result in the oppression of women. While India struggles to rehabilitate the “scheduled castes” (SC),³¹² China faces the problem of sex-selective abortions and the abandonment or infanticide of female

303. *China*, *supra* note 192, at 43–45, 57; *Ghana*, *supra* note 193, ¶¶ 190(c), (h); *India*, *supra* note 194, ¶ 273; *id.* ¶ 154 (stating that maternal mortality is about four times as high in Ghana’s three rural northern regions than in the rest of the country); *South Africa*, *supra* note 162, at 84, 86, 99.

304. *South Africa*, *supra* note 162, at 87.

305. *Id.* at 87, 99.

306. *India*, *supra* note 194, ¶ 258 (stating that about 48% of the recipients of the subsidies were rural families).

307. *Id.* ¶¶ 245, 248. The National Rural Health Mission identified “18 states [that] have weak public health indicators and/or weak infrastructure.” *Id.* The program aims to correct the very structure of the public health system by creating District Plans for Health, which integrate health management policies with other health concerns like sanitation, hygiene, nutrition, and safe drinking water. *Id.* It also seeks to improve rural people’s access to affordable healthcare, with a focus on women and children. *Id.* ¶ 248.

308. *Ghana*, *supra* note 193, ¶¶ 152(a), 158 (describing a draft Gender and Health Policy designed to improve, *inter alia*, the health delivery system in Ghana, including in less developed rural regions).

309. *China*, *supra* note 192, at 43–44.

310. *Id.* at 44.

311. *Id.* at 48. Another especially persistent health-related problem is rural women’s suicide in China. *Id.* at 57 (“[T]he health authorities are looking into ways to coordinate various departments in strengthening public health and mental health education, [and] expanding service networks in rural areas . . .”).

312. *India*, *supra* note 194, ¶¶ 92, 100.

babies.³¹³ Ghana has long sought to eradicate customary laws allowing polygamy,³¹⁴ while South Africa struggles to counter the consequences of nearly a half-century of apartheid.³¹⁵ These problematic practices tend to be more prevalent, and their consequences more aggravated, in remote, rural areas.³¹⁶

In India, for example, most SC individuals live in the rural areas,³¹⁷ where they traditionally engage in waste collection and scavenging.³¹⁸ The government's poverty alleviation programs specifically allocate funds to rural SC women.³¹⁹ The Indian government also established literacy education districts in low-literacy pockets,³²⁰ mostly populated by SCs,³²¹ and it relaxed population threshold requirements to allow more local schools to open.³²² Boarding schools and hostels for SC girls allow them to attain higher levels of education.³²³ To facilitate SC women's land acquisition efforts, the government allotted 36% of 6.5 million acres of surplus land to SC members in husband-and-wife joint titles.³²⁴ SC women who live below the poverty line also have access to low-income

313. *China*, *supra* note 192, at 46–47.

314. *Ghana*, *supra* note 193, ¶ 6.

315. *South Africa*, *supra* note 162, at 4, 8.

316. *Id.* at 94 (describing South Africa's apartheid policies, which exacerbated rural poverty and in turn reinforced and insulated discriminatory cultural practices). Women and children outnumber men in rural population, yet they rarely have control over their livelihoods. *Id.* at 96. For other examples of how these practices are more prevalent and their consequences greater in rural locales, see *China*, *supra* note 192, at 48 (reporting that humane family planning practices are still hindered in rural areas because of lack of health care facilities and medical personnel); *Ghana*, *supra* note 193, ¶ 204(g),(j) (reporting that polygamy was widely practiced in rural areas, where farming practices necessitated having more children to work as farmhands); *India*, *supra* note 194, ¶ 92 (reporting that 81% of SC members live in rural areas and that most practice scavenging).

The persistence of traditions in rural areas in these countries is similar to such persistence in the United States, where it is generally attributed to the homogeneity of the population, the high density of acquaintanceship, and a lack of external forces to challenge norms. See generally Pruitt, *supra* note 29; *infra* notes 360–362.

317. *India*, *supra* note 194, ¶ 92.

318. *Id.* ¶ 100.

319. *Id.* (noting that the National Scheme of Liberation and Rehabilitation of Scavengers was modified to involve NGOs in the implementation of scavenging eradication programs, and reporting on the National Safai Karamcharis Finance and Development Corporation, which promotes economic development and self-employment among the scavenging communities and implements various micro-finance schemes designed to assist scavenging women and their dependent daughters to take up self-employment enterprises).

320. *Id.* ¶ 98.

321. *Id.*

322. *Id.* (noting further that free textbooks, school uniforms, stationery, and other necessities are provided to SC children).

323. *Id.* (reserving one-third of hostels constructed under this policy exclusively for girls' use).

324. *Id.* ¶ 102.

housing.³²⁵ Despite all these efforts, poverty is persistently higher among the SC population than among others,³²⁶ and rural SC women live in much worse conditions than do other rural women³²⁷ or urban women.³²⁸

In Ghana, women do not enjoy equality with men in land ownership and rental, even though the vast majority of the Ghanaian food production chain is in women's hands.³²⁹ Customary laws dictate that land rights vest in the husband, and the wife's rights terminate if the marriage fails.³³⁰ Even though Ghana outlawed patrilineage,³³¹ customary laws still hold sway in the rural areas of Northern Ghana, where women cannot inherit land or cattle.³³² The practice of polygamy further impoverishes women because the husband must provide for several families.³³³ After his death, land is divided into smaller parcels that cannot be farmed efficiently.³³⁴ The government of Ghana has undertaken efforts to eliminate polygamy³³⁵ and to educate women about their right to land ownership,³³⁶ but these efforts have met with limited success.³³⁷

325. *Id.* ¶ 107 (reporting that about 60% of the total allocated funds were earmarked for use by SC and Scheduled Tribes families); *see also* India Watch: Poverty Line, http://www.wakeupcall.org/administration_in_india/poverty_line.php (last visited May 18, 2009) (comparing the Indian government-declared poverty line to the World Bank's minimum earnings line and noting the former is about one-fifth of the latter; *id.* (reporting that about 300 million people live below the poverty threshold set by the Indian government).

326. *India, supra* note 194, ¶ 111.

327. *Id.*

328. *Id.* ¶ 273.

329. *Ghana, supra* note 193, ¶¶ 18, 145, 176, 191, 204.

330. *Id.* ¶ 176; *see also* CYNTHIA GRANT BOWMAN & AKUA KUENYEHIA, *WOMEN AND LAW IN SUB-SAHARAN AFRICA* (2003) (discussing extensively women's perspectives on law in Sub-Saharan Africa, particularly with respect to family law, access to land, inheritance laws, and reproduction).

331. *Id.* ¶ 205(a) (reporting that the Intestate Succession Law of 1985 (ISL) provides a uniform system of property distribution if the deceased dies without a will, regardless of surrounding customary marriage and family laws).

332. *Id.* ¶ 205(b)-(j); *see also* SOURCEBOOK, *supra* note 3, at 126-27 (noting the global phenomenon of incongruity between national legislation and local custom).

333. *Id.* ¶¶ 204(b)-(d).

334. *Id.* ¶ 204(c).

335. *Id.* ¶¶ 204(e), 204(g)-(h). An important effect of compulsory education as mandated by the Children's Act of 1997 is that it requires parents to send their children to school. This necessitates considerable expenditures per child, which in turn makes polygamy much less attractive. *Id.* ¶ 204(i).

336. *Ghana, supra* note 193, ¶¶ 205(a), 205(c), 210(d).

337. *Id.* ¶ 28; *see also id.* ¶ 205(h) (discussing a recent study, commissioned by the National Council of Women and Development "on women's rights in relation to marriage and the family, [which] revealed that women's unequal status in marriage and the family is frequently based on traditional, customary and religious attitudes that confine women to particular roles [and that] [t]hese attitudes are deeply entrenched and resistant to change").

C. Summary: CEDAW's Unrealized Potential for Rural Women

This summary of four States' responses to CEDAW's mandate regarding rural women suggests government attention and resources have sought to address several concerns. It also, however, indicates remarkably little progress related to two key provisions of Article 14. The first is agriculture-related education and technology. Despite their importance to rural women's livelihoods, subsection (2)(d)'s requirement of "all types of training and education [including] all community and extension services, in order to increase their technical proficiency," and subsection (2)(g)'s requirement of access to "appropriate technology" are not addressed in the four Member States' reports considered above. This absence suggests a lack of attention to two types of resources that have the potential not only to empower women, but also to enhance food security for entire communities, even regions.

The second omission regards women's integration into "the elaboration and implementation of development planning at all levels," as required by Article 14(2)(a).³³⁸ The four reports do not explicitly discuss women's involvement in development planning as such. Nevertheless, some countries' earmarks of funds for women—including in support of cooperatives, SHGs, and micro-finance institutions—might serve this purpose in a somewhat piecemeal way. By economically empowering rural women, these programs effectively permit the women to make policy at the lowest level, that is, in determining how they use the credit received and which investments they make. Further, to the extent that local SHGs and cooperatives have a say in development planning at local or regional levels, Member States' support of these organizations may effectively empower women to participate in the elaboration and implementation of planning at higher scales, too.³³⁹

In the four Member States considered, then, Article 14's potential seems to be least realized with respect to two critical issues. Both involve the rural-specific matter of agricultural or rural development. The first relates to women's access to the type of education and technology that would make them more productive farmers, and the second relates to their participation in decisionmaking about the course that development should take.

338. CEDAW, *supra* note 143, art. 14(2)(a).

339. Scale is a concept used by critical geographers to measure the companion concepts of space and place. See Ann R. Tickamyer, *Space Matters! Spatial Inequality in Future Sociology*, 29 CONTEMP. SOC. 805, 811 (2000). Scale is defined as "the level of geographical resolution at which a given phenomenon is thought of, acted on or studied." NEIL BRENNER, *NEW STATE SPACES: URBAN GOVERNANCE AND THE RESCALING OF STATEHOOD* 9 (2004), quoted in Hari Osofsky, *A Law and Geography Perspective on the New Haven School*, 32 YALE J. INT'L L. 421, 447 (2007).

Another persistent problem is the conflict between international norms and local customs, which function as *de facto* sources of law in some places. The next Part discusses CEDAW's potential to address such conflicts. In particular, that Part takes up Article 14's multi-scalar approach, which accommodates legal pluralism. It is an approach that recognizes the value in empowering women not only with national and international legal mandates, but also at the village level. In short, it endorses a dual strategy: bottom-up and top-down.³⁴⁰

IV. RURALITY, RIGHTS, CUSTOM, AND THE ROLE (OR ABSENCE) OF LAW

In *DEVELOPMENT AS FREEDOM*, Amartya Sen argues for a shift in the development paradigm. He calls for attention to expanding the freedoms and capabilities of individuals, rather than merely alleviating poverty or seeking to improve material standards of living.³⁴¹ Martha Nussbaum similarly advocates developing women's capabilities.³⁴² She also acknowledges the salience (albeit overlooked, she observes) of the rural-urban axis.³⁴³

One way in which to expand the freedoms and capabilities of rural women is to engage them in the planning and implementation of agricultural and other rural development, as CEDAW's Article 14 stipulates, "at all levels."³⁴⁴ This right, like many of those enumerated in Article 14, is not of the standard civil rights variety (for example, freedom of speech). Rather, along with Article 14's mandate to include rural women in social security programs and provide them adequate health care, it is more in the nature of socioeconomic rights.³⁴⁵ CEDAW's Article 14 thus seeks to

340. See Posting of Lisa R. Pruitt to Legal Ruralism Blog, Working from Bottom Up in Afghanistan's Rural Areas, <http://legallruralism.blogspot.com/2009/02/working-from-bottom-up-in-afghanistans.html> (Feb. 17, 2009, 19:58 PST) (discussing the importance of grassroots efforts to influencing rural populations).

341. AMARTYA SEN, *DEVELOPMENT AS FREEDOM* 3–11, 282–83, 298 (1999).

342. NUSSBAUM, *supra* note 6, at 70, 290.

343. *Id.* at 225; see also Gonzalez, *supra* note 34, at 492 (discussing the power held by small agricultural producers in comparison to the "monopoly power exercised by transnational business," as an example of power disparities across the rural-urban axis).

344. CEDAW, *supra* note 143, art. 14(2)(a). The GENDER IN AGRICULTURE SOURCEBOOK, a joint publication of the FAO, IFAD, and the World Bank, advocates women's inclusion in "designing, planning, and implementing" development programs, just as CEDAW mandates. The SOURCEBOOK specifically contemplates not only legislation that responds to women's lack of access to land, but also regulations that implement that legislation "in ways that address gender bias." SOURCEBOOK, *supra* note 3, at 130.

345. These rights include, for example, the right to food, clothing, and shelter. See generally Heinz Klug, *The Dignity Clause of the Montana Constitution: May Foreign Jurisprudence Lead the Way to an Expanded Interpretation?*, 64 MONT. L. REV. 133 (2003)

confer agency on rural women in ways that have material consequences on the ground, where they are, at the local or village scale. Other examples are the right to “participate in the elaboration and implementation of development planning,”³⁴⁶ the right to “obtain equal access to economic opportunities” by organizing in SHGs,³⁴⁷ and the right “to have access to agricultural credit and loans, marketing facilities, appropriate technology, and equal treatment in land and agrarian reform.”³⁴⁸

Despite the inclusion of these unique enumerated rights, CEDAW’s lack of an enforcement mechanism leads many to view the Convention as ineffective at achieving reform.³⁴⁹ Its ineffectual character may take on added dimensions in rural places. While an unstated premise of my discussion of CEDAW has been that such formal legal instruments matter, that premise is worth particular interrogation in relation to rural places. The absence of law is a recurring theme in scholarship about rurality in the United States,³⁵⁰ and such an absence may be similarly characteristic of rural places in the developing world. The GENDER IN AGRICULTURE SOURCEBOOK, for example, notes that “formal law and state institutions often have limited effectiveness beyond major urban areas” and that in many countries “the [S]tate and its institutions, including the judiciary, exert only a weak presence” in rural places.³⁵¹

This means that even where domestic laws confer land rights upon women, a State may lack, or be “unwilling to commit, [sic] resources to advocating, promoting, enforcing, and protecting” those rights.³⁵² Without enforcement, such laws become meaningless and local customs prevail.³⁵³ In other words, the power of the rule of law, especially as

(discussing socioeconomic rights as a component of dignity); Denise Meyerson, *Equality Guarantees and Distributive Inequity*, 19 PUB. L. REV. 32 (2008) (discussing socioeconomic rights in relation to equality guarantees); Brian Ray, *Policentrism, Political Mobilization, and the Promise of Socioeconomic Rights*, STAN. J. INT’L L. (forthcoming 2009) (discussing socioeconomic rights in the context of the South African Constitution).

346. *Id.*

347. *Id.* art. 14(2)(e).

348. *Id.* art. 14(2)(g).

349. *See supra* notes 181–183 and accompanying text. To date, CEDAW’s power to effect change has proven limited. *See id.* None of the complaints adjudicated under the Optional Protocol relates to Article 14 or to a rural context. *See CEDAW: Decisions/Views, supra* note 187. *But see, e.g.,* Cusack & Cook, *supra* note 144 (asserting generally the power and significance of CEDAW).

350. *See generally* ROBERT ELLICKSON, *ORDER WITHOUT LAW* (1991) (arguing that ranchers in Shasta County, California mediated disputes among themselves without reference to law); David M. Engel, *The Oven Bird’s Song: Insiders, Outsiders and Personal Injuries in an American Community*, 18 LAW & SOC’Y REV. 551, 556–58, 569, 572–73 (1984) (reporting that inter-personal familiarity among rural residents influenced their attitudes about litigation); Lisa R. Pruitt, *Rural Rhetoric*, 39 CONN. L. REV. 159, 202–07 (2006).

351. *See* SOURCEBOOK, *supra* note 3, at 127.

352. *Id.*

353. *Id.*

reflected in international and national law, may vary across the rural-urban axis. This presumably makes law a less formidable force in rural places, if not entirely irrelevant there.

But a relative absence of national and international law is not all that sets rural places apart from urban ones in terms of CEDAW's effective operation. Local sources of authority are more entrenched in rural areas, and these have gendered consequences. As noted in Part III.B.7, customary practices may present particular problems for rural women. The GENDER IN AGRICULTURE SOURCEBOOK observes that rural women "often do not possess the financial resources, knowledge and capacity to go against social norms and may not exercise their legal rights."³⁵⁴ The SOURCEBOOK further explains that "women's secondary status, lower socialization, undervalued productive work, and illiteracy" may deter them from asserting their legal rights.³⁵⁵ They may be reluctant to participate in "institutions and activities seen as men's domains."³⁵⁶ A similar phenomenon is evident in rural parts of the United States, where traditional gender roles tend to be more entrenched,³⁵⁷ and women may be more reluctant to invoke the authority of law.³⁵⁸

Relative social and cultural stasis in rural parts of the developing world is very likely another reason that the power of tradition and customary law persists there more than in cities.³⁵⁹ In the U.S. context, scholars have theorized the reasons for rural stasis, concluding that rural communities are slow to alter their traditions and heritage because of the "types of relationships rural people form as a result of population size and density."³⁶⁰ This density of acquaintance, particularly among

354. *Id.* at 130.

355. *Id.* at 216.

356. *Id.* at 128; *see also South Africa, supra* note 162, at 96 (noting that most groups holding land in common are led by men, and "[e]ven where women are assertive enough to participate in discussions, their views are often not reflected," despite the fact that the Communal Property Act of 1996 prohibits sex-based discrimination in communal property ownership and in use of land).

357. Pruitt, *supra* note 29, at 351, 355–56.

358. Lisa R. Pruitt, *Place Matters: Domestic Violence and Rural Difference*, 23 *Wis. J. L. GENDER & SOC'Y* 347 (2008).

359. An example of this may be seen in China. A recent *NEW YORK TIMES* article reported that Chinese parents living in cities expressed happiness about having a daughter but no son, while many rural parents continue to "cherish" boys. Andrew Jacobs, *Chinese Hunger for Sons Fuels Boys' Abductions*, *N.Y. TIMES*, Apr. 4, 2009, at A1. The rural preference for boys "is reinforced by a modern [economic] reality: without a real social safety net in China, many parents fear they will be left to fend for themselves in old age." *Id.* They prefer sons, who will be able to care for them as they age, whereas daughters live with their husbands' families and provide no support to their own parents. *Id.* The story suggests that the gender alignment of parental support practices is less rigid in urban areas, making male children less important there.

360. Pruitt, *supra* note 29, at 354.

relatively homogeneous populations, is conducive to greater consensus on norms and values. By contrast, population diversity in urban settings “fosters the generation and acceptance of new ideas.”³⁶¹ Urban norms are therefore more likely to evolve because of the innovation generated by “organizationally and occupationally diverse people.”³⁶² If factors similar to those in the rural United States have fostered cultural inertia in rural parts of the developing world, that inertia may be disrupted by changes associated with migration. I return to this point below.

Further, I have elsewhere theorized the intersection of gender and rurality, noting that both women and rural places are associated with the private sphere, where legal actors and institutions—and therefore law itself—are relatively absent.³⁶³ This intersection has the unfortunate consequence of providing two bases for excluding rural women from law’s purview: gender and geography. Catharine MacKinnon describes law’s situation or stance with respect to women’s lives as being “high up and a long way off.”³⁶⁴ This distance is aggravated—effectively multiplied—for women residing in rural places.

Because law is so distant or absent in rural parts of the developing world, women there may not know that national law—let alone an international convention—confers on them particular rights and entitlements. They may be unaware of authorities other than those that are strictly local. Indeed, rural women are not only less likely to be aware of rights that originate at higher scales (that is, national or international) they are also less likely to have access to mechanisms for enforcing them locally. They may be unable to get the attention of legal actors for purposes of initiating strategic litigation or other efforts at enforcement.³⁶⁵ Until rural women are educated about their rights and have access to legal actors and institutions by which they may enforce these rights, international law as reflected in CEDAW and complementary national laws may be irrelevant, or at least of limited influence.³⁶⁶

361. *Id.* at 354–55 (citing Fern K. Willits et al., *Persistence of Rural-Urban Difference*, in *RURAL SOCIETY IN THE U.S.: ISSUES FOR THE 1980S* 70, 73–74 (Don A. Dillman & Daryl J. Hobbs, eds., 1982)).

362. Pruitt, *supra* note 29, at 355 (quoting Fern K. Willits et al., *supra* note 361, at 73–74).

363. Pruitt, *supra* note 29, at 369–71.

364. CATHARINE A. MACKINNON, *WOMEN’S LIVES, MEN’S LAWS* 34 (2004).

365. This could change rapidly with the availability of technology such as cell phones and the internet. See Chris Nicholson, *Bringing the Internet to Remote African Villages*, N.Y. TIMES, Feb. 1, 2009, at B4 (discussing a Google-sponsored initiative to provide satellite-based internet access to remote African villages).

366. The GENDER IN AGRICULTURE SOURCEBOOK implicitly recognizes the lack of legal consciousness in rural areas by advocating programs that provide legal education and assistance and gender training. SOURCEBOOK, *supra* note 3, at 130.

Nevertheless, the CEDAW framework holds promise in terms of its aspirations and potential for rural women, in part because it accommodates decisionmaking and sources of authority at various scales. As an international treaty, CEDAW itself is law made at the highest scale—the global—and it further compels Member States to make national laws compliant with its mandate.³⁶⁷ But CEDAW's Article 14 also envisages rural women's engagement with quasi-legal actors at lower scales, in their local settings.³⁶⁸ In particular, the Article confers upon women rights such as involvement in development planning, access to credit, marketing facilities, and technology, and equal treatment in land reform.

Such multi-scalar activity in turn suggests legal pluralism. This activity implicates engagement with custom and other local sources of authority. When powerful gender biases are entrenched in custom, effective empowerment of women is likely to require "a shift in thinking, attitudes, and understanding" by everyone at the local or village level.³⁶⁹ As women agitate for the access and empowerment that CEDAW envisages, customary law, and informal norms will be renegotiated.

The FAO, IFAD, and the World Bank recognize that "customary biases" may prevent women from exercising land rights unless there is a concomitant shift in attitudes not only by local officials, but also by lay men and women.³⁷⁰ In the same vein, Celestine Nyamu cautions that abolishing custom "is not conducive to a positive dialogue that achieves a balance between gender equality and cultural identity," even though CEDAW's strong abolitionist language is arguably an important reflection of the Convention's aspirations.³⁷¹ Nyamu advocates for "appropriat[ing] the openings . . . in local culture or religious traditions, while simultaneously working toward changing the larger social matrix," an apparent reference to national norms and laws, among other forces.³⁷² Similarly, the United Nations advocates "dialogue with elders and other enforcers of customs and traditions" in order to raise awareness and identify ways in which custom may be harmonized with national and international norms that respect women's rights.³⁷³ These strategies

367. CEDAW, *supra* note 143, art. 2(a); *see also* Cusack and Cook, *supra* note 144, at 208–09.

368. This is consistent with Celestine Nyamu's advocacy of "concrete engagement with the politics of culture [which] creates a much more productive challenge" to the local culture. Celestine Nyamu, *How Should Human Rights and Development Respond to Cultural Legitimization of Gender Hierarchy in Developing Countries?*, 41 HARV. INT'L L.J. 381, 410 (2000).

369. SOURCEBOOK, *supra* note 3, at 130.

370. *Id.*; *see also*, UN-HABITAT, *supra* note 208, § 4.2 (suggesting the need to increase awareness of women's rights among land professionals, policy makers, judges, and magistrates, in order to ensure equal interpretation and implementation of national laws).

371. Nyamu, *supra* note 368, at 416.

372. *Id.* at 417.

373. UN-HABITAT, *supra* note 208, § 4.3.

recognize that custom is not always “static, unchanging or incapable of gender responsiveness.”³⁷⁴

Indeed, as suggested above, migration can be an aspect of rural women’s empowerment because it creates just the sort of “openings” in local culture that represent opportunities for change. Population churn between rural and urban places has the consequence of bringing the broader knowledge base associated with cities to rural places. Migration can become a tool for educating rural populations regarding national norms, even international ones. This may be similar to what happens in the United States as a consequence of rural gentrification and other varieties of population churn that bring new residents to traditional rural locales. These newcomers often bring social and economic change with them. Their differing expectations and knowledge can result in greater well-being for the entire community.³⁷⁵ In the same way, returning migrants’ knowledge of national and international norms can be a catalyst for local change in rural parts of the developing world. Those migrants’ urban contacts can also link rural residents to formal legal actors and processes.

Other aspects of migration also hold potential for empowering rural women. These include the opportunity for women to become heads of their households and the concomitant opportunity to decide how remittance funds should be spent. As noted in Part I.D, studies suggest that when women receive remittances, they are more likely than men to invest them in human capital, infrastructure, or agricultural inputs.³⁷⁶ In short, money flows associated with migration may represent opportunities for women to renegotiate long-standing power structures and gain

374. *Id.*; see also Madhavi Sunder, *Piercing the Veil*, 112 YALE L.J. 1399 (2003); Madhavi Sunder, *Cultural Dissent*, 54 STAN. L. REV. 495 (2001) (asserting the significance of the right to participate in norm creation). Change in rural places in the developing world might be analogized to what has happened in rural parts of the United States that have undergone economic restructuring and decline in recent decades. Gendered divisions of labor have proven most malleable during economic restructuring in the United States because of women’s entry into the paid work force. See Pruitt, *supra* note 29, at notes 12-16, 246-288.

375. See generally Nina Glasgow & David L. Brown, *Grey Gold: Do Older In-Migrants Benefit Rural Communities?* (Carsey Institute, Policy Brief No. 10, 2008), available at <http://www.carseyinstitute.unh.edu/publications/PB-Glasgow-Brown-GreyGold.pdf> (last visited June 21, 2009); Lawrence C. Hamilton et al., PLACE MATTERS: CHALLENGES AND OPPORTUNITIES IN FOUR RURAL AMERICAS, REPORTS ON RURAL AMERICA (2008), available at http://www.carseyinstitute.unh.edu/publications/Report_PlaceMatters.pdf (last visited June 21, 2009); Postings of Lisa Pruitt to Legal Ruralism Blog, <http://legallruralism.blogspot.com/search/label/rural%20gentrification> (Rural Gentrification) (last visited May 18, 2009).

376. RURAL WOMEN, *supra* note 11, at 22. Men, on the other hand, are more likely to spend remittance funds on consumer goods. *Id.*; see also NEW PERSPECTIVES, *supra* note 11, at 12-13 (noting that women tend to invest in housing improvements, health, welfare, and agricultural investments such as cattle and fertilizer); *supra* note 64 and accompanying text.

greater rights, freedoms, and economic empowerment. Norm creation associated with CEDAW can be a component of that opportunity.

Securing and enforcing Article 14 rights may be more challenging in rural contexts because of the strength of custom, ignorance of national and international laws, and absence of formal legal actors. Nevertheless, both public and private development institutions may play a role in empowering women in ways envisaged by Article 14. Any meaningful effort to improve rural women's lives implicates not only law but also resources; international and national non-governmental organizations are important sources of these.

Again, one helpful aspect of CEDAW's framework is that it proposes getting resources into the hands of rural women right where they are.³⁷⁷ This, in turn, implicates not only local officials but also the stances and priorities of rural development organizations. Such development agencies might constructively and strategically make material assistance contingent on the inclusion of women "at all levels" and stages of development planning. Alternatively, these organizations could monitor the ways in which recipients facilitate women's access to the types of resources for which CEDAW recognizes their need.³⁷⁸ Such leveraging of material assistance to promote the interests of women seems particularly to challenge patriarchal custom and provide an excellent opportunity to empower rural women.³⁷⁹

The reports of the four Member States discussed in Part III.B suggest that material resources are reaching rural women, at least in some instances.³⁸⁰ Another example of a state intervention of the sort presumably envisaged by CEDAW's Article 14 comes from an IFAD report.³⁸¹ The report regards a Chinese program that involved a multi-scalar response to a rural problem.³⁸² When out-migration of men from drought-stricken regions of northern China left women responsible for agricultural production, China used IFAD funding to institute a multi-part strategy to increase women's participation in

377. See CEDAW, *supra* note 143, at 14(2)(a),(e) and (g); see also *supra* notes 368–374 and accompanying text.

378. Susan Williams, *Equality, Representation and Challenge to Hierarchy*, in CONSTITUTING EQUALITY: GENDER EQUALITY AND COMPARATIVE CONSTITUTIONAL LAW ch. 29 (forthcoming 2009) (advocating that state accommodation of minority communities' practices should be contingent on dialogue within the community that disrupts and challenges the community's norms).

379. *Id.*

380. See *supra* Parts III.B(1)–(4) (discussing programs that provide access to credit, support SHGs/cooperatives, and initiate greater gender equity in land reform).

381. JEANETTE D. GURUNG ET AL., IFAD, GENDER AND DESERTIFICATION: EXPANDING ROLES FOR WOMEN TO RESTORE DRYLANDS 17 (2006), available at http://www.ifad.org/pub/gender/desert/gender_desert.pdf (last visited June 21, 2009).

382. *Id.*

decisionmaking.³⁸³ Women received literacy and skills training, access to credit, and extension services provided by a staff, half of whom is women.³⁸⁴ These services, along with the “institutional approach of participatory village development plans,” reportedly instilled “greater awareness and assertiveness among women in all matters relating to the social and economic situation of the individual, the household and the community.”³⁸⁵

Finally, CEDAW’s Article 14 stands to empower rural women in ways not directly related to agricultural or other rural development. Higher birth rates among rural women in the developing world raise concerns about the sustainability of rural livelihoods.³⁸⁶ Indeed, such high birth rates are one of the forces driving migration to cities,³⁸⁷ and they are a basis for arguing that urban living is more ecologically sustainable and otherwise preferable. But CEDAW’s Article 14(2)(b) specifically requires that Member States provide rural women with access to “information, counseling and services in family planning,” in addition to more generally requiring “adequate health care facilities.”³⁸⁸ To the extent that CEDAW effectively fosters women’s education, their engagement in development decisionmaking, and their economic empowerment, it also leads to lower birth rates. This is because “female education . . . [and] participation in the labour force” have proven to be significant factors in lowering birth rates.³⁸⁹ In addition to greater economic and social independence for women, “an increase in female age at first marriage [and] improved knowledge of health, hygiene, and contraceptive methods” are effective forms of population control.³⁹⁰ CEDAW thus plays multiple roles in achieving these outcomes because it calls for adequate attention and resources to be provided for family planning, as well as for rural women’s economic empowerment. With respect to the goals of curbing rural birth rates and thus fostering ecological sustainability, the renegotiation of cultural norms that is facilitated by migration and population churn may again play a supporting role to CEDAW and the programmatic and development efforts that respond to its mandates.

383. *Id.*

384. *Id.*

385. *Id.*

386. *See infra* note 408.

387. *See supra* notes 25–28 and accompanying text.

388. CEDAW, *supra* note 143, art. 14(2)(b).

389. JAZAIRY ET AL., *supra* note 21, at 78; *see also* RURAL WOMEN, *supra* note 11, at 26 (noting that educating girls reduces fertility rates and is “one of the most effective ways of reducing poverty”).

390. JAZAIRY ET AL., *supra* note 21, at 78. This is supported by data from the United States, where differences in rural and urban birth rates are now extremely similar. *See* Don E. Albrecht & Carolyn M. Albrecht, *Metro/Nonmetro Residence, Nonmarital Conception, and Conception Outcomes*, 69 RURAL SOC. 430, 435 (2004).

To the extent that law does—or can—matter for rural women, a multi-scalar or pluralist approach is likely to be most successful in endowing them with both rights and resources. Forces that undermine women's agency must be tackled not only in international instruments and national legislation that respond to its directives but must also be renegotiated at the grassroots level. Nowhere, perhaps, is this more true than in rural communities, where custom and local sources of authority tend to be particularly entrenched. CEDAW provides an especially appropriate framework for this negotiation by addressing not only structural issues (for example, lack of schools and reproductive services), but also by endorsing women's inclusion in rural development in ways that respect and use local know how and preferences.

V. POSTSCRIPT: RESISTING THE URBAN JUGGERNAUT?

Current migration trends make the urban juggernaut appear unstoppable.³⁹¹ Perhaps urbanization of the developing world, on the scale and in the manner evident in the developed world, is inevitable. But is urbanization best? Will it bring the greatest benefit for women, men, and children? Will it save the environment or doom it? Should we hop on the “global cities” bandwagon with nary a look back?³⁹²

This Essay has raised issues that call into question the wisdom of the urban juggernaut. It thus challenges the orthodoxy that urban is better and that urbanization is the solution to ills of the developing world. At a minimum, greater clarity is needed regarding development goals vis-à-vis the rural remnant, as well as law's role in achieving those goals.

The first step toward achieving greater clarity is to be cognizant of rural people and places and how they differ from what has become an implicit urban norm. The United Nations and other global bodies are clearly aware of these differences. Given that half of the world's population lives in rural areas and more than ninety percent of the world's rural residents are concentrated in less developed countries,³⁹³ it is not surprising that rural populations garner more attention from global policy makers than they do, for example, from U.S. domestic policy makers.³⁹⁴ Sheer numbers still count for something. This heightened awareness of

391. See *supra* notes 9–25 and accompanying text.

392. SASKIA SASSEN, *THE GLOBAL CITY: NEW YORK, LONDON, TOKYO* (2001); see also SASKIA SASSEN, *GLOBAL NETWORKS, LINKED CITIES* (2002).

393. See *supra* notes 7, 12 and accompanying text.

394. See Porter, *supra* note 5; Pruitt, *supra* note 5 (arguing that judges are often oblivious to rural difference); Pruitt, *supra* note 358 (arguing that law and policy makers are often ignorant of rural difference, or simply ignore it); Lisa R. Pruitt, *The Forgotten Fifth: Rural Youth and Substance Abuse*, 20 *STAN. L. & POL'Y REV.* 359 (2009).

rural difference is probably also attributable to a sense that differences between rural and urban are much greater in the developing world than in more developed nations.

Indeed, in these days of worldwide economic constriction and consequent reverse migration to the countryside, rural populations arguably matter—at least they should—more than ever.³⁹⁵ It is thus not surprising that the international strategies now in place for assisting rural populations, including CEDAW's special attention to rural women, are in some ways comprehensive and well-considered.

As in the developed world, however, the focus of the development community's elite decision makers is increasingly on cities, and the bias is increasingly an urban one.³⁹⁶ According to a recent study by the Global Secretariat of the Global Donor Platform for Rural Development, a burgeoning “urban influence on policy makers has shifted the focus of development policy aims away from rural income generation and rural poverty reduction.”³⁹⁷

Yet experience tells us that urbanization does not necessarily reduce poverty. Between 1993 and 2002, the “\$1 a day” poverty rate declined from 27.8% to 22.3%. By this measure, the number of poor fell by about 106 million people, representing a decline of 153 million in the number of rural poor but an increase of forty-seven million in the number of urban poor.³⁹⁸ These figures suggest that many of the rural poor who migrate to cities simply become urban poor. The power of urbanization to lift people out of poverty is limited. Indeed, the donor-sponsored study noted above reached a consistent conclusion:

395. Recent news coverage suggests that the Chinese government is attending to rural concerns more in recent months because economic collapse is driving the country's “floating population” back to rural places. See Bradsher, *supra* note 87 (reporting government subsidies for workers willing to go to rural areas, including a waiver of fees for starting small businesses, free vocational classes, and subsidized school fees); Andrew Jacobs, *China Fears Rural Tremors as Migrants Flock from Coast*, N.Y. TIMES, Feb. 22, 2009, at A5 (reporting new crop subsidies and an expansion of rural health care).

396. See *supra* Part II.C.1.

397. WOLZ, *supra* note 101, at 10.

398. Martin Ravallion et al., *New Evidence on the Urbanization of Global Poverty* 14 (World Bank, Policy Research Working Paper No. 4199, 2007). Similarly, the total number of people living under \$2 a day in rural areas fell by 117 million, while the number of urban poor rose 63 million for a net drop of only 54 million. *Id.* “[T]he urban share of the poor rose . . . and [] the ratio of urban poverty to total poverty incidence has risen with urbanization. . . . We find that the urban share of the ‘\$1 a day’ poor is rising at about 0.6% points per year over 1993–2002.” *Id.* at 16. But see Stephen J. Dubner, *How Should We Be Thinking About Urbanization? A Freakonomics Quorum*, N.Y. TIMES BLOGS, Dec. 11, 2007, <http://freakonomics.blogs.nytimes.com/2007/12/11/how-should-we-be-thinking-about-urbanization-a-freakonomics-quorum/> (last visited June 21, 2009) (including the comments of Edward Glaeser, who asserts that “[c]ities are full of poor people because cities attract poor people, not because cities make people poor.”).

Countries with falling poverty levels today are most likely countries that have invested a lot in their rural areas in the past. The reduction of poverty is an achievement that owes a great deal to increased incomes from agriculture Indeed, very few countries achieved broad-based economic growth without agricultural or rural growth preceding or accompanying it. Experience also shows that, while urban poverty is growing fast and matters enormously, fighting poverty today means first of all combating rural poverty—by transforming rural lives and livelihoods. Such a strategy would also have positive impacts on urban poverty and forced out-migration, which are often direct consequences of the lack of rural opportunities.³⁹⁹

As this passage suggests, rural development need not entail, ultimately, more urbanization. Certainly, urbanization should not be the only prong of a rural development strategy. As noted earlier, the agricultural sector can provide an economic safety net of sorts because of its resilience during downturns.⁴⁰⁰

To the extent that agricultural and rural development represents a shift to intensive production agriculture,⁴⁰¹ however, such development may ultimately result in the same problems that the developed world is now confronting in terms of its relationship to food, agriculture, and sustainability. The agricultural development proposals touted by Jeffrey Sachs, for example, may not adequately attend to the environmental consequences of intensive production agriculture.⁴⁰² We should consider the extent to which the current path of international agriculture and rural development efforts is the same path from which the developed world is now, in some measure, retreating.⁴⁰³

399. WOLZ, *supra* note 101, at 5.

400. *See supra* Part II.C.

401. *See supra* note 133 and accompanying text. This is the sort of development that Jeffrey Sachs proposes. SACHS, *supra* note 21, at 219–20, 230–31.

402. For a discussion of the pros and cons of “intensive production agriculture,” see Drew Kershen, *What Is Agricultural Law? Proposing Production Agriculture as the Core*, 25 AG. L. UPDATE 1 (2008); Gonzalez, *supra* note 34, at pt. II; Drew L. Kershen, *Sustainable Intensive Agriculture: High Technology and Environmental Benefits*, 16 KAN. J. L. & PUB. POL’Y 424 (2007).

403. *See* MICHAEL POLLAN, *THE OMNIVORE’S DILEMMA* (2006); Wes Jackson & Wendell Berry, *A 50-Year Farm Bill*, N.Y. TIMES, Jan. 5, 2009, at A21; Andrew Martin, *Is a Food Revolution Now in Season?*, N.Y. TIMES, Mar. 22, 2009, at BU1; Michael Pollan, *Farmer In Chief*, 63 N.Y. TIMES MAG., Oct. 12, 2008, at MM62. The debate over our future in relation to urbanization is reflected in Dubner, *supra* note 398 (comparing comments of James Howard Kunstler, who predicts an end to the cycle of people moving from farms and small towns to big cities, with those of Alan Berube, who touts cities as solutions to many ills, asserting that “urbanization makes us more productive and . . . wealthier”).

Other questions, in turn, are implicated: How, for example, can human rights and development law inform development strategies that both respect and reflect rural livelihoods, while also producing enough food to feed the world?⁴⁰⁴ How can law play a role in ensuring that rural development efforts are ecologically sustainable?⁴⁰⁵ What is the “right” global balance between rural and urban?

Recent studies indicate that the carbon footprint of city dwellers in the developed world is smaller than that of their rural counterparts,⁴⁰⁶ but the same is not necessarily so in the developing world. The United Nations similarly recognizes that cities are sometimes more ecologically sustainable than rural livelihoods (especially in the developed world), but it also notes that urban growth and sprawl can be environmentally damaging.⁴⁰⁷ Acknowledging the complexity of the matter, a 2007 publication of the U.N. Population Fund on Urbanization and Sustainability asks provocatively: “Cities: Burden or Blessing?”⁴⁰⁸

Until we are clearer on the answer to that question—and the related question of how we can effectively manage the environmental burden of urbanization in the developing world—capitulating to the urban juggernaut (let alone encouraging it) may not be the wisest course. One path of resistance is to re-think the assumption that rural development necessitates urbanization. Rural development might just as well entail respect

404. While sufficient food is produced to feed the world's twelve billion people, hunger remains a significant problem in developing countries. Food insecurity and malnutrition are expected to persist and increase. See World Bank Task Force, *supra* note 98, at 1 (citing IFPRI 2001). Growth in the world population, which is expected to reach 9.3 billion by 2050, will put greater pressure on food production. *Id.*

405. See Gonzalez, *supra* note 34, at 431–32 (defining ecological sustainability).

406. See MARILYN A. BROWN ET AL., BROOKINGS, SHRINKING THE CARBON FOOTPRINT OF METROPOLITAN AMERICA (2008).

407. U.N. Population Fund, *Urbanization and Sustainability in the 21st Century*, in STATE OF THE WORLD POPULATION 2007: UNLEASHING THE POTENTIAL OF URBAN GROWTH [hereinafter *Urbanization and Sustainability*], available at http://www.unfpa.org/swp/2007/english/chapter_5/print/chapter_5.html (last visited June 21, 2009); see also Elisabeth Rosenthal, *Third-World Stove Soot Is Target in Climate Fight*, N.Y. TIMES, Apr. 16, 2009, at A1.

408. *Urbanization and Sustainability*, *supra* note 407. The report states: “Right now, cities draw together many of Earth’s major environmental problems: population growth, pollution, resource degradation and waste generation. Paradoxically, cities also hold our best chance for sustainable future.” *Id.* at 1. The report goes on to explain that while cities are associated with “unsustainable patterns of production and consumption [they] offer better chances for long-term sustainability.” *Id.* at 1–2. The report continues: “[N]ot only do dense settlements have greater capacity than rural areas to absorb large populations sustainably, but urbanization is a powerful factor in fertility decline.” *Id.* at 2. *But see supra* note 389–390 and accompanying text (suggesting factors other than urbanicity that contribute to fertility decline).

In addition, current priorities and systems cause environmental damage. These practices include importing produce instead of consuming that which is grown domestically because poor internal transport options make the former less expensive. See WOLZ, *supra* note 101, at 10.

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for rural livelihoods and empowerment of people within their rural settings.⁴⁰⁹ The aspirations of CEDAW's Article 14 can be a key component of such empowerment and, indeed, provide a blueprint for it.

409. See *supra* note 134 and accompanying text.