

WOMEN ARE SMART, MOTIVATED, AND HARD-WORKING: HOW TO CONVERT THEIR ENERGY INTO SUSTAINABLE INCOME¹

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Discrepancies in opportunities and status among genders are quite pronounced in developing countries. Ingrained social and cultural norms, illiteracy and poverty among women, and poor access to basic women's health services jointly and individually serve as major obstacles preventing women from closing the so-called "gender gap." Overcoming these conditions presents a signature challenge for women in the developing world, and creative approaches are needed for incremental success to be realized. Progress is slow, but still discernible. For example, to the extent they have been formed, women-run cooperatives do provide a source of income and directly improve women's economic status in some localities. But much more work remains. To that end, this article explores how Intellectual Property Rights ("IPRs") can help lift disenfranchised women from the oppressive and repressive circumstances in which they sometimes live. By stimulating new income generation and creating educational opportunities in rural areas, IPRs have the potential to make a tangible difference for women.

Innovation and IPRs are widely recognized as important drivers for growth in today's economy. IPRs are critical to a company's ability to compete in the marketplace; they can allow a company to build awareness, distinctiveness, and customer loyalty, and to achieve market power. In the United States, for example, the economy has significantly changed in the past few decades from a manufacturing-based economy to a knowledge-based economy, and the type of assets on the balance sheets of U.S. companies has shifted from tangible to intangible assets (e.g., IPRs).

Emerging countries typically and readily supply developed nations—in North America and Western Europe—with raw materials and other commodities. The price is right, and this supply chain comes without significant risk or investment on the part of the West. In general, however, the developed world has not embraced its supply of cheap labor, natural resources, and other goods in a manner that "spreads the wealth." In a global market where sellers compete for buyers, competition can produce a "race to the bottom," and little profits or income are left for the sellers. Local governments, and the World Bank, sometimes attempt to promote fair trade practices by pursuing policies and legislation that prohibit unfair trade practices.

¹ This paper was presented on October 21, 2014 to the Community of Practice on Intellectual Property during the Global Forum on Law, Justice and Development at the World Bank, Washington, DC. This work was undertaken on a *pro bono* basis for Public Interest Intellectual Property Advisors (PIIPA). The authors express their gratitude to PIIPA's Program Director, Pacyinz Lyfoung.

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Another potential vehicle for change can be through private market incentives and IPRs. Intellectual property provides added value and potentially a revenue stream. It can provide an incentive system both for women in the developing world and for their potential business suitors in more developed regions. Below we add to the conversation about how barriers to women's advancement could be cracked. We focus on innovative uses of IPRs, in particular by women's cooperatives. The intangible value associated with promoting corporate responsibility (*e.g.*, through certification marks), may be the key to attracting corporate funding and ensuring a sustainable source of income for women. More and more companies are seeking to enhance their corporate responsibility image and may be willing to pay a premium and/or provide funding for social and/or environmental initiatives (*e.g.*, education, training, reforestation, etc.). Buyers may also be willing to pay a premium in exchange for a guarantee of consistent quality which can be provided through branding and trademarks. The World Bank and/or local governments should consider funding IPR training initiatives and providing avenues for women to acquire and protect IPRs.

Types of Intellectual Property Rights and General Applicability to Women's Cooperatives

IPRs are legally-recognized, exclusive rights granted to authors or inventors for their creations such as inventions, literary and artistic works, brand names, symbols, designs, etc. IPRs include trademarks, copyrights, patents, trade secrets, and rights of publicity. Women's cooperatives would benefit from training to better understand the value of innovation and IPRs and to learn how to develop and protect their brands or creations. Even a rudimentary lesson in IPRs can have a major impact. The various rights, in short, are as follows:

- A trademark is a name, sign, design, or expression which distinguishes products or services of a particular merchant from similar products or services provided by other merchants. Trademarks can embody a basic brand name for a product or service, a geographical indication, or a certification mark. Trademarks or brand names do not involve costly government fees and can be a valuable tool for building reputation and goodwill. Certification marks in particular can be valued by corporate clients who can use them to appeal to their customers or to distinguish themselves from the competition.
- A copyright protects the expression of an idea but not the idea itself. Copyrights can protect a broad range of creative or artistic works such as photographs and designs (*e.g.*, handicrafts). While copyright protection itself is not costly, enforcement can be expensive.
- A patent is a bundle of exclusive rights granted by a government body that protects an invention. Typical subject matter for patents includes a novel product or a process, an ornamental design (*e.g.*, the "look" of a product), and a new plant variety (*e.g.*, a new variety of a flower such as a rose). Developing an invention is often costly and protecting it—obtaining the patent on the invention—also involves significant government fees.
- A trade secret is confidential information, such as a formula or process, that is not known or reasonably ascertainable, and which can provide its owner with an economic advantage over the competition. A trade secret is a great alternative to a patent because it does not involve any government fees. An example of trade secret can be a secret ingredient or a secret process that might provide a competitive edge. Maintaining the

confidentiality of the secret information is essential to protect the trade secret status of the information.

- A right of publicity involves the protection of one’s name, image, or likeness. It typically inures to the benefit of a well-known person.

Success Model - Rainforest Alliance Certification



Rainforest Alliance, Inc. is a non-profit organization based in New York that promotes environmentally and socially-responsible practices in agriculture and forestry. Rainforest Alliance is the owner of the “Rainforest Alliance Certified” certification mark which can be used by growers and companies that demonstrate their commitment to sustainability and that meet the Sustainable Agricultural Network (“SAN”) guidelines which are designed to protect the environment and improve the well-being of workers.

Rainforest Alliance promotes a reduction of agrochemical use, prevention of soil erosion and water contamination, proper disposal of waste, and protection of forests as well as wildlife habitat. The organization also engages in social initiatives, including efforts to empower women and children. For instance, in Nigeria, Rainforest Alliance seeks to empower female cocoa farmers. “Increasing the number of women in sustainable agriculture is essential to the economic health and social stability of farming communities in [] Africa’s most populous country. Studies show that women who produce cocoa as a cash crop typically spend a much higher proportion of their earnings on household food needs than men do. These spending patterns demonstrate that women serve as a vital link between healthy landscapes and thriving communities.” Rainforest Alliance Annual Report 2013, available at http://www.rainforest-alliance.org/sites/default/files/about/annual_reports/AR2013_spreads_0.pdf; see also R. Ruben *et al.*, “How Standards Compete: Comparative Impact of Coffee Certification in Northern Nicaragua,” Radboud University Nijmegen, Centre for International Development Issues, the Netherlands, 2010, available at www.koffiecoalitie.nl/tcc/content/download/468/3334/file/How_standardsCompeteNicaragua2010Ruben.pdf (finding that Rainforest Alliance Certified coffee farms in Nicaragua had greater involvement of women in production compared to other certification providers).

Many multinational corporations have pursued the Rainforest Alliance certification for financial and reputation benefits, including:

- Unilever, which obtained Rainforest Alliance certification for its tea farms in East Africa and its Lipton tea brand. Unilever worked with the Rainforest Alliance to improve the living conditions of farmers and their families. For example, in its Lipton Tea Gardens in Kericho, Kenya, Unilever offered free schools for the families of its 18,000 tea pluckers.



Unilever reported an increase in sales and market share in the United States and Europe following the rollout of its certified tea. See Seifert *et al.*, Case study: Lipton (November 14,

2011), available at <http://www.ft.com/intl/cms/s/0/9d8e4ade-0a45-11e1-85ca-00144feabdc0.html#axzz3AwXKa8OR>.

- Chiquita Brands International obtained Rainforest Alliance certification for its banana and pineapple plantations in South America. Chiquita donates pineapples to school cafeterias and supports local water protection and reforestation initiatives.



- Naked Juice pledged that it would source all of its bananas from Rainforest Alliance Certified™ farms. Labeling on juice containers bears the certification mark.



Applying the Success Model to Argan Oil Women’s Cooperatives in Morocco

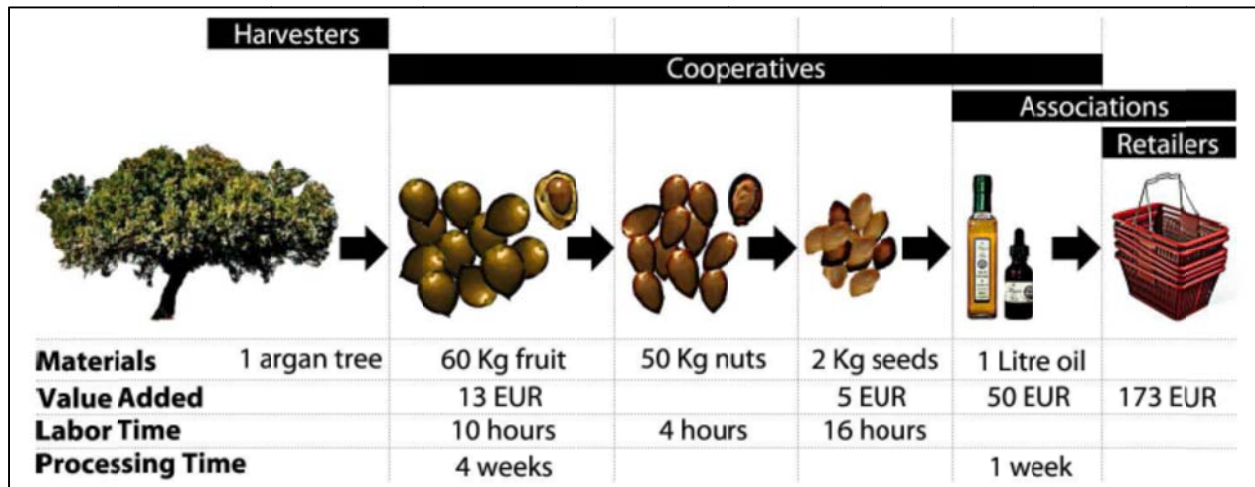
The above Rainforest Alliance success model can be reapplied in the context of women’s cooperatives by following a few, very basic steps:

1. Identify a niche product, starting material, or commodity.
2. Organize a women’s cooperative to provide the product.
3. Identify social and environmental needs associated with the product.
4. Create branding (mark or certification mark) or pursue an existing brand or certification mark to connect the product to socially or environmentally responsible practices.
5. Market the branded or certified product to companies seeking to enhance their corporate responsibility image, in exchange for a price premium and/or funding for social and/or environmental initiatives.

Here is an example of how this model can be applied in practice:

1. *Identify a Niche Product: Argan³ Oil.*

Morocco’s argan oil is one of the most expensive edible oils in the world. Argan oil became popular after the discovery of its culinary, cosmetic, and medicinal properties. After harvesting from an argan tree, argan fruit is dried for about four weeks to facilitate removal of the pulp. The nut is then cracked open and kernels are extracted. The kernels are then pressed into oil.



Source: Dossa Z., “Cooperatives: A Development Strategy? An Analysis of Argan Oil Cooperatives in Southwest Morocco,” Euricse Working Paper 2011, No. 29 (12), available at http://euricse.eu/sites/euricse.eu/files/db_uploads/documents/1331560843_n1986.pdf.

2. *Organize a Women’s Cooperative to Provide Argan Oil.*

The argan oil production is operated through women’s cooperatives that provide education and employment opportunities to their members. The cooperatives significantly improve the socioeconomic status of their women members. *See id.*

3. *Identify Social and Environmental Needs Associated With Argan Oil.*

Argan oil production can have a positive social impact on women in rural areas. It can improve the lives of the cooperative members by supporting better pay, education, and training.

The women’s cooperatives can also ensure that their members adopt environmentally-responsible harvesting practices to protect the trees. For example, there is evidence that the argan fruit is harvested aggressively, using sticks to dislodge the fruit but which can damage branches and buds for future productions. *See Lybbert et al.*, “Booming markets for Moroccan argan oil appear to benefit some rural households while threatening the endemic argan forest,”

³ In 2009, “Argan” became a protected geographical indication (“PGI”). *See Omari et al.*, “The Marketing of Women’s Argan Cooperatives: Challenges and Opportunities,” *International Journal of Business and Social Science*, Vol. 4 No. 6 (June 2013), available at http://ijbssnet.com/journals/Vol_4_No_6_June_2013/14.pdf. The argan tree grows exclusively in Morocco so there is little risk that others would infringe the PGI by sourcing argan oil from a different location.

Proceedings of the National Academy of Sciences of the United States 2011, 108(34), 13963-13968, available at <http://www.pnas.org/content/108/34/13963.full.pdf>.

In addition, the women's cooperatives or their corporate customers can participate in or provide funding for reforestation initiatives to replenish the argan forests and to ensure the trees' continued role in the battle against desertification. Indeed, argan trees provide a barrier against the encroaching desert, and the argan forest was designated as a UNESCO Biosphere Reserve in 1998. *See id.* There is also evidence that the local population is shifting away from costly butane to free argan wood as a source of energy. *See id.* It is important to protect the argan forest and to teach the local population about the long-term benefits of forest sustainability.

4. *Create Branding or Pursue an Existing Brand or Certification Mark.*

The women's cooperatives can create a certification for socially and/or environmentally-responsible practices (as exemplified above). Certification marks allow the women cooperatives to internalize the costs and benefits of their environmental and social practices. The women cooperatives can even seek an existing certification, *e.g.*, from the Rainforest Alliance. Indeed, the Rainforest Alliance has a broad mission to promote environmentally and socially-responsible practices in agriculture and forestry, which can cover the argan oil women cooperatives. Of course, if possible, it is always better for the women cooperatives to be the direct owners of the IPRs to maximize the benefits from the IPRs.

5. *Market the Branded or Certified Product.*

Branding or certification can strengthen the bargaining position of the argan oil women's cooperatives. Branding provides the buyer with a guarantee or potential for consistent quality for which the buyer may be willing to pay a premium. In addition, companies seeking to enhance their corporate responsibility image may be willing to pay a premium and/or provide funding for social and/or environmental initiatives (*e.g.*, education, training, reforestation, etc.). As one example, Evonik Industries is touting its STOCKOSORB[®] product which increases the survival rate of planted argan trees. The European Chemical Industry Council honored Evonik with a Sustainability Award. *See* Evonik Industries Corporate Responsibility Report 2011, available at <http://corporate.evonik.com/sites/dc/Downloadcenter/Evonik/Corporate/en/Company/Responsibility/evonik-industries-corporate-responsibility-2011.pdf>.

Other Women's Cooperative Success Stories

The Hundred Flowers of Magaozhuang Women Cooperative.

Femmes du Ningxia, a French non-profit organization, partnered with Gung Ho, a Chinese NGO specialized in the creation and support of cooperatives in rural areas, to help women embroiderers from Ningxia, a remote region in China near the border with Mongolia. *See* Femmes du Ningxia, January 2008 brochure, available at <http://www.femmesduningxia.org/resources/FemmesduNingxiaDPANGLAIS.pdf>. Femmes du Ningxia and Gung Ho helped the women from Ningxia to establish a handicraft cooperative: The Hundred Flowers of Magaozhuang. *See id.* Femmes du Ningxia and Gung Ho implemented a two-year training program for the management of the handicraft cooperative, including product marketing, basic literacy, and improvement of embroidery techniques. The objective of the training program was

to enable the cooperative members to become independent in managing and sustaining their cooperative within a two-year period.

Today, the cooperative has built awareness and a reputation for quality, and is sought by international customers. See <http://www.femmesduningxia.org/>. The cooperative is also partnering with Wen Fang, a young Chinese artist, to create several artworks to support a training program as well as other initiatives to improve the life of the women members. See *id.* The artworks are protected by copyright. See <http://www.femmesduningxia.org/resources/Textile+Dreams+Press+Kit.pdf>.

Lisiling Hazelnut Professional Cooperative.

The founder of Lisiling Hazelnut Professional Cooperative, in Xinghua Village in Kaiyuan (China), tried to plant poplars and other tree species but failed because of infertile lands. However, he discovered that wild hazelnut trees would grow well and encouraged other villagers to plant hazelnut trees with him. See Liqun Wang, *Success Cases and Good Practices in Forest Farmer Cooperative Organizations in China* (2012), available at <http://www.fao.org/docrep/017/ap470e/ap470e00.pdf>.

The cooperative engaged in brand marketing, registering the “Lisiling Hazelnut” brand in 2004. As its business, the cooperative buys farmers’ hazelnuts, and then processes and markets them under its brand. This cooperative and crop has been transformative to the region. Previously maize crops essentially were the sole source of income in Xinghua Village. But since the cooperative started to plant hazelnuts, average per capita income increased from RMB 800 per year to RMB 8100 in 2009, a significant reduction in poverty. *Id.* While the Lisiling Hazelnut Professional Cooperative includes both men and women, it provides a very good example of how to successfully create a market for a niche product and engage in brand building and marketing.

Las Hermanas Women’s Cooperative.

Peet’s Coffee sources from a Nicaraguan women’s cooperative known as Las Hermanas. This business relationship is advertised and featured prominently on the company’s website, and has garnered positive media coverage as well as goodwill and positive feedback from customers. See Man-Kwun Chan, “Improving Opportunities for Women in Smallholder-based Supply Chains”, available at <https://docs.gatesfoundation.org/Documents/gender-value-chain-guide.pdf>.

This cooperative has room for growth. For example, it would further benefit from additional branding to maintain its current customers while attracting new ones.

The Pinggu Peach and Geographical Indication Protection

Geographical Indication (“GI”) is an intellectual property right whereby certain goods indicate a specific geographical origin, its attributes and reputation. Most Chinese farmers today are small, individual producers that lack the capital and know-how to create brand names or undertake mass production or operations. GIs give them a chance to share the added value of brand names without necessarily establishing their own, and without mass production.

The quality of agricultural products frequently derives from the specific local factors associated with their area of production. The Pinggu district, 70 km north-east of Beijing, calls itself the biggest peach farm in the world. Geographic factors including the lay of the surrounding hills, low pollution, sandy soil, a plentiful water supply and the marked difference between day and night time air temperatures, together act to create ideal peach-growing conditions. Pinggu peaches “have beautiful colors, high sugar content, special flavor and big size.” See “Geographical Indications for Development”, available at <http://www.wipo.int/ipadvantage/en/details.jsp?id=2595>.



The Pinggu peach was the first agricultural product to have its geographical indication registered in Beijing in 2002. See “Chinese Farmers Cash in on Intellectual Property Rights,” available at <http://www.chinatoday.com.cn/17ct/17e/1013/el01.htm>. Registration of Pinggu peaches as a GI has been truly meaningful for the Pinggu region, its farmers, and their families. Following GI registration, the price of a Pinggu peach rose to a level 30 percent higher than others. In 2005, revenues from the peach sales reached RMB 420 million, earning each of the region’s growers 18 percent more than in the prior year. Concomitantly, land values increased in the Pinggu region along with the socio-economic development and sustainability of the region.

In 2007, China and the European Union (“EU”) signed an agreement aimed at protecting the GI status of certain agricultural products sold in each other’s markets. See “EU-China Geographical Indications – “10 plus 10” project is now complete,” available at http://europa.eu/rapid/press-release_IP-12-1297_en.htm. As a result of the agreement, Pinggu peaches are now sold in over twenty-five countries in the EU for about five Euros each.

When properly managed, GIs can help producers obtain a premium price for their products, provide guarantees to consumers as to the qualities of products, develop the rural economy, and protect local knowledge while strengthening local traditions.

Other Potential Avenues for Empowering Women in Developing Countries

What is needed is a go-to, non-profit organization, funded by the World Bank, U.S. Agency for International Development, and/or the U.S. Department of State. There are models for a successful venture of this type. For example, the non-profit U.S. Civilian Research and Development Foundation for the Independent States of the Former Soviet Union (“CRDF”), now known as CRDF Global, was founded in 1995 to create mutually beneficial business

opportunities for ex-Soviet scientists and engineers in the wake of the USSR's collapse. As part of its work, CRDF nurtured the development and protection of technology. Among its early programs of potential cross-relevancy to the current problem were First Steps to Market ("FSTM") concerning the basics of technology commercialization and Next Steps to Market ("NSTM") which provided funding to develop marketing research and business plans. We recommend a centralized effort rather than a more opportunistic, individualized "hit or miss" approach. Following a model like that of CRDF—under the guise of a newly formed non-profit organization—would place a much-needed focus on this cause.

The World Bank also attempts to promote fair trade practices by assisting local governments and suggesting policies and legislation to prohibit unfair trade practices. *See, e.g.,* The World Bank Group, "Addressing Unfair Practices in Bulgaria," Competition Knowledge and Advisory Services Program (April 30, 2014), *available at* <https://openknowledge.worldbank.org/bitstream/handle/10986/19049/878700WP0P148700EN0Addressing0UBP07.pdf?sequence=1>. In addition to, or as an alternative to market restrictions and economic legislation, the World Bank and/or local governments should consider funding IPR training initiatives and providing avenues for women to acquire and protect IPRs.

Conclusion

The examples above demonstrate that IPRs can help women close the gender gap, through enhanced and sustainable income, education, and training. In particular, it is clear that IPRs promoting corporate responsibility (*e.g.*, certification marks) can provide a promising inducement for attracting corporate funding while ensuring a positive social and/or environmental impact. Women's cooperatives will need assistance and training in developing their own IPRs or identifying existing certification entities which can certify them and negotiate benefits on their behalf. By spreading the model of women's cooperatives and certification marks, women can find new dignity and opportunity.