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# GENDER EQUALITY & DEVELOPMENT

## LAND TENURE AND GENDER: APPROACHES AND CHALLENGES FOR STRENGTHENING RURAL WOMEN'S LAND RIGHTS

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## ABSTRACT

Land tenure security is crucial for women’s empowerment and a prerequisite for building secure and resilient communities. Tenure is affected by many and often contradictory sets of rules, laws, customs, traditions, and perceptions. For most rural women, land tenure is complicated, with access and ownership often layered with barriers present in their daily realities: discriminatory social dynamics and strata, unresponsive legal systems, lack of economic opportunities, and lack of voice in decision making. Yet most policy reform, land management, and development programs disregard these realities in their interventions, which ultimately increases land tenure insecurity for rural women.

This paper seeks to further develop the evidence base for access to and control over land. In its *2012 World Development Report: Gender Equality and Development*, the World Bank states that women’s agency is a key dimension of gender equality and that having a voice in society to influence policy is one expression of agency. A contributory factor to women’s empowerment that would go a long way in raising their voices is improved access to, and control over, land.

I draw on existing evidence and new data to show how women’s ownership of land and property can be potentially transformative, not only as a store of value but also as a means of acquiring other assets and engaging in a range of markets.

The following key lessons emerge from this background paper:

- Women play a critical role in supporting their households and communities in achieving food and nutrition security and overall well-being.
- Women’s ownership of land and property can be potentially transformative, not only as a store of value but also as a means of acquiring other assets and engaging in other businesses.
- Reducing barriers to women’s control of rural resources, particularly land, is critical in the fight against poverty.
- Rights to land may derive from the state, but they can also derive from a range of customary and religious laws, through inheritance and through marriage. In rural settings, customary norms and religion are often more important in determining women’s rights than statutory laws.

- Statutory land reforms have been enacted in many developing countries with the aim of empowering all land users, including women. Although they tend to be gender neutral and provide for equal rights to both men and women, they are often not implemented effectively and can be ineffective where customary regimes prevail.
- Gender-neutral regulations can be ineffectively implemented even where there are no conflicting customary regimes.
- Customary norms continue to limit rural women's ownership and control of land.
- Despite some positive steps toward reforming land laws and policies in many developing countries, women's rights to land have yet to become fully realized and the reality for women is still characterized strongly by entrenched patterns of exclusion. Consequently, many rural women still do not own, control, or inherit land.
- No single land policy or strategy can address land tenure problems for women in rural areas. Policy reforms and any other interventions must be tailored to the physical, social, and economic contexts. The challenge is to find appropriate reforms or interventions that take into consideration economic factors, issues of equity, and less tangible concerns such as the social or religious beliefs that people attach to land.
- There is a paucity of consolidated and synthesized data on women's land rights, especially in rural areas. While some interventions seem promising, not enough information is available to confirm their effectiveness in addressing women's land rights in rural areas. Furthermore, although many different case studies on innovative ways of securing women's land tenure in rural areas have been carried out, they tend to be isolated and unclassified. Information on new and effective ways of addressing land tenure security for rural women is important if past mistakes are to be avoided and promising approaches taken up.

## **List of Acronyms**

CGIAR	Consultative Group on International Agricultural Research
COHRE	Centre on Housing Rights and Evictions
ECA	East and Central Asia
FAO	Food and Agriculture Organization of the United Nations
ICRW	International Center for Research on Women
IFAD	International Fund for Agricultural Development
IFPRI	International Food Policy Research Institute
NGO	Nongovernmental organization
RDI	Rural Development Institute
ULA	Uganda Land Alliance
UNDP	United Nations Development Programme
UN-HABITAT	United Nations Human Settlements Programme

## 1.0 Introduction

In many developing countries, where most rural poor rely on subsistence agriculture for their survival, land remains a critical asset (FAO 2010b). Small-scale food production and the women involved in it are the backbone of rural livelihoods: women farmers produce more than half of all the food grown in the world and 60 to 80 percent of the food grown in most developing countries (FAO 2010b, 2011; Oxfam 2013).

Access to and control of property, whether customary, statutory, or religious, provide economic entry for women to key markets as well as social access to non-market institutions such as household- and community-level governance structures, where they can contribute to decision making (COHRE 2004). Without land, such opportunities are difficult or impossible for women to attain since land provides them with a basic means for subsistence and market production (FAO 2010b).

Women make up 43 percent of the agricultural labor force worldwide (World Bank 2012b), although many work without pay. A study by the World Bank (2008) indicates that in Sub-Saharan Africa, where national economies are mostly agriculture-based, farming on their own land was found to be the most common form of employment for both sexes (about 56 percent and 54 percent of male and female adults, respectively). This is followed by non-agricultural wage work for men (9 percent) and non-agricultural self-employment for women (7 percent). The study also found that African women are more likely than African men to be self-employed in the agricultural sector (World Bank 2008). If rural women had the same access to productive inputs as men, they could increase yields on their farms by 20 to 30 percent, raising total agricultural output in developing countries by 2.5 to 4 percent and, in turn, reducing the number of hungry people in the world by 12 to 17 percent (FAO 2011).

Unfortunately, gender disparities in land access remain very high around the world, regardless of a region's level of development (FAO 2010a). Some women, individually or in groups, "own" land on which they produce food and goods for their families, products to sell, or rental income, although their ownership is not legally recognized. In these cases, they may or may not control the decisions made about the use of the land, depending on how important their production and income is to their spouses, households, or other legal owners. Others may own property through a joint title with a husband or another family member and again may or may not control land use decisions. If the tally of female land ownership in Africa, for example, is based on jointly or individually titled land, the percentage would be very low because levels of titled land ownership are very low, even for men (Cheryl Doss interview in Horan 2013).

Women may not fully share the above-mentioned benefits if they do not have formal or customary property rights. Women's land rights act as a form of economic access to key natural resources and markets. Having land assets and learning about their human and legal rights enables them to voice their opinions and contribute to decision making in their households and communities. Women's access to land, security of their tenure, and training or information exchanges in group settings affect decisions such as the types of plants and crops to grow, adoption of technology, and community efforts to preserve natural resources.

In addition to economic gains generated by access to products, capital, and land markets, a woman with control over her own land, educated about her rights, and in a setting sensitive to gender equality is less likely to become economically vulnerable in old age, or in the event of the death of or separation or divorce from her spouse. Moreover, evidence from many empirical studies shows a positive correlation between women's land ownership and household expenditures on food and children's education (e.g., Alderman et al. 2003).

Despite the important benefits that come with land ownership, women in rural areas rarely own land and are usually confined to the production of subsistence food. This situation results from constraints imposed by customary and statutory land rights. Customary land rights evolve from presence on the land. A group of people or a family settles in an area that is not claimed by others and establishes “rules” about who has rights to the land and how the land is used, exchanged, and inherited. These customary rights are usually not formalized into law, although several countries in Africa have incorporated such rights into statutory laws. Tanzania's Village Land Act of 1999 made customarily-held land rights equal to formally-granted land rights, explicitly protecting land rights of vulnerable groups. Mozambique's *Lei de Terras* (1997) also formalized communal customary rights but has not been enforced in terms of women's land rights (Kimani 2012; Knight 2010). Statutory land rights are established within a government's formal, legal framework, whether at the local, regional, or national level. Although efforts are being made to formalize customary land rights, it is often difficult to translate them into law, and progress around the world is very slow, especially when it comes to addressing rural women's land and property rights.

It is important to note the extent to which many women have formal and customary rights over land that are independent of their husbands' rights. Some scholars and practitioners have argued that women obtain access to land when social institutions allocate land to both men and women and when women borrow or claim unused land. This view suggests that the method of access does not matter and that control of the land won't change with shifting economic, environmental, or political conditions. However, unless a woman is guaranteed land rights or ownership, they can be snatched away during economic or political turmoil, leaving her landless and destitute. As I show later on in this paper, although women in rural areas may obtain access to land through a male relative, that access may entail limitations on use and time and may not equal to full ownership rights (Dohrn 2006).

This paper seeks to build upon the *2012 World Development Report: Gender Equality and Development* (World Bank 2012b), which states that women's agency is a key dimension of gender equality. Among the expressions of agency identified in the report is control over land and resources. Section two sets out the importance of securing women's land rights in enabling them to fulfill their roles in the household and society. Section three evaluates what we know about women's land ownership in various parts of the world, elaborating on the challenges many women face in securing land tenure. Section four evaluates the various formal and informal institutions that support or constrain women's land rights, and thus their agency. Section five examines the changing relationships between women and land and strives to determine where women's situations are improving and where they are not, and evaluates the various policy innovations that have been developed to address women's tenure security challenges. Section six highlights policy and programmatic implications and recommends some actions for addressing women's land rights in rural areas. Finally, the paper concludes with key lessons.

## **2.0 Rationale for Women's Land Rights**

Land rights may be defined as complete when the following three conditions are met: they are legally recognizable, socially recognizable, and enforceable by external authorities (Duncan and Ping 2001). If one of these three elements is missing, the rights are incomplete. For instance, a land right that is legally recognizable but not socially recognized or enforceable is an incomplete right.

The disconnect between legal and social settings is one of the main challenges that most developing countries are facing. Knox et al. (2007: 1) provide a very good explanation:

[The] disconnect between rights and reality stems primarily from the fact that property rights belong to no one legal arena. Legally, property rights are fixed through various, and sometimes contradictory, bodies of law, ranging from constitutional and land titling

law to marital and divorce law. Property rights also are defined through a mix of customary and religious laws. These multiple legal frameworks can create contradictions and confusion in what women's rights are and which ones should be recognized. Moreover, many of these rules continue to reinforce gender inequities.

While some policies are well crafted to address women's land tenure security, they have not been backed up by social acceptance. In China, land rights are assigned to households by the community and are subject to customary patrilocal practices—a system in which wives reside with their husband's family, who jointly own land and assets—and community decisions. Legally, women have the same rights of access to and control over land as men, but community-level decisions often leave women out. Instead, a woman's land rights are based on her status as a daughter or wife. Communities often do not assign land rights to daughters since they are expected to marry and move to their husbands' residences, but when they arrive in their new homes, they often do not receive land rights there. Or, if a wife does have land rights and becomes a widow or divorces and must move away, her rights are reassigned to someone else. In 2011 the Chinese government amended the 1950 Marriage Law, which had granted women rights to property, to state that, unless legally contested, marital property belongs to the person whose name is on the property deed, which in China is usually a man (Hong Fincher 2013). In this context, women's land rights are legally recognizable but are often not socially recognizable or enforceable (Duncan and Ping 2001; Liaw 2008; Ping 2003).

In Mozambique, the 1997 *Lei de Terras* entitles women to secure access to land and property, but “traditional courts, which most rural women use, still consider the man the head of household and therefore the rightful authority over land” (Kimani 2012). Other countries have land policies or constitutions that recognize women's rights to land, but according to Esther Mwangi, a land rights researcher at Harvard University, men are not ready to allow women to make decisions when it pertains to land. This, she says, is a paradox because women are key to productivity yet the land is out of their reach (Kimani 2012). Women tend to have land use rights but they do not translate to ownership or property control rights.

In most rural areas, women are in charge of the household welfare. Studies conducted in Sub-Saharan Africa indicate that total efficiency in agricultural production would be improved if resources were allocated more equitably across gender (Allendorf 2007). A study conducted by Deere et al. (2004) reports that 71.4 percent of Peruvian women living in male- or dual-headed households have land-use rights and that among the owner-operated peasant farms, those with female land rights have better outcomes with almost 50 percent higher household income.

Land ownership can lead to direct economic benefits such as through earning income from land rental or sale and using the land as collateral for credit (ICRW 2005). Only by owning land independently or jointly can women's access and control over land-based earnings be assured. For example, a comparative study of Nicaragua and Honduras showed a positive correlation between women's property rights and their overall role in the household economy: greater control over agricultural income, higher shares of business and labor market earnings, and more frequent receipt of credit (Katz and Chamorro 2002). Women with land tenure security have the capacity to invest in adaptation practices to secure livelihoods and are less likely to become economically vulnerable when they grow old, lose a spouse, or divorce or separate from a spouse. Allendorf (2007) also reports that women in Nepal who own land are significantly more likely to have the final say in household decisions—a measure of empowerment—and that children of mothers who own land are significantly less likely to be severely underweight. Similarly, Quisumbing and Maluccio (2003) reported positive relationships between the amount of assets (including land) that a woman possesses at the time of marriage and the shares of household expenditures devoted to food, education, health care, and children's clothing. Katz and Chamorro (2002) show that in Central

America, greater female landholdings result in some increases in food expenditures and child educational attainment.

Given the fact that rural women are more likely to grow food as opposed to cash crops and to spend income on family food, land tenure security for women should be viewed as an important link between household food production and national food security (FAO 2011; Philipose 2007).. Rural women's lack of land rights, however, reduces their access to other livelihood assets that flow from the control of land, such as basic nutritional, welfare, and educational needs of their children (Cotula et al. 2006; FAO 2011; Hanstad et al. 2004). Security of tenure also enables women to have control over major decisions such as what crop to grow, where to grow it, what techniques to use, and what to consume and sell.

In addition to the household benefits of owning land, there are other broad economic and social benefits when women have secure land rights. Socially, land not only possesses the economic value that provides for human material needs, but also the sentimental value that is very important in entrenching oneself in a society. For example, in addition to increasing bargaining power within the household, land rights may empower women to participate more effectively in their immediate communities and in the larger civil and political aspects of society. With control of land rights, instead of use rights, women have a higher status in the community, which then allows them to engage their communities in promoting, for example, better maternal health services (Yusuf 2012). With the current vibrant land market and increase in land values, the social aspects of land tend to be ignored in programs and project interventions on land management and administration. Instead, emphasis has been geared toward boosting agricultural production, which to a large extent should be a product of secure land tenure. Women with property rights are more likely to be active members of their communities, and community institutions themselves are more likely to be responsive to the needs of women as a result (Agarwal 2003; FAO 2002b; Scholz et al. 2013 ).

Land also offers a secure environment for sheltering and nurturing families, and developing livelihood strategies. Even in countries where the rural economy has become less dependent on agriculture, land remains a primary resource for rural people (FAO 2002a). Women may not fully reap these benefits if they do not have legal and socially-recognized rights to individually or jointly owned land (Katz and Chamorro 2002; USAID 2011).

Secondary land rights – those obtained through male family members or the community - are prevalent in Africa and Asia. This has significant implications as indicated by Namubiru-Mwaura et al. (2012). In their study on customary land tenure in Liberia, the researchers found that women risk losing entitlements through divorce and widowhood, or if their husbands migrate.

Providing sufficient land rights for women is also crucial to fighting hunger and poverty, and in reducing women's vulnerability to contracting and spreading HIV (Leavitt et al. 2006; Stanley et al. 2012). Poverty can lead to behaviors that expose people to the risk of HIV infection. Women's lack of land rights can compromise their personal and economic security, reduce agricultural production and food security, and lead women to resort to transactional sex to cope with resulting poverty, ultimately leading to increased rates of HIV infection and spread. Secure land and housing rights enable women to mitigate the effects of HIV/AIDS. They also play an important role in protecting women from high-risk situations, thereby reducing their risk of contracting HIV (Giovarelli et al. 2013).

### **3.0 Status of Women and Land Ownership**

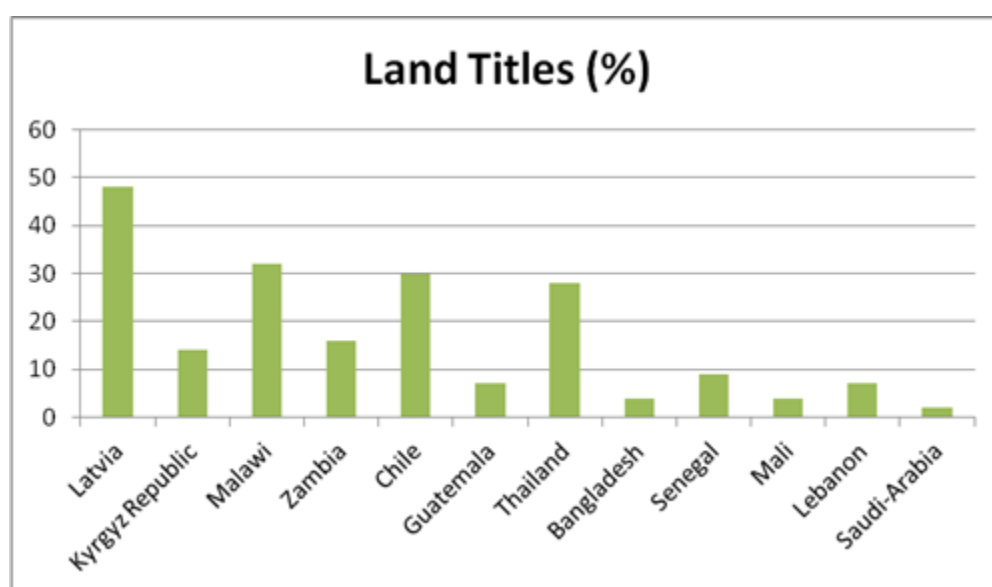
In the last two decades, the attention of development practitioners has been drawn to the differential constraints faced by rural women, especially those in Sub-Saharan Africa and South Asia (FAO 2002a



Saito et al. 1994; UN 2010). Several studies show that women are still disadvantaged when it comes to land ownership and access (see Rao 2011 for Asia and Lastarria-Cornhiel 1997 and Kameri-Mbote 2006 for Africa), extension services (i.e. education and new techniques) (Butt 2010), credit, and improved crop varieties (FAO 2010b).

Gender inequality is evident in western, central, and northern Africa, and some parts of Asia whereas women seem to have better access to land in eastern and southern Africa and in parts of Latin America, the Caribbean, and Eastern Europe (Table 1) (UN 2010). Further, an international comparison of agricultural census data by the Food and Agriculture Organization (FAO) of the United Nations (2010a) shows that across the board, only 20 percent of landholders are women and women’s low access to land prevails across countries with different social, cultural, and economic backgrounds (Figure 1).

**Figure 1: Percentage of agricultural land titles held by women in various countries**



Source: Adapted from FAO 2010b

**Table 1: Number of countries with gender inequality with regard to inheritance rights and entitlements to ownership of land and other property, by region**

	Number of countries with inequality related to		
	Inheritance rights	Right to access Land	Right to access property other than land
<b>East Asia and Pacific (17)</b>	<b>9</b>	<b>9</b>	<b>3</b>
<b>South Asia (4)</b>	<b>4</b>	<b>3</b>	<b>3</b>
<b>Sub-Saharan Africa (43)</b>	<b>40</b>	<b>37</b>	<b>32</b>
<b>Latin America and Caribbean 4 (19)</b>	<b>4</b>	<b>13</b>	<b>5</b>

<b>Europe and Central Asia (17)</b>	<b>9</b>	<b>12</b>	<b>5</b>
<b>Middle East and North Africa (17)</b>	<b>17</b>	<b>13</b>	<b>11</b>

*Source:* Adapted from OECD 2012b

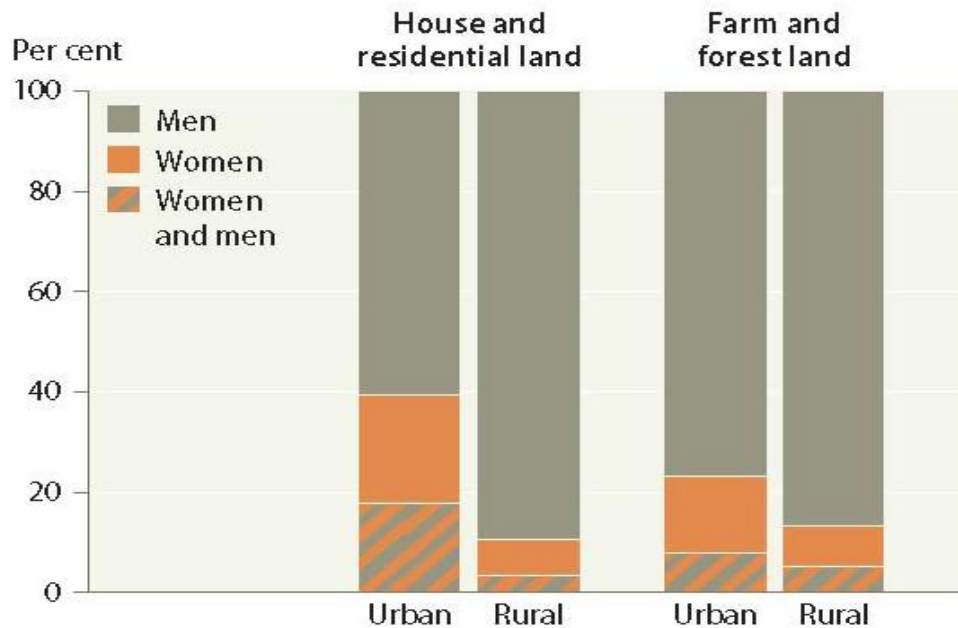
Note: The numbers in brackets indicate the number of countries reviewed. The quality of women’s access rights was graded from 0 meaning “no restrictions” to 1 signifying complete discrimination against women. Countries presented in the table are those with partial (graded 0.5) or complete (graded 1) discrimination against women on the issue considered.

Moreover, although women in most rural areas have access to land, very few own land or have control over it. This is common in rural areas of Africa, South Asia, Latin America and the Caribbean. For example, Kameri-Mbote (2005) notes that male household heads in Africa are still the main controllers of land on the assumption that the rights are held in trust for all household members, while women are granted only the right to access or use land. Other authors concur with these findings, with Carpano (2010) reporting the same for Tanzania, and Ngoga (2012) for Rwanda. Similarly, a 2006 survey on families in Vietnam revealed that only a small proportion of house and land titles are in the hands of women (UN 2010).

Similarly, in most rural areas in South Asia few women own land and, where they do their properties are smaller and have less value than those of men (Rao 2011). These findings are collaborated by Ramachandran (2008), who shows that although Indian women have the legal right to own land, due to traditional gender roles and the lack of independent financial resources, they rarely purchase land. The same situation exists for women in Pakistan.

There are also significant differences in access and control over land between rural and urban women. A study by the UN (2010) shows that in urban areas of Vietnam 21 percent of house and residential titles are in women’s names, 61 percent are in men’s names, and 18 percent are joint titles, whereas in rural areas, only 8 percent of farm and forest land titles are in women’s names, 87 percent are in men’s names, and 5 percent are joint titles (Figure 2; UN 2010). This disparity is partly due to the differences in education levels of urban and rural women, opportunities to earn income, and the influence of Western gender-equality culture in metropolitan areas.

**Figure 2: Distribution of property titles by owner’s gender and urban/rural areas, Vietnam, 2006**



Source: *The World’s Women 2010* (UN 2010)

Women in Latin America, the Caribbean, the Pacific, and Eastern Europe seem to have a better ability to own land than in Africa and Asia (Ramachandran 2008). In a few countries, such as Latvia, land ownership is almost equally divided between men and women, with more than 45 percent of land titles held by women. In all the countries surveyed in Figure 1, however, women’s land holdings are less than 50 percent. While a simple certificate of title may not reflect the diversity of land rights found in many cultures, the low holding of titles points to women having fewer ownership rights. However a blanket conclusion that the fewer number of women with land titles is the sole indicator of tenure insecurity, without examining other social institutions, may be inaccurate and lead to the application of inadequate interventions. Furthermore, data on property ownership are usually recorded at the household level in both censuses and household surveys, making it difficult to breakdown ownership by sex.

As shown above, discriminatory patterns of land ownership are common in many rural areas. These patterns are a result of institutions that govern access to land and control over it, which is explored further in the next section.

#### **4.0 Institutions and Their Impact on Women’s Land Rights**

An individual’s land tenure depends on formal legal structures and institutions at the national level, informal or customary rules at the local or village level, and rules for allocating land among household members. Land tenure arrangements vary considerably; in some areas, women have traditionally held land and maintained rights over it. In other areas, men retain the rights to land but provide women with access to it through marriage or other relations (Dohm 2006). Together, institutions define the incentive structure of societies and economies (North 1994). Property rights form part of the wider institutional matrix governing any society.

There are two main forms of institutions. Formal institutions are written instruments that provide a legally enforceable framework for the economic and social activities of a society. Property rights, to the extent

that they are written instruments and legally enforceable, are important formal institutions. They determine the fundamental elements of land governance, namely the rights to access, withdrawal, management, exclusion, and alienation. On the other hand, informal constraints are the unwritten rules that govern everyday human behavior in economic and social exchanges (Ostrom 1990). While every country has its formal structure of laws, government policies, and property rights, social constraints form an equally important parallel system of rules based on cultural norms and social conventions. Where formal constraints, such as laws and property rights, are weak, social conventions tend to prevail. Social constraints evolve to reflect changes in a society; however, the process of change is more gradual and requires greater sensitivity than changes to formal constraints (Ostrom 1990). This section briefly highlights institutions that affect women’s land rights in rural areas.

## Land Tenure Systems

Land tenure may be categorized into a number of *primary tenure systems* that correspond to major social and political systems, such as customary/traditional, socialist/communist, religious, or market economy. They include public, private, customary, religious, collective, and hybrid land tenure systems (Table 2). While these broad distinctions show the differences between the various systems, in practice various cases of legal plurality exist (hybrid systems), such as when statutory tenure is superimposed upon customary regimes (Payne and Durand-Lasserve 2012).

**Table 2. Land Tenure Systems: A typology**

<b>LAND TENURE SYSTEM</b>	<b>Pros/Cons</b>
<p><b>Public tenure system</b> (statutory) Cuba, Ethiopia, Vietnam <u>Description:</u> All land is owned by the state and allocated according to officially determined priorities.</p>	Frequently achieves higher levels of equity than systems based on individual ownership, but usually is inefficient due to bureaucracy and can produce patronage.
<p><b>Private tenure system</b> (statutory) Present in most countries <u>Description:</u> Land is owned by individuals, companies, or nongovernment organizations.</p>	In principle it is transparent and efficient if backed by effective land governance and administrative frameworks, but limits access to the highest bidder, usually society’s elite or most influential. Most rural women cannot afford to buy land.
<p><b>Collective tenure system</b> Found in parts of China, Ethiopia, Kenya <u>Description:</u> Land or property is held communally and sales or transfers are made with the agreement of other members.</p>	Can be temporary or permanent and produce benefits for members or a community, but can exclude the poor or vulnerable. Customary norms may prevent women from joining such a group to access or own land.
<p><b>Customary land tenure system</b> Angola, Ghana, Malawi, Liberia, Papua New Guinea, Zambia <u>Description:</u> Communal possession of rights to use and allocate agricultural and grazing land by a group sharing the same cultural identity; a single person usually administers on behalf of the group.</p>	It is simple to administer and maintains social cohesion, but is vulnerable to outside encroachment influenced by commercial pressures, and poor leadership can weaken its legitimacy. Some customary norms discriminate against women.
<p><b>Religious land tenure system</b> Cameroon, Mali, Nigeria <u>Description:</u> Land is owned and managed by religious authorities, as in many Islamic countries.</p>	Sometimes facilitates family/group tenures and accessible and affordable land management procedures, but can be inefficiently managed because land is outside the market system. Some religious rules or norms discriminate against women.
<p><b>Hybrid tenure system</b></p>	May result in access to land by most individuals in a community

China, Ghana, India, Malawi, Uganda, Zambia <u>Description:</u> Several tenure categories co-exist, such as formal and informal rights or cooperatives within a statutory regime.	but may not result in full legal status. It can be riddled with land tenure insecurity.
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Source: Adapted from Payne and Durand-Lasserve 2012

All of the tenure systems in Table 2 have advantages and disadvantages when it comes to women's access to and control over land. For example, despite the appeal of private tenure systems, experience demonstrates that significant asymmetries of money, power, and knowledge between men, women, communities, investors, and governments have frequently left women on the losing end of the deal, especially where affordable, competent, and impartial justice is not readily available to them. The vast majority of rural women cannot afford to buy land. One way of addressing this problem would be promotion of ownership for groups of women with documentation that vests private land rights to women's groups as opposed to the individual, as well as putting in place measures to prevent discrimination due to income, caste, religion, status, and age, all of which can arise even in women's groups. Such documentation would confer on these women's groups a set of rights on par with those guaranteed under private land tenure systems, minus the right of alienation, referring to the right to sell or transfer property.

In Cameroon and Ghana, women have formed groups and collectively come together to buy land, a strategy used to overcome high land prices and to ensure that women gain secure titles to land (ACORD 2011). If properly and equitably managed, public tenure systems can provide for the needs of society by assigning lands for various purposes to sustain the country or region. Unfortunately, like all tenure systems, those in power can easily abuse it, resulting in exacerbated tenure insecurity. Alternatively, hybrid systems can work if proper measures are put in place to allow for coexistence of systems and if institutions are in place to ensure equitable land access and ownership.

### **Land Legislations and Administration**

An increasing number of countries have now recognized women's equal rights in their constitutions, although in some countries, such as Kenya, Lesotho, Swaziland, Zambia, and Zimbabwe, discrimination in customary and personal law matters (such as inheritance and registering land purchases) is still permitted. For example in Swaziland, married women were specifically excluded from registering land titles in their names (Benschop 2004). However, in 2012, the Supreme Court handed down a ruling that married women could register land while Parliament sorted through a discrepancy between the Constitution of 2005, which in writing states that women are equal in society, and the Deeds Registry Act of 1968, which states that community property in a marriage must be in the husband's name only (Langwenya 2012).

Once land legislation and policies are crafted, they need to be properly implemented, and land administration systems play an important role in this process. They also play an important role in ensuring informal agreements on land ownership and access are recognized or formalized. Studies show that even in countries that have land laws and policies mandating equality of men and women, in principle, the institutions for land administration still discriminate against women, either explicitly or implicitly (FAO 2010b; UN-HABITAT 2008). Policy reforms should be followed by efforts to sensitize government or local leaders, traditional leaders, and others with decision-making power over land distribution and management so they are able to protect women's rights to land. Other measures include modernizing land administration systems through computerization, developing online platforms for sharing land information, modernizing

surveying and mapping infrastructure, developing capacity in land administration, and developing arenas to resolve land disputes quickly, effectively, and fairly (Byamugisha 2013). A few countries have put in place special measures to ensure that the laws are implemented on the ground (Table 3). Examples include the prohibition of sex discrimination and the protection of maternity in the labor legislation; the prohibition of sex discrimination in cooperatives e.g. in Burkina Faso; the adoption of special measures to facilitate women’s access to credit and training in Brazil, India and the Philippines; and the protection and promotion of women entrepreneurs in Italy.

Table 3: Women’s rights to land

Country	Status of rights to land
Brazil	ND, SM
Burkina Faso	ND, GN
Fiji	GN, J/D, SM
Italy	GN
Kenya	GN
Mexico	GN, SM
Philippines	ND
South Africa	GN, ND
Tunisia	GN

Note: GN means gender neutral/ non-discriminatory; ND, non-discriminatory; SM, special measures to advance women; J/D, de jure direct discrimination.

Source: Modified from FAO 2010

Even with these measures, it is important to note that laws alone are not enough to secure women’s access to land. The effectiveness of laws depends on awareness about them, the abilities to invoke them, and to what extent cultural norms and traditions are practiced and followed instead of formal laws. Any interventions intended to improve women’s access to and control over land should therefore begin with an analysis of how existing legislation, marital laws, and inheritance laws interact and affect women. Where an opportunity exists, new laws that are more gender sensitive should be drafted.

### Customary Institutions

Under customary institutions, land tends to be held collectively by lineages or families and, in many cases, with complex systems of multiple and overlapping rights (Namubiru-Mwaura et al. 2012). In Africa, the importance of customary institutions varies from country to country. Customary land institutions are the dominant tenure systems in Burkina Faso, Ghana, Malawi, Mali, Niger, and Zambia, and in large parts of Liberia, Mozambique, Nigeria, Sierra Leone, and Tanzania, among others. Customary systems are similar in some aspects. For example, there is normally a recognized authority with land-allocating and adjudicating powers, and inheritance of land is the main mode of land acquisition. In other ways, systems are different, such as in the recognition of market-like land transactions and the promotion of secondary or derived rights to resources.

In some rural areas, national land policies and laws have little relevance on how land is accessed and used because customary systems determine access to and control over land through complex social relations (Knight 2010). For example, in Afghanistan land rights are regulated by three main systems: customary land tenure system, which itself varies from community to community; religious land tenure or sharia, which primarily addresses inheritance issues and any issues not addressed in the civil code; and the statutory tenure system, which includes the civil code as well as state laws and decrees (USAID 2007). However, customary land rights have much more validity in rural areas, while high-value urban and rural

land tends to be regulated under the secular system through a deeds registry, or sometimes through the religious law (IS Academy 2011).

Proponents of customary institutions argue that these systems tend to meet the needs of a community's livelihood system, environmental circumstances, and values. They also facilitate access to land through group membership; short-term land contracts that, in some cases, share risk between landowners and tenants; the development of land selling (even in some countries where it had been illegal); and the individualization of land rights occurring over time without costly registration procedures. Critics, on the other hand, argue that these systems of land ownership are not inherently egalitarian, with certain groups favored over others. Moreover, these systems can be abused easily by governments because of the lack of legal backing. Subdivisions of land continue unabated under customary systems and resulting farm sizes are alarmingly small in some areas. The use of land as collateral under customary systems is inhibited by a lack of recognized ownership documentation and impediments to free market land sales.

Despite these weaknesses, several studies show that customary tenure systems have attributes and strengths that continue to respond to the real needs of rural people in many countries, and that mere enforcement of statutory tenure regimes without consideration of the role customary tenure is undesirable (UNDP 2006; Knight 2010; Namubiru-Mwaura et al. 2012). Given the importance of customary institutions in rural areas, approaches that harmonize customary and statutory systems need to be put in place to resolve competing claims over resources without disenfranchising vulnerable groups.

Examples of these approaches can be found in Botswana, Mozambique, and Tanzania. In Botswana, the Tribal Land Act (1968) established a system of regional land boards and transferred the land administration and management powers of customary leaders to the boards. The boards included both customary leaders and state officials. The customary practices of Tswana were also codified and customary land rights elevated to national legislation. In Mozambique, *Lei de Terra* (1997) allows anyone living or working on land for 10 years in good faith to have automatic de jure right of use and benefit over that land. It allows community land to be registered, thereby formalizing communal customary rights. Furthermore, community members may continue to administer and manage their lands under customary land tenure as long as the practices do not contravene national constitutions. In Tanzania, the Village Land Act of 1999 establishes a category of customary land that may be occupied or used by an individual, family, or group of people under customary law. In this category, Certificates of Customary Rights of Occupancy are the formal document of land ownership recognized nationally. Overall, these approaches create a hybrid of customary and codified law.

### **Marital Property Regimes and Land**

Marital regimes define the ownership of property within a household (Deere et al. 2010). Most countries are characterized by two different default marital regimes: the separation of property and community property regimes. Under the separation of property marital regime, what is purchased with an individual's own earnings during marriage constitutes that person's individual property. Under partial community property regime, property obtained during the marriage is considered to be jointly owned. One would expect joint ownership of assets to be much more common in countries where partial community property is the default, but results showed very low incidences of joint ownership of property in countries such as Chile, Kenya, Liberia, Paraguay, and Uganda (Deere et al. 2004). Joint ownership of land by couples is not very common in many African and Latin American countries. For example, Deere et al. (2010) show that men continue to be the main landowners in Latin America and the Caribbean (Table 4).

In many rural areas, marriages are typically guided by the customary norms and practices. The primary means by which women access land in rural areas is through marriage and inheritance, which means that women's rights to land are substantially framed by customary marriage traditions. In patrilocal areas,

women relocate to their husband's communities upon marriage and therefore access land for housing and farming there. Though access rights to land accrue to women in their spouse's community, they generally do not extend to full ownership of land. For example, in rural areas of Kenya, although the wife has the right of use over property, such control must be exercised with her husband's consent (Kameri-Mbote 2005). In Malawi, women's access to land depends on the type of marriage. If the marriage is patrilineal, which is common in the northern region of Malawi, land inheritance is through the male lineage and women can only access land through their husbands and sons. A divorced woman loses the right to cultivate her field and has to return to her own family. Upon the death of a woman's husband, she can use the land that her husband owned as long as she remains unmarried. As the sons come of age, she shares her land with them, thus diluting her ownership rights in due course (Shawa 2002). In matrilineal systems, women are taken to be the landowners since inheritance is through the female lineage. For example, there is more female control in matrilocal societies in Malawi where husbands typically move to the wife's village (Mwambene 2005). In both cases however, research has shown that decisions governing the use and control of land often remains with men (Kameri-Mbote 2005; Shawa 2002).

**Table 4: Percentage distribution of landowners by gender in South America**

Country	Women	Men	Couple	Total
Brazil	11.0	89.0	0	100
Mexico	22.4	77.6	0	100
Nicaragua	15.5	80.9	3.6	100
Paraguay	27.0	69.6	3.2	100
Peru	12.7	74.4	12.8	100

*Source:* Adapted from Deere and Leon 2003: 928.

### **Inheritance Regimes and Women's Land Rights**

Inheritance is another important medium through which women become independent landowners (Doss et al. 2008; Table 5). Unfortunately, inheritance laws and norms are sometimes biased against women owning land. The UN (2010) identified inequitable inheritance rights in 45 out of 48 African countries reviewed and in 25 out of 42 Asian countries reviewed. In Jordan, Egypt, Peru, and the Philippines, women's inability to inherit property and land has been greatly affected by legal barriers (Deininger et al. 2013). In a study carried out in Jordan, only 17 percent of women were registered as landowners in the year 2012 in comparison to men, an increase from 14 percent in 2010 (Deininger et al. 2013).

**Table 5: Forms of acquisition of land ownership by gender (%)**

Country		Inheritance	Community	State	Market	Other	Total
Brazil	Women	54.2	-	0.6	37.4	7.8	100
	Men	22.0	-	1.0	73.1	3.9	100
Chile	Women	84.1	-	1.9	8.1	5.9	100
	Men	65.4	-	2.7	25.1	6.8	100
Ecuador	Women	42.5	-	5.0	44.9	7.6	100
	Men	34.5	-	6.5	43.3	15.6	100
Mexico	Women	81.1	1.8	5.3	8.1	3.7	100
	Men	44.7	14.8	19.6	12.0	8.9	100
Nicaragua							



	Women	57.0	-	10.0	33.0	-	100
	Men	32.0	-	16.0	52.0	-	100
Peru	Women	75.2	1.9	5.2	16.4	1.3	100
	Men	48.7	6.3	12.4	26.6	6.0	100
	Joint	37.3	1.6	7.7	52.6	0.8	100

Source: Doss et al. 2008.

Widows rights to land in many rural areas of some countries, such as Brazil, China, India, Kenya, Liberia, Malawi, and Uganda, are limited. While they might inherit their late husbands' land, they are not permitted to sell it and can only pass it on to their sons or male relatives (Leavitt et al. 2006; Stanley and De Martino 2004). Customary laws in Europe and Central Asia, and African countries like Kenya, Liberia, and Uganda prevent women from inheriting land even though statutory laws in these countries allow land to be divided equally among heirs regardless of gender.

### **Polygamy and Women's Land Rights**

Polygamy also has an impact on women's rural land holding and use rights. After husbands die, it is not uncommon for disputes to arise between multiple wives over their husband's land and other property (Fafchamps and Quisumbing 2005; Namubiru-Mwaura et al. 2012). For example, in southern Ethiopia where polygamy is common although not legally allowed, the polygamous wives may live separately and have their own land. While the land laws first introduced stated that the husband could have his name on only one certificate, resistance caused a change such that certificates could be issued jointly to the husband and his wives, or the husband's name could also be included below the name of his second and later wives, while his name appears first on the certificate with his first wife (Bekure 2006). The women's names on the land certificates are to ensure that women are able to keep the land after a divorce or the death of their husband. However, polygamous wives still have a weaker position in comparison to those in monogamous marriages (Fafchamps and Quisumbing 2005).

In Rwanda, according to formal legislation, a man can marry only one wife. However, in practice before the civil war, many men married one "legal" wife and took on numerous other "illegal" wives. A so-called "illegal" marriage could be informal cohabitation or cohabitation following a traditional marriage that is not registered at a district office (Ngoga 2012). The informal practice of polygyny has a negative effect on the inheritance rights of "illegal" wives and their children, both sons and daughters, because the "illegal" wives have no recognized right to their "husband's" land or property, while their children only have a right to their father's land or property if he formally recognizes them at the district office and adds their names to his identity card (Rose 2004).

### **Religion and Women's Land Rights**

Religion also impacts women's access to and control over land. The impact is felt differently depending on the kind of religion. Hindus, Muslims, and Christians are each governed by different testamentary and intestate (where one has not left a will) succession laws. For instance, in India, Hindu personal law divides property into two classes: separate (usually self-acquired) and joint family (ancestral) (RDI 2009). Separate property, which includes land the deceased purchased or received from the government, devolves in the first instance in equal shares to the deceased's sons, daughters, widow, and, if the deceased is a man, to his mother. The devolution of joint family property is more complicated than that of separate property. Joint family property is basically owned by an extended family as a whole and it devolves by survivorship and not by succession. Traditionally, only males gain a share of the joint family property at birth, and are known as "co-parenters." However, through an amendment to the Hindu Succession Act, unmarried daughters, like sons, are co-parenters and receive a share of the undivided

joint family property (including land) at birth (Deininger 2013; Ramachandran 2008). Deininger et al. (2013) show that the amendment resulted in an increase in the share of total physical assets received by Hindu females who were single before the reform. It also increased the share of gifts transferred to Hindu females. Hindu girls whose education decisions were made after the reform had more years of primary schooling than those whose education decision were made before the passing of the law.

In India, Christian widows and daughters may be more likely to inherit land than Hindu or Muslim women. For instance, in India, the Indian Succession Act generally governs the succession of property if a Christian dies before making a will. If a Christian man dies without a will and he has children, his widow receives one-third of the estate and sons and daughters get equal shares in the rest. If there are no children, but there are other more distant family heirs, the widow receives half the estate; otherwise she takes the whole estate (Obaikol 2009).

In some rural areas Islamic and customary laws play integral roles in access and ownership of land. For example in the Middle East and North Africa, inheritance laws and practices are based on sharia law, which defines the shares that go to each family member in such a way that a woman's share is half that of the man's (ICRW 2005).

While women are not precluded from owning and inheriting land, they are not granted equality with men. Looking at the shares widows and daughters receive under the Islamic Law of Inheritance reveals the privileged position of men with respect to land (Mitullah et al. 2002). In some countries, Muslim intestate succession is governed by uncodified Muslim Personal Law, which grants widows and daughters the right to a share of some family property, though smaller than that of men. The Muslim inheritance rules are quite complex, but essentially, if both a woman and a man are at the same degree of relation (for example, brother and sister) to a person who dies intestate, the woman will receive a share half the size of the man's share.

### **Gifting**

In many rural parts of Africa, a woman has access rights to family land even after she marries. It is however not uncommon for women to lose rights to the land when their father die, (Lastarria-Cornhiel 2007). This transfer of land as a gift is regarded as an important traditional channel for women to receive land from their families or spouses. However, the practice is subject to land availability and the benefactor's personal wealth. Lastarria-Cornhiel (2007) also discovered that in most cases it is the contribution that a wife or female relative has made to the benefactor's wealth that prompts the gift of land, which supports the fact that this option is not generally available to everybody.

In Ghana, the larger occurrence of gifted land has resulted in a shift to individualized property rights, reducing the matrilineal's (a clan, with membership determined by matrilineal descent from a common ancestor) control over land (Walker 2002a). Among the Akan ethnic group, female-headed households are the norm, and gifts are the most important manner of acquiring land. The gifts are usually made by a husband to his wife after seeking consensus from members of his extended family. These strong legal rights are conferred as rewards for the wife's efforts in planting and growing trees. It is important to note that in order to transfer land as a gift, the agreement of the lineage head and other members of the extended family must be obtained. Thus, the incidence of gifts is determined not only by the characteristics of the household that holds the land but also by those of the extended family (Pandolfelli et al. 2007).

In many regions of Rwanda, a woman can receive outright gifts of land from her father or use of land from her father's family. In some cases, for example, a newlywed women or girl can receive a gift of land

from her parents following her wedding ceremony (UNDP 2006). Similarly, a married woman often receives a gift of land when she presents a newborn baby to her husband's family. Both of these land gifts remain the outright property of the woman and can be inherited by her sons only (Wanasundera 2000). The same findings are shown by a study carried out in Liberia by Namubiru-Mwaura et al. (2012). This section has shown that rights to land may derive from the state, but they can also derive from a range of customary and religious laws. To specifically address gender inequality in rural areas, we need to understand both statutory and customary laws as they relate to land.

## **5.0 Some Emerging Approaches in Addressing Women's Land Rights**

Current efforts to strengthen land rights for both men and women are mainly aimed at clarifying the nature, object, and duration of rights and improving the ways in which these claims are documented or upheld. The latter usually entails formalization of rights through deeds, contracts or registration. For rights to be upheld and enforced, however, the institutions that issue or formalize them need to be socially legitimate. In many rural areas, local enforcement institutions and the level of trust they command play a critical role in determining access to and control of land. This section highlights some innovative ways in which women's land tenure security in rural areas has been improved.

### **5.1 Government Interventions**

#### **5.1.1 Joint Land Titling**

One of the most common approaches advocated by the development community for enabling secure rights to land is titling. Land titling and registration provide landholders formal recognition of their rights by the state. Often these are considered to be necessary instruments for ensuring landholders' tenure security (Atuahene 2006). Proponents of land titling argue that it increases security of tenure and therefore investment in land, land-use conflicts are reduced, access to financial services is easier, and common areas are protected from encroachment through land use plans (De Soto 2002; Domeher and Abdulai 2012; Pedersen 2010). Some theories also endorse land titling as essential for land market efficiency and argue that such efficiency will enable land to be transferred to those who can use it most productively and thereby contribute to economic growth (De Soto 2002).

An impact evaluation study by Field (2004) shows that strengthening property institutions through reforms such as joint land titling gives households incentives to relocate entrepreneurial activity from inside to outside the home. For example, in Peru, land titling resulted in less human resources needs for informal property protection, at both the household and community levels. Before land titling, many households had to protect their property by keeping household members at home. This decreased by 36 percent after land titling was introduced. In general land titling was found to also reduce time spent at home and resulted in a 48 percent reallocation of business hours to outside the house while labor hours increased by 17 percent. Altogether, the results provide empirical evidence of time costs and distortions in time allocations associated with the titling of property. Although the study did not focus on the benefits that women gain from land titling, results from this study could imply that women would greatly benefit from land titling programs.

More recently, reforms have been undertaken to jointly title land in the name of husband and wife (Atuahene 2006; Domeher and Abdulai 2012). The benefits of joint titling include guarding against capricious action by one spouse, protecting against the dispossession of women through abandonment, separation, or divorce, and increasing women's bargaining power in household and farm decision making

(ICRW 2005). Joint tenure can be compulsory or voluntary. Compulsory joint tenure usually provides women within a marriage or consensual union with the most secure rights to land.

Both compulsory and non-compulsory joint tenure rights can be greatly affected by legal regulations, customary or religious practices and norms, gaps in legislation, and poorly implemented laws. For example, while civil legislation establishes marital property regimes, the procedures for documentation and registration of joint titles, usually found in land legislation, make a real difference in terms of how many women are aware of and actually do formalize their rights to land and property. Procedures can be complicated, time consuming, and expensive. Formalization may require proof that women do not have. Critics of land titling also argue that it can result in increased alienation of women from accessing land. Without specific affirmative measures to rectify the discriminatory practices of the past, women may not have any decision-making powers over land even though their names are on the titles. Measures that allow the independent registration of land in the name of women or in the form of shared tenure, whether between husband and wife, extended families, communities, or women's groups, may need to be put in place.

The joint titling program in Ethiopia is commonly cited as one of the successful programs in addressing land tenure security problems, especially for women. Although the first registration of land in Ethiopia dates as far back as 1909, and land certificates have been issued since 1998, joint titling was not introduced until 2003 (Deininger et al. 2007; Holden and Tefera 2008). The government used a participatory and decentralized approach to land titling through elected community members that had at least one female member (Deininger et al. 2007). Joint titling was important because without the inclusion of the wife's name on certificates, some women risked losing the right to claim half the rights to land in the event of divorce or the death of the husband (Holden and Tefera 2008). Moreover, for women entering into a marriage without land, their rights to land are contingent on the type of agreement entered into during marriage, which could be influenced by customary practices. As of March 2010, the joint certification program had registered a majority of rural land in the densely populated regions of Amhara (87 percent), Oromia (85 percent), SNNP (84 percent), and Tigray (97 percent) (Ibid.). Recent findings show a modest positive effect from joint titling on female agricultural productivity (Bezabih and Holden 2010) and a positive correlation between land certification and increased participation of female-headed households in the rental market (Bezabih 2010; Holden and Ghebru 2011). Certification is also said to have improved household welfare, particularly for female-headed households and to have reduced land-related conflicts (Holden and Ghebru 2011; Holden and Tefera 2008).

Although in some cases land titling has improved women's access to and control of land, there are instances where women's rights have been worsened by land titling programs. For example, in some cases in Ethiopia, land registration at the household level resulted in registering land holdings exclusively in the name of the traditional head of household, who is usually a man (Gebrehiwot 2007). Furthermore, in regions where polygamy is practiced, registry at the household level exacerbated the tenure insecurity of multiple households as the land registration records merely reflected only one of several households. The households of subsequent wives were excluded from the registration process and thereby deprived of the corresponding rights to land. In addition, the limited registration of marriages and divorces often intensified the tenure insecurity of polygamous wives.

There are other countries where joint titling has been implemented. For example, a study from Bolivia showed that men own 56 percent of the title deeds while women own only 17 percent, and only 20 percent are jointly owned (Table 6). In some countries, such as Kenya, Uganda, and Zimbabwe, land registration and formalization have been carried out, although mostly in the name of household heads,

leaving many women with limited access and control over land (Khadiagala 2002; Sunungurai et al. 2010; Syagga 2006).

**Table 6: Titles issued and land titled by gender in Bolivia**

Title recipient	Number of titles	Percentage (%)	Land titled (ha)
Women	1,918	17	99,590
Men	6,330	56	521,625
Joint	2,253	20	336,352
Legal entity	782	7	5,454,345
Total titles	11,283	100	6,411,912

Source: [www.INRA.gov.bo](http://www.INRA.gov.bo)

In different parts of the world, different marital regimes can be found. The different marital regimes have different impacts on access to and ownership of land. In their study, Deere et al. (2013) show that in Ecuador, married women own 44 percent of available land, while in Ghana and Karnataka, India they own 19 percent and 9 percent of couple wealth respectively. In Ecuador, which is characterized by the partial community property regime in marriage, the inheritance laws state that all children, irrespective of sex, should be treated equally, a norm that is generally followed in practice. Ghana and India, on the other hand, are characterized by the separation of property regime, which does not recognize a wife's contribution to the formation of marital property. The inheritance practices in these countries are also strongly male biased. Reforming marital and inheritance regimes must remain a top priority not only for the World Bank but also for other development partners if gender economic equality is to be attained.

In India, household land is most commonly titled in the name of the male head of household and women are not legal owners of property purchased and registered in their husbands' names (Agarwal and Panda 2007). The Lao People's Democratic Republic is mainly composed of patrilineal traditions with few matrilineal groups. Land is mostly owned by men although both daughters and sons can inherit land with no cultural restrictions (Cotula et al. 2006). Although joint titling has been introduced in Lao to overcome patrilineal traditions, it has not always resulted in greater security for women because land documents (titles and certificates) since most are still being issued only in the husband's name (Lastarria-Cornhiel 2007; Table 7).

**Table 7: Distribution of land titles and land use certificates in Lao PDR in percentage (%)**

Study and year		Women	Men	Joint	Other	Total
Social assessment (2002)	Titles (urban)	34	24	38	3	100
	Certificates (rural)	15	56	28	1	100
Baseline socioeconomic (2003)	Titles (urban)	28	20	41	11	100
	Certificates (rural)	24	40	27	10	100

Source: Adapted from Lastarria-Cornhiel 2007: 14

Augustinus and Deininger (2005) discuss some of the problems associated with conventional land titling systems in Africa. One of the main challenges is the fact that land titling systems which are imposed from above (i.e. by the government) often do not align with traditional land ownership practices. It is also not uncommon to find land conflicts being resolved by customary courts that may not reflect equal rights for men and women even where there are reflected in statute. Moreover, some land titling systems are too centralized, inaccessible, expensive, and not transparent. As a result, local people get very little support from the government in resolving land conflicts and protecting women's land rights sufficiently.

The World Bank, through its Gender Action Plan, has worked with women in various parts of the world including Ethiopia, Honduras, Indonesia, Kosovo, Nicaragua, and Vietnam to enable them to better understand their rights and secure clear land title to their properties. It has also promoted joint title legislation in Ethiopia, Honduras, and Vietnam and promoted participatory and community-based approaches to land titling with an aim of fostering active participation of women in land programs in these countries. For example, a project in Aceh, Indonesia, designed a community-driven adjudication process to land titling in which nongovernmental organizations (NGOs) facilitated community land mapping. In Ethiopia, a government-sponsored land certification program, aimed at promoting gender equality, used joint land ownership certificates that include a photo of both spouses. In Honduras, the World Bank also supported a project promoting women's property rights (World Bank 2011).

Preliminary assessments of the impact of land titling on men versus women are generally favorable and offer valuable lessons. One important lesson is that the impact of land titling programs will be influenced by differences in environmental conditions, the legal frameworks governing land access and use, the level of demand for agricultural land, the performance of existing tenure system, the legacy of colonial and postcolonial reforms, and other socioeconomic factors (Ngaido 2004). However insufficient information is available to properly assess the long-term impacts of land titling and challenges of implementation or to analyze the strengths and weaknesses of these programs (Girma and Giovarelli 2013).

Other measures that need to be put in place include:

- Adequately addressing the issue of land registration in the context of polygamous marriages (including all households).
- Promoting the registration of births, marriages, and deaths to facilitate the effective enforcement of women's land rights.
- Providing legal support to women that is accessible and affordable.
- Reviewing the regulations of traditional systems that govern adjudication of land disputes, as these systems are often the first recourse for rural communities.
- Conducting continuous and coordinated awareness campaigns on the socioeconomic barriers impeding women's land rights and the public benefits of women's land tenure security using a gender-sensitive approach.
- Ensuring that women actively participate in titling process rather than just putting their names on a paper and assessing the causes and consequences of women's lack of participation.
- Developing mandates that clearly delegate responsibilities for updating registries and provide guidelines, as well as clear modalities for the systematic updating of land registries.
- Introducing a systematic mechanism for referencing the registry when registering new transactions, including new leases.
- Sensitizing communities and land administrative staff on the importance of updating land registries as transactions occur.

### **5.1.2 Land Redistribution and Resettlement Programs**

Land redistribution is a popular way to either reduce inequalities in landholdings or grant more productive lands to farmers. Land redistribution has been widely implemented in Algeria, Ethiopia, Guinea-Bissau, Japan, the Republic of Korea, Libya, South Africa, Taiwan, Zimbabwe and much of Latin America (Mennen 2009; Ngaido 2004; Odeny 2013). In the past, land reforms involving land redistribution and resettlement were generally gender blind. These reforms were often based on the assumption that assets allocated to the head of household—typically male—would benefit all household members equitably.

Indeed, while in some cases land redistribution improved access to and ownership of land for both men and women, in other cases it did not. Despite this, these reforms need to be carefully thought through because they ultimately affect access to and ownership of land for both men and women.

In Japan, Taiwan, and Korea, redistribution occurred within set parameters but without forced expropriation. It incorporated most actors, including landlords, and tenants, into representative institutions that gave them control and decision-making rights. Redistribution not only resulted in the expansion of the income base for the majority by redistributing land assets, but also in restructuring elite assets from land to industry, securing clear title of land, and fostering local, decentralized democratic institutions. Government-owned land was bought at or near market value, which helped focus wealth from static land holding to investment in fledgling state industries and other more productive elements of the economy (Mennen 2009).

In Zimbabwe, the positive impact of land reform on women was marginal, with only 18 percent of female applicants benefitting from the communal farming model and 12 percent from commercial farming, and is said to have resulted in landlessness for many (Odeny 2013). In Bolivia, land redistribution successfully granted land to poor farmers, with somewhere between 256,000 and 400,000 peasant families obtaining land. It also stimulated the formation of local consumer and agricultural markets. Unfortunately, the benefits were ultimately undone because of lack of integration with public institutions and weak governance practices. Lack of credit market formation resulted from a low rate of secured land titles. Although the Agrarian reform law in Bolivia stated that all adult farmers (18 years and above) were entitled to benefit from agrarian reform and land resettlement programs regardless of their gender, only female heads of household, such as widows with small children, received land (Lastarria-Cornhiel 2007). Single women or married women did not benefit from the program (Mennen 2009).

## **5.2 Project Interventions**

- **Watchdog Model in Kakamega District, Kenya**

To address women's land rights and inheritance, GROOTS Kenya, a network of women self-help groups and community organizations, helped with a community-mapping project in Kakamega District, Kenya. This was done through one-on-one interviews, focus group discussions, and community dialogue. The exercise involved the female residents discussing local property issues and disputes with village elders and chiefs, who in return promised to stop asset stripping and disinheritance. A joint watchdog group was then formed focusing on women's education and rights awareness, encouraging them to register all births and deaths. The women also secured free legal advice from paralegals, and by 2006, the watchdog group had a representative in the local land tribunals. After replicating the model in five other regions, GROOTS Kenya reports that the local structures worked well in addressing land issues by engaging local and customary authorities. There is, however, no evidence of how effective this project has been other than those results reported by the organization itself.

- **Community Training and Sensitization**

According to UNDP (2006), several NGOs have been of great help to women in Africa in regard to land rights. For example, in Zambia, the Justice for Widows and Orphans Project, a network of NGOs, has established community-level advice groups for women, including training in property law and the writing of wills. In Zimbabwe, Women and Law in Southern Africa trains community-based paralegals in inheritance law. In Rwanda and Kenya, NGOs are promoting marriage registration, and oral wills or wills

written and signed by the testator because lack of identification cards among women is a major impediment to acquiring land titles (Augustinus and Deininger 2005).

- **Self-Help Groups**

While most NGOs' interventions have concentrated on empowering women in areas such as raising women's awareness and understanding of their land rights, microcredit, skills training, and health, some of these NGOs have initiated self-help groups in villages. The self-help groups are forums for creating awareness among women regarding health, education, and legal rights, among other topics. These self-help groups are also involved in savings schemes and microcredit enterprises, and thus provide some form of economic support for women.

Some self-help groups initiate women's forums dealing with issues related to difficulties faced by women in accessing land, especially in cases of polygamy (Duncan and Ruetschle 2001). Members of these self-help groups also contest local elections, and with some degree of awareness and involvement in the decision-making process, they are involved in the higher tiers of governance. Programs have enhanced the role of women in household decision making and in gaining improved access to services. For example, in Western Orissa, 65 percent of women from the poorest households reported increased access to their entitlements from government schemes as a result of campaigns by women's self-help groups (RDI 2009).

### **5.3 Development Agencies**

Considerable progress has been made both globally and in Sub-Saharan Africa in regard to moving the land agenda forward. However some areas still need special attention (Augustinus and Deininger 2005). The World Bank has now adopted a different approach to land policy as stated in its 2003 *Policy Research Report: Land Policies for Growth and Poverty Reduction*. This was a result of a process of engagement with civil society, professional associations, and other stakeholders at a global level and the progress gave rise to general agreement on principles in regard to rural land policy. In 2012, the World Bank had an active project portfolio of 24 projects with land tenure as the primary theme (amounting to some US\$924 million) and 28 with land tenure as a secondary theme (World Bank 2012a).

On another front, the United Nations Human Settlements Programme (UN-HABITAT) has been facilitating the creation of a Pro-Poor Land Tool Developers Network with the aim of developing, documenting, and disseminating pro-poor land tools that benefit women at the implementation level. This effort will be complemented by the World Bank, which will bring in a component to evaluate such tools through their economic impact as well as the distribution of such impact across different groups in the population. Some African countries, for example Malawi, have already benefited from World Bank funding for land reform programs, but effort should be made to create awareness of the potential resilience that exists in traditional land access systems (Matchaya 2008). Such traditional land access systems have many inherent merits and therefore the titling programs should ensure that they do not lead to the loss of such merits. For instance, efforts must ensure that land reforms in matrilineal systems do not take away from or dilute women's rights to land.

The thematic focus of the Pro-Poor Land Tool Developers Network will include registry and land records, cadastral surveys, land tax valuation, planning, spatial information, land law, and the associated land governance issues and will cover both developing countries and post-conflict countries. The goal is to improve land policies and, over time, help to propose tested and proven solutions that can be adopted to deal with such issues. It is hoped that this will improve the coordination of key actors within the global land industry. Overall, the Network aims to improve tenure security for the poor—an achievement necessary for attainment of the Millennium Development Goals—and to strengthen UN-HABITAT's



Global Campaign for Secure Tenure (Augustinus and Deininger 2005). Other potential partners in the Network include UN bodies (FAO and UNDP), research institutions (Lincoln Institute), governments of cities where such tools are being developed, donors, NGOs (such as the Huairou Commission), and professional bodies such as the International Federation of Surveyors (IFAD 2008).

Although the impact has not yet been documented, in 2005 the Huairou Commission, UN-HABITAT, the Centre on Housing Rights and Evictions, and FAO began a joint initiative in Sub-Saharan Africa aimed at strengthening advocacy for law and policy reform, including the dissemination of tools and strategies used by women's organizations in the region (ICRW 2005). The International Fund for Agricultural Development's program has been focusing on mainstreaming the strengthening of women's land rights into its operations. This has been made successful through the development of a concept note that describes a two- to four-year project dealing with these issues. In Africa, this has been of great benefit in Tanzania (Carpano 2010). In Asia, the Land Registration and Cadastre System for Sustainable Agriculture Project is keeping track of the gender of certificate shareholders and providing gender-disaggregated data.

As shown in this section, many efforts have been put into addressing women's land rights by governments, NGOs, development partners, and community groups. Although some of these innovations are promising, much still needs to be done to address women's rights. It is important to learn from these experiences and craft appropriate approaches to addressing women's land rights. There is a need to document good practices and share them in a more systematic way.

What is clear now is that no single land policy or strategy can address land tenure problems for women in rural areas. Policy reforms must be tailored to the local physical, social, and economic contexts. The challenge is to find an appropriate reform that takes into consideration economic factors, issues of equity, and less tangible concerns such as the social or religious beliefs that people attach to land. Furthermore, when crafting new reforms, policy makers need to consider costs carefully in terms of finances and time before reforms are commenced. Experience shows that successful implementation needs long-term budgetary commitment from governments and donors.

## **6.0 Policy and Programmatic Implications and Recommended Actions**

The international community and policy makers are now increasingly aware that guaranteeing women's property and inheritance rights must be part of any development agenda. Unfortunately, no single global blueprint can address the complex landscape of property and inheritance practices—practices that are country and culture specific. We must develop a way to tailor efforts to local situations.

Taken together, the challenges make interventions to strengthen women's legal rights to land daunting. As shown in this paper, documented cases that specifically target women are few in number. In this section I highlight policy and programmatic implications for the World Bank and recommendations for possible components of a strategy to improve women's land rights in rural areas.

One of the main interventions that the World Bank should consider is supporting the formulation of gender sensitive laws and institutions. As shown in this paper, some countries still have land laws that discriminate against women. Any supported policy frameworks in Sub-Saharan Africa and South Asia need to accommodate and build upon customary norms and practices, recognize the multiplicity of rights and the coexistence of statutory and customary tenure systems, allow for regional variations, and promote the coherent development of pluralistic systems that support women's land rights. The World Bank could promote the creation of local land administration and management structures that harness the positive aspects of customary land tenure or build new structures based on or similar to existing local and customary management structures that are easily established, are highly accessible, and leverage local individuals' intimate knowledge of local conditions.

One of the challenges that The World Bank will face in its development endeavors is working with governments, development partners, and communities to preserve valuable elements and procedures of the customary tenure system that already have social legitimacy and to change those that result in tenure insecurity for women. Formal individual legal titles might not always be the best solution in rural areas as they can be expensive, benefit only elite groups, and hence alienate the poor and women even further. While deeds or other forms of statutory documentation of land rights may improve rural women's access and control of land, effort needs to be put into increasing their individual rights to land under customary tenure. Furthermore, crafting and enacting laws that incorporate the positive aspects of existing customary land claims into nations' formal legal frameworks, and making customary land rights equal in weight and validity to documented land claims, is important.

The World Bank, in its interventions, could consider looking at other indicators of women's access to land and control over land. Examples of questions and indicators that should be looked at include, but are not limited to:

- Do women and teenaged girls have access to information about their rights?
- Do women have access to information about how other women in similar situations have secured their land rights?
- Do women have the ability and opportunity to receive agricultural extension services and adjudication services?
- What are the recent rulings in a community about women's petitions for land ownership or title?
- Are land policies that apply to a community coherent and consistent?
- Do women have access to justice when it comes to land?
- What are the prevailing causes of land tenure insecurity for women and girls in different settings?

### **Clearly Identify the Legal and Cultural Factors That Limit Women's Property Rights**

Formulating gender-sensitive land policies or legislation requires attention to the statutory as well as the customary framework for land rights for women and men. For example, if the ultimate goal of a legislation is to record and register rights that exist, it is important to understand what the law intends, whether the law works in practice, and also how application of the law differs in different contexts and within different communities. It is critical to understand how these all intersect and the extent to which they may differ for men and women. Several factors such as customary norms, compatibility with statutory forms of land governance, capacity to implement, and revenue generation also need to be taken into consideration.

Analysis, therefore, needs to go beyond land laws to include other related areas of law such as family and inheritance laws that ultimately determine the success of any intervention. Land tenure reform projects that seek to improve land legislation and policy must also understand intra-household property rights in terms of both formal and customary law. Laws and customs related to marital property and inheritance will have the greatest impact on women's rights to own land within a household and when a household structure breaks down because of separation, death, divorce, or abandonment. Customs or traditions connected to intra-household relationships are not easily changed, and most land projects will have to work within the existing legal and cultural framework, at least initially. Understanding these on the ground realities requires detailed and properly designed gender-sensitive land tenure assessments.

- **Promote Women's Role in Land Governance**

One way to address rural women's land rights problems is to ensure that they have an adequate voice in land management and policy processes. Currently, women lack this voice. Very few women serve as

governance authorities, and even fewer participate in land governance. Where women are in positions of authority, their power is often truncated by traditional gender roles. By opening channels for more women to provide genuine input into land policy and governance issues, a better foundation for strengthening laws to protect women's rights could be built. Interventions could promote women as governance authorities by requiring a given number of women to be on the land governance councils where they exist. In the event of pursuing this path, representatives would need to be elected or otherwise chosen in a manner viewed as socially legitimate in the eyes of the community. Further, female leaders must be trained and mentored to become involved in the project planning and design, and campaigns that change attitudes about women must be implemented. Initial results of women's involvement on these kinds of councils, for example in Uganda, have shown that women also need to be empowered to speak out and that there is need to schedule meetings at hours that are convenient for them.

- **Develop Outreach and Awareness Components of Programs, Projects, and Policies Aimed Specifically at Women As Well As Men**

In any land interventions, education, training, and communication for the beneficiaries are critical in promoting gender equity. Public awareness and training programs are important because they can raise awareness about the rights of men and women with respect to land and property and how those rights can be protected and strengthened. They also provide guidelines to project implementers and improve their awareness of the social and cultural implications of interventions. Finally, awareness and training can increase participation of women in the process, whether it is land titling, registration, or other related activities.

Many rural women lack knowledge of their legal rights, including their land rights, marital property rights, and inheritance rights. Specific sessions can be designed for women, and women-specific awareness campaigns can be conducted (such as posters featuring women registering their property) as well as campaigns explaining the law with regard to women's land rights. Such an outreach campaign should operate widely and should include messages tailored to women's needs and concerns. The modes of delivery of the campaign should also be tailored to the needs and concerns of women. This requires clearly stating such objectives in the terms of reference for the campaign's design and identifying women as a separate target group. Messages and modes of delivery should be tested on women's focus groups. In addition, programs could provide the skills training needed to help women act in a more organized and effective manner with regard to understanding and asserting their rights to land.

Several innovative pilot interventions, as discussed above, have been used to build awareness about women's property rights, although it is important to note that they have not yet been evaluated. It is also important to educate men about women's rights and their own rights and responsibilities as property holders. A husband may be willing to put his wife's name on the title if he understands why it is important; and fathers may want their daughters to inherit property and may leave explicit instructions or may even choose to gift property to their daughters while still alive.

- **Train Local Traditional Authorities Regarding Land Rights, Women's Land Rights, and Dispute Resolution Procedures**

Land tenure systems are location specific, so tenure issues should be addressed locally. Local traditional authorities and community-based organizations can play a critical role in providing information and linking the local level to national policies and development strategies. The main administrators, mediators, and adjudicators of land rights that rural women encounter in most parts of the world are predominately male customary leaders. Not only do these individuals, and the local institutions of governance and dispute resolution they represent, generally have a male cultural bias, they also apply

customary law and rely on local practice to guide decisions regarding land rights that de facto promote norms that are not always fair to women.

Thus, education and investing in social interventions is critical to changing belief systems and behaviors that limit women's land rights. The World Bank should support gender-responsive training that provides information to and supports changes in the attitudes of customary leaders, national statutory leaders, and beneficiary populations so they are more supportive of women's land rights. It is now well known that support by local authorities is essential for the success of any program aimed at improving women's land rights. Also, interventions that bolster traditional social obligations around protecting widows and ensuring that women have the right to return to their natal communities should be encouraged or put in place where they are lacking.

- **Build and Strengthen Land Administrative Institutions**

In many rural areas, women do not have access to basic land administration services. They do not have a place to record or confirm their land rights or obtain authorization to use land in a way they would like because land administration institutions are not accessible or are too costly to be accessible. Where land administration institutions exist, many face serious challenges of insufficient funding, equipment, and staff capacity. While good laws and policies will increase opportunities for women to access, control, and own land, it is important to have appropriate land administration institutions to implement them. The World Bank could support institutional improvements. An obvious key to success is the willingness of the counterpart agencies to embrace the proposed changes in their institutional operations. Affirmative action programs including, but not limited to, providing fee reductions to women may also be needed to ensure that women and the very poor will be able to participate in and benefit from the interventions.

- **Support Entrepreneurial Programs for Rural Women**

Because women do not own land and property, own less property, or do not have their names on joint titles, they are unable to obtain loans to start businesses. These barriers are often exacerbated among rural women and those who come from regions that have very traditional beliefs about the roles of women. The World Bank could consider supporting programs that focus on entrepreneurship and access to credit for rural women. These programs would need to include innovative ways to advance credit to women who do not own land to offer as collateral. In addition, the Bank's rural and agriculture sector projects should include activities that directly target women farmers and provide targeted and informed extension services, access to inputs, and markets. Without these additional interventions, women in agriculture will continue to face severe constraints on their ability to grow and improve their agricultural operations.

## **7.0 Conclusion**

Equal property rights for women and men are fundamental to gender equality. Yet, they are far from being realised. Gender discrimination in access to land and secure land rights is unjust and undermines women's human rights. Providing secure land rights for women also makes economic sense and is important for poverty reduction. This is because of women's roles as food producers in rural and peri-urban areas, their responsibilities for feeding family members, and their broader roles in household management. In female-headed households, a significant proportion of the poor can benefit enormously from the security, status, and income-earning opportunities that secure rights to even a small plot of land can provide. There is a strong positive association between women's land rights and poverty reduction, because women's control over land assets enhances household welfare, women's cash incomes and spending on food, and children's health and education. Secure land rights for female farmers and

businesswomen can improve investment, access to sources of credit, and better land use and productivity, with women frequently considered at lower risk of credit default than men.

Women, especially in rural areas, often face discrimination in formal, informal, and customary systems of land tenure. For instance, they gain access to land generally through male relatives and exercise only subordinate rights; this path to land rights is vulnerable to breakdowns in relationships, divorce, and the changing priorities of male landowners. When women are denied equal tenure rights with the same degree of security as enjoyed by men, then society as a whole and children in particular suffer. When women enjoy equal rights, conflicts are reduced, environments are improved, and household living conditions are enhanced.

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