

# Women's Secure Rights to Land

## Benefits, Barriers, and Best Practices

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### Introduction

Land is typically the most important asset for people in the developing world, the majority of whom depend on agriculture for their livelihoods.<sup>1</sup> Secure rights to land can increase agricultural productivity and income, address food insecurity, and alleviate poverty. So it is little wonder that landlessness is often recognized as the best predictor of poverty and hunger in the world.

With this understanding, major land reform efforts over the last 50 years have focused on ensuring that families gain secure rights to the land they occupy and farm. But what was little understood at the time is that it matters tremendously not only if the *household* has secure rights to land, but also *who* in the household has those rights. Over the last decade, it has become increasingly clear that the improvements in household welfare are typically more pronounced when women hold the rights.

*Secure rights to land are rights that are clearly defined, long-term, enforceable, appropriately transferable, and legally and socially legitimate. Women's exercise of these rights should not require consultation or approval beyond that required of men.*

However, women in the developing world are constrained in their ability to own, control, and access land. As compared to men, women comprise on average between less than 5 percent to less than 20 percent of agricultural landholders in the main developing regions.<sup>2</sup>

This gender disparity leaves women and the households they manage economically and socially vulnerable. It not only undermines women's ability to address their and their children's

food, health, and educational needs, it also undermines agricultural productivity.

Thus, any effort seeking to reach the rural poor, improve food production, and reduce poverty must address the importance of women's land rights.

### Women's Secure Land Rights Lay the Foundation for Socioeconomic Advances

Secure land rights are a building block for agricultural productivity and the social and economic empowerment of rural households. Smallholder farmers with secure land rights have greater incentive to make productivity-enhancing investments because they can be more confident in recouping those investments over the medium and long term.<sup>3</sup> Secure rights to land can thus confer economic benefits. Land serves as a source of income through agricultural production and sale, and can serve as collateral for credit. But land represents much more. The nature of a rural household's rights to land also largely defines access to opportunity, housing, and food and nutrition security, as well as the ability to realize empowerment, social status within the community, and political power.

Who benefits, however, depends on who within the household holds those rights.<sup>4</sup> When men alone enjoy those rights, women and their children may not be able to reap the benefits fully. Research has shown that women tend to spend the income they control on household needs, whereas men spend a significant portion on personal goods. And according to a World Bank report, "only independent or joint ownership can ensure that women have access to control over land-based earnings."<sup>5</sup>

When women have secure rights, they enjoy enhanced intra-household bargaining and decision-making power. This allows them to exert greater influence over household income and expenditures, in a manner that typically reduces household poverty and benefits their children. Studies have shown a compelling link between secure land rights for women and household welfare:

- Women with land rights contribute a greater proportion of income to the household, exercise greater control over agricultural income, and are more likely to receive credit.<sup>6</sup>
- Women who own land are more likely to have the final say in household decisions.<sup>7</sup>
- The odds that a child is severely underweight are reduced by half if the mother owns land.<sup>8</sup>
- When women own a larger share of the household's farmland, families allocate a larger proportion of their household budget to food.<sup>9</sup>
- When women in the household have land rights, children have higher levels of educational attainment.<sup>10</sup>

Enhanced status derived from land rights can also empower women to participate more effectively in community-level organizations, making those institutions more likely to respond to women's needs.<sup>11</sup> Improved status can also render women less vulnerable to domestic violence. A study from India indicated that women who own land or a house face a significantly lower risk of marital violence.<sup>12</sup>

*In Kerala, 49 percent of women without property reported physical violence and 84 percent reported psychological violence. However, among women with land and a house, 7 percent reported physical violence and 16 percent reported psychological violence. In addition, 71 percent of propertied women who suffered violence left home compared to 19 percent of property-less women.*

*P. Panda and B. Agarwal, Marital Violence, Human Development and Women's Property Status in India, WORLD DEVELOPMENT 33(5): 823-850, at 836, 842 (2005).*

Property and land rights can strengthen a woman's fallback position and her bargaining power within marriage, which likely serves to deter violence. And because these rights can enhance a woman's self-worth, they can thereby reduce her tolerance to violence.

Land rights can also help women address another area of risk and vulnerability: HIV/AIDS. Women's increased economic empowerment through secure land rights can enhance their ability to negotiate safe sex. Furthermore, because secure land rights can lead to increased household food production and food security, women are less vulnerable to engaging in transactional sex as a means of survival.<sup>13</sup> Land and other property can also serve as an income source to cover costs associated with HIV/AIDS, improving women's ability to cope with the economic and social impact of the disease.<sup>14</sup>

Finally, secure rights to land can be particularly critical for women who become heads of households due to male migration, divorce, or death. Land rights can mean the difference between a woman's dependence on her family or her husband's family and the ability "to form a viable, self-reliant female-headed household."<sup>15</sup>

### Barriers to Secure Rights to Land for Women

Women comprise on average 43 percent of the agricultural labor force in developing countries, and 50 percent in parts of Africa and Asia.<sup>16</sup> But across the developing world, women's substantial contribution to agriculture is often overlooked. Their work spans a wide range of activities, such as producing crops, tending animals, and collecting fuel and water. Importantly, women also typically have the primary responsibility for caring for their families, including the responsibility to feed them. Despite women's key roles in agriculture, household management, and food production, as well as the significant benefits that accrue when women have secure rights to land, women remain significantly less likely than men to own land. Furthermore, the land they do own is usually smaller and of poorer quality, and their access to land is typically more tenuous.

The barriers to women's secure land rights result from an overlapping web of legal, structural, socioeconomic, and cultural factors.

Formal land and property laws, policies, and regulations may overtly discriminate against women. Even where they do not, implementation and enforcement is often problematic.<sup>17</sup> The formal laws may not clearly define the rights for women. Even where the laws are clear, regulations that guide implementation might insufficiently reflect the rights promised by law. For example, even where law mandates joint ownership by spouses, forms for registering land

might fail to include a second line to record both spouses.<sup>18</sup> Furthermore, land laws may be undermined by other laws such as those governing inheritance or marriage.

In addition, governments often lack or fail to commit the resources to implement the laws properly, and enforcement institutions may be weak. Officials still exhibit gender bias and interpret laws in “traditional” ways that consider men the legitimate authority over land.<sup>19</sup> For instance, those implementing land titling programs may presume that it is sufficient to title rights to land to the head of the household, who is typically male.<sup>20</sup> Outright resistance to women’s land rights also exists, not only by officials, but also by community members. Thus, even gender-neutral formal land laws may have a discriminatory impact on women.

Moreover, formal law that appears non-discriminatory may actually be so based on its relationship to customary law. Although diverse, customary regimes typically favor the rights of men over women or deem the rights of women secondary to those of men. Formal law may reference customary law or codify specific customary law provisions that are discriminatory. Or formal law might be silent on particular matters, leaving the gap to be filled by customary law that disadvantages women.

Customary laws and norms can have significant and often prevailing implications for women’s rights to land.<sup>21</sup> Where customary structures predominate, rights to land are typically determined by social and familial relations within a cultural group (e.g., a clan or a tribe). A woman’s rights to land are dependent on her relationship with a male, usually her husband or her father.<sup>22</sup> If that relationship changes, her rights to land change. Where patrilocal marriage (when the woman moves to her husband’s village) is the norm, women born into the group are expected to leave the group when they marry, so they are accorded lesser rights to land than their brothers and in practice do not inherit land from their fathers. Women who marry into the group are deemed outsiders, so they too have lesser land rights. A woman typically gains rights to use her husband’s land by virtue of marriage to provide for their children. But if the marriage ends, so too does her right to use the land even if she has depended on it for years for her family’s livelihood and well-being.

Where the state has allocated land, the distribution has generally benefited only male heads of household. Program officials tend to focus their communications and activities on men, particularly when there is no specific provision or effort to ensure that women receive land. Finally, because women have less access to capital and information than men, they are usually less able to purchase land on the open market.<sup>23</sup>

In addition, structural and socio-cultural factors prevent women from realizing land rights conferred by customary or formal laws. Women may not be fully aware of their rights to land. Those who implement or enforce those rights – typically men – may lack awareness of the extent of women’s rights. Moreover, if a woman claims a right to land, it can result in household conflict and the loss of support from extended family, social and economic costs that women may be unwilling or unable to bear. Thus, where women must depend on a patriarchal family structure for basic family welfare, they might concede their rights in order to maintain social and household harmony.<sup>24</sup> And even when women are prepared to assert those rights, it can be difficult to do so. They often lack the financial or educational resources to exercise their rights through, for example, a court of law. And they face barriers in traveling to those institutions or are intimidated given their under-representation in the courts or customary dispute-resolution bodies.<sup>25</sup>

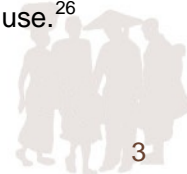
## **Recommendations for Strengthening Women’s Land Rights**

Increased appreciation of the role of women in the rural economy has led to the growing awareness of the need to address the many barriers to women’s secure land rights. It is essential not only to address formal, legal rights, but also to take action to make those rights real for women on the ground.

### **Areas of Intervention**

#### **Legal and regulatory framework**

*Encourage gender-sensitive laws and regulations.* Lawmakers and advisors should strive for gender-sensitive laws rather than simply gender-neutral ones that fail to consider the practical effect of the laws on women. Kenya’s new Constitution adopted in 2010 and Tanzania’s Village Land Act of 1999 both promote equal rights for women with regard to land ownership, access, and use.<sup>26</sup>





Look to implementation regulations for further reform. In Guatemala, state-sponsored land programs require that land rights are documented in the name of both spouses or in the name of the woman only.<sup>27</sup> In Rajasthan, India, incentives are offered to landowners for land that is registered jointly or in the name of the woman head of the household only.<sup>28</sup>

Ensure that land laws supporting women's rights are not undermined by other laws, such as family and inheritance laws. For example, Rwandan laws provide spouses co-ownership rights to all marital property by default. However, because polygamy is illegal (but common), the provision provides no protection to women in polygamous marriages.<sup>29</sup>

Consider the cultural context of a country, which can affect the implementation of laws that otherwise appear gender-sensitive. Because most rural land in Liberia is governed by customary regimes, it is not legally or socially considered "owned." Thus, a seemingly positive law granting women a one-third interest in property her husband "owns" does not apply to the vast majority of land in the country. Similarly, a 2002 study found that joint titling rarely occurred under a government project in West Bengal, India, because the area at that time lacked the concept of co-ownership of marital property.<sup>30</sup>

Support awareness of legal rights among women, local customary institutions, and formal legal institutions. Include men and recognize that they are important change agents.

### **Government capacity**

Build the capacity of government officials through gender training and other tools. Ensure that officials understand the laws that protect women's land rights and have tools to ensure proper implementation. For instance, one tool used in Ethiopia to help secure women's land rights was photographs of spouses on joint land title deeds.<sup>31</sup>

### **Community level involvement**

Engage local leaders and other community-level actors. The strongest resistance to women's land rights can often be found at the community level, but focusing on that level can help bring about real change. For example, a project advocated for women's property rights through respected tribal elders in Kenya, helping widows with HIV who had been evicted to regain control over land and family property.

*In Kenya, a Landesa team planned to implement a "land administration" project to empower women. Through interviews, the team discovered that the greater need was in "conflict/dispute resolution." Working closely with local women, team members redesigned the project.*

*Through the project, elders and chiefs (the local mediators), women, and youth, learned about women's rights, including land rights, under the new Constitution. The elders began to use those principles when mediating disputes. The community also elected their first group of women elders to join the panel of men who resolve disputes.*

### **Project Design, Implementation, and Monitoring**

To reach desired project outcomes, a gender-sensitive focus must be integrated throughout the project life. Projects that recognize and plan for the different rights, needs, barriers, preferences, and opportunities for women and men from the beginning are better able to ensure that both women and men benefit.

*Include the knowledge and concerns of local women in designing projects so they are tailored to women's needs.* Local women can assist in designing trainings, identifying property rights holders in households, and helping researchers understand the household makeup and customary systems from women's perspectives.

*Undertake gender analysis and gender-differentiated data collection in social assessment.* Projects should identify all property rights holders and/or resource users within households and communities, and account for women's lower status, differences in accessing education and services, and the communities' lineage and marriage practices.

*Train beneficiaries and project staff on gender and women's land rights.* Separate trainings for men and women can yield more female involvement, and trainings must address the cultural norms that create opposition to women's land rights.

*Conduct baseline studies to capture the gender issues before project interventions.* Projects should collect and analyze sex-disaggregated data throughout and after the project, to adjust methodologies and targets as needed and to measure project impact.



## Conclusion

Despite the overlapping barriers to women's secure rights, there are ways to address the legal constraints to those rights – and importantly – ways to help overcome social and cultural constraints. Removing those barriers will allow women to be full participants in the economy. When women have secure rights to land, they help lay the foundation for enduring social and economic transformation that benefits not only women themselves, but also their families and their communities.

## About Landesa

Founded as the Rural Development Institute, Landesa has partnered with governments on reforms that have provided secure land rights to more than 100 million families since 1967. When families have secure rights to land, they can invest in their land to sustainably increase their harvests and reap the benefits – improved nutrition, health, education, and dignity – for generations.

## The Center for Women's Land Rights

An initiative of Landesa, the Center for Women's Land Rights champions the untapped potential of women and girls to transform their communities. With secure rights to land, women and girls can improve food security, education, health, and economic development for themselves and their families.

### Global Headquarters

1424 Fourth Avenue  
Suite 300  
Seattle, WA 98101

### China Office

Room 2501, East Tower, LG Twin Towers  
B-12 Jianguomenwai Dajie  
Chaoyang District  
Beijing 100022

### India Office

2nd Floor / #53  
Lodi Estate, New Delhi 110003



<sup>1</sup> FAO, *The State of Food and Agriculture 2010-2011: Women in Agriculture – Closing the Gender Gap for Development*, 23 (2011).

<sup>2</sup> *Id.* at 25 (agricultural landholders are those “who exercise management control over an agricultural holding, which may be owned, rented, or allocated from common property resources and may be operated on a share-cropped basis).

<sup>3</sup> See generally, Deininger, K., *Land Policies for Growth and Poverty Reduction* 42-48 (World Bank 2003).

<sup>4</sup> L. Haddad, J. Haddinot, and H. Alderman, eds., *Intrahousehold Resource Allocation in Developing Countries: Models, Methods and Policy* (1997).

<sup>5</sup> World Bank, *Gender Issues and Best Practices in Land Administration Projects: A Synthesis Report* 3 (2005).

<sup>6</sup> E. Katz and J. Chamorro, *Gender, Land Rights and the Household Economy in Rural Nicaragua and Honduras* 11, paper prepared for the Regional Workshop on Land Issues in Latin America and the Caribbean (USAID 2002)

<sup>7</sup> K. Allendorf, *Do Women’s Land Rights Promote Empowerment and Child Health in Nepal?*, WORLD DEVELOPMENT 35 (11): p. 1975-1988, 1980, 1985 (2007).

<sup>8</sup> *Id.*

<sup>9</sup> C. Doss, *The Effects of Intrahousehold Property Ownership on Expenditure Patterns in Ghana*, J. AFR. ECON 15(1): 149-180, at 171 (2006).

<sup>10</sup> Katz, *supra* note 6, at 14-15.

<sup>11</sup> World Bank, *Gender Issues and Best Practices*, *supra* note 5 at 5.

<sup>12</sup> P. Panda and B. Agarwal, *Marital Violence, Human Development and Women’s Property Status in India*, WORLD DEVELOPMENT 33(5): 823-850, at 839-842 (2005).

<sup>13</sup> A. Knox, et al. *USAID Issue Brief: Land Tenure, Property Rights, and HIV/AIDS* 3-4 (2010).

<sup>14</sup> R. Strickland, *To Have and to Hold: Women’s Property and Inheritance Rights in the Context of HIV/AIDS in Sub-Saharan Africa*, ICRW Working Paper 8-12 (2004).

<sup>15</sup> R. Giovarelli, *Gender and Land Tenure Reform*, in ONE BILLION RISING 196 (R. Prosterman, et al. eds., Leiden U. Press 2009).

<sup>16</sup> FAO, *The State of Food and Agriculture*, *supra* note 1, at 7.

<sup>17</sup> World Bank, *Gender Issues in Land Policy and Administration* in GENDER IN AGRICULTURE SOURCEBOOK, 127 (2009).

<sup>18</sup> M. Benschop, *Women’s Rights to Land and Property*, UN-Habitat, Commission on Sustainable Development 4-5 (2004).

<sup>19</sup> *Id.* at 4.

<sup>20</sup> World Bank, *Gender Issues in Land Policy*, *supra* note 17 at 127.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 128, 136.

<sup>23</sup> *Id.* at 138.

<sup>24</sup> *Id.* at 130.

<sup>25</sup> A. Nzioki, *Land and Property Rights* 2, paper presented at CLEAR Gender Expert Meeting Berlin (2007).

<sup>26</sup> THE CONSTITUTION OF KENYA (2010). Art. 60(f); Tanzania Village Land Act (1999) art. 3(2).

<sup>27</sup> C. Deere and L. Magdalena, *Empowering Women: Land and Property Rights in Latin America* (2001).

<sup>28</sup> Department of Planning Government of Rajasthan (DPGR), *Gender Responsive Budgeting for the Department of Social Welfare in Rajasthan* (2006).

<sup>29</sup> F. Santos, D. Fletschner, and G. Daconto, *Enhancing Inclusiveness of Rwanda’s LTR Programme*, paper presented at World Bank Land Conference, Washington, DC (2012).

<sup>30</sup> J. Brown and S. Chowdhury, *Women’s Land Rights in West Bengal: A Field Study* (2002).

<sup>31</sup> USAID, *Strengthening Ethiopia Land Tenure and Administration Program Project (ELTAP) Trip Report* (2008).

