



Gender equality is achieved when women and men, girls and boys, have equal rights, life prospects and opportunities, and the power to shape their own lives and contribute to society.

The Gender Tool Box gathers knowledge material and method support on gender equality in the form of Tools, Briefs and Thematic Overviews.

## [ BRIEF ] Women and Land Rights

**There is a direct relationship between women's right to land, economic empowerment, food security and poverty reduction. A gender approach to land rights can enable shifts in gender power relations, and assure that all people, regardless of sex, benefit from, and are empowered by, development policies and practices to improve people's rights to land. This brief gives an overview on how to consider gender aspects in projects and programmes addressing land rights.**

Women represent 43% of the agriculture labour force. Yet they rarely own the land they are working on, have tenure securities or control over the land. Women often have limited decision making power and control over how to use the land or its outputs.

The right to land is regulated either by the formal legal system or through customary law. There are many examples of how the two systems can both prevent and promote women's right to land. The formal legal systems in many countries have constitutions or land laws that grant gender equality in access to land but where laws for marriage, divorce and inheritance contradict these laws by discriminating against women and daughters.

While systems of customary law regarding land tenure in pre-colonial Africa often granted women access to land, this right was lost in many cases with the introduction of the idea of individual ownership. Customary systems today tend not to grant gender equality in access to land.

### Short stats

- In developing countries **10–20 percent** of all land holders are women.
- Farms managed by female-headed households are between **half to 2/3** the size of farms run by male-headed households.



Customary systems of property tenure account for at least 75 per cent of the land in most African countries. Women's de facto access to, and control of land is restricted by lack of implementation of existing laws, by customary law, traditional and social practices, norms and power structures within communities and households, and by lack of legal security systems to protect women against land grabbing etc.

Women's right to land and property is central to women's economic empowerment, as land is a base for food production and income generation, as collateral for credit and as a means of holding savings for the future. In the urban and peri-urban setting, land and property rights are

important not least to get access to public utilities. Land is also a social asset that is crucial for cultural identity, political power and participation in decision making. Women's ownership of property in many ways extends their capabilities, expands their negotiating power, and enhances their ability to address vulnerability. It is also serving as a critical factor of social protection against domestic violence. Women's equal right to land is also a human rights issue.

### ENTRY POINTS FOR SIDA

Sida can promote women's right to land in partner countries in the processes of policy making, drafting, implementation and enforcement of new legislation. Below are some practical entry points for how to go about this.

#### Land policy

Women's participation in the process of developing a land policy is fundamental to increasing women's right to land. A land policy needs to be based on the principle of gender equality in right to land and have clear objectives/goals on equal right to land. Indicators and base line data are important in order to enable follow-up. Sida can support the development of gender-responsive land policy through:

- Supporting women's groups and organizations of rural women to participate in the formulation of land policy and land reforms through financial support, dialogue with the government and providing space/forum for dialogue.
- In dialogue, holding the partner government accountable to commitments made on gender equality or women's economic empowerment.
- Supporting government, academic and civil society research on the possible consequences of proposed agricultural and privatization policies in terms of women's right to land.
- Facilitating informed policy making through supporting the production of sex-disaggregated data and statistics on land tenure in national statistical accounts and cadaster.
- Highlight the importance of socio-economic representation and the recognition of all women and men independently of their civil status.

#### Land legislation

A number of different laws regulate women's right to land and ensuring equal right could begin with analyzing how existing land legislation, marital (including divorce) law and inheritance laws interact in terms of women's right to land and how statutory law can promote women's right irrespective of their marital status. The drafting of

### International conventions related to gender and right to land

- Universal Declaration of Human Rights (1948)
- Beijing Platform for Action
- UN Convention on the Elimination of All Forms of Discrimination against Women, Article 16
- Economic and Social Council Commission on the Status of Women Resolution 42/1, Human Rights and land rights discrimination
- Convention on Economic, Social and Cultural Rights Art.11 (1966)
- Habitat II Conference, Istanbul 1996 Preamble
- Istanbul Declaration on Human Settlements (esp. Par.7) III Commitments D
- Rome Declaration on World Food Security (1996)
- World Food Summit. "African Charter on Human and Peoples' Rights" (1986). The United Nations Commission on Human Rights Resolution 2002/49

new laws on tenure, land redistribution, land reform (for example in post-conflict settings) and family law, including marital and inheritance laws, provides an opening toward a more gender equal legal framework. Sida can contribute to the preparatory work of the formal legislative process by:

- Supporting local analysis on the effects of current legislation on land, divorce and inheritance for women's right to land and the consequences of proposed legal change.
- Assisting in building knowledge and capacity on gender equality in right to land and the upcoming legislative process among actors such as legislators, civil society, and land users.
- Encouraging legislation to make joint titling (by spouses), of private property or user rights, the default option in the registration process.
- Facilitating the participation of civil society, gender experts, and female local leaders in order to ensure a critical mass of women's representation.
- When a country undertakes legal reform, in dialogue raising the need to safeguard women's *de jure* rights according to signed international legal frameworks such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and stay clear from contradictions in statutory laws.

Customary law is often not subject to a legislative process and efforts to improve women's land rights need to focus on the interpretation of customary law. Sida can promote women's right to land in customary law by:

- Supporting women’s groups or organizations advocating gender equality within customary systems.
- Supporting change agents such as religious, cultural and traditional leaders, both men and women, who question discriminatory norms.
- Promoting, through dialogue, women’s participation in bodies responsible for interpreting customary law.

**Implementation of land laws**

Laws alone are not enough to secure women’s right to land. The effectiveness of laws depends on awareness about them, the abilities to invoke them, and social acceptance of them, including to what extent cultural norms and traditions are practiced and followed instead of formal laws. Sida can contribute to implementing legislation on women’s right to land by:

- Advocating the representation of women in land boards or other bodies responsible for distributing or overseeing land rights.
- Supporting capacity building of state institutions responsible for land surveying, distribution and land management.
- Support that knowledge are institutionalised by e.g. installing persons or departments responsible for monitoring and evaluation, development of methods and training.
- Supporting efforts to gender sensitize local and traditional leaders, officials and others with decision making power over land distribution/management.
- Supporting assessments of how customary complaint systems can be made gender-sensitive.
- Supporting efforts to ensure that politicians, executive officers and technicians working with land laws

and regulations, national land policies, land surveys and land cadastres are updated on new policies, laws or practices regarding equality in right to land.

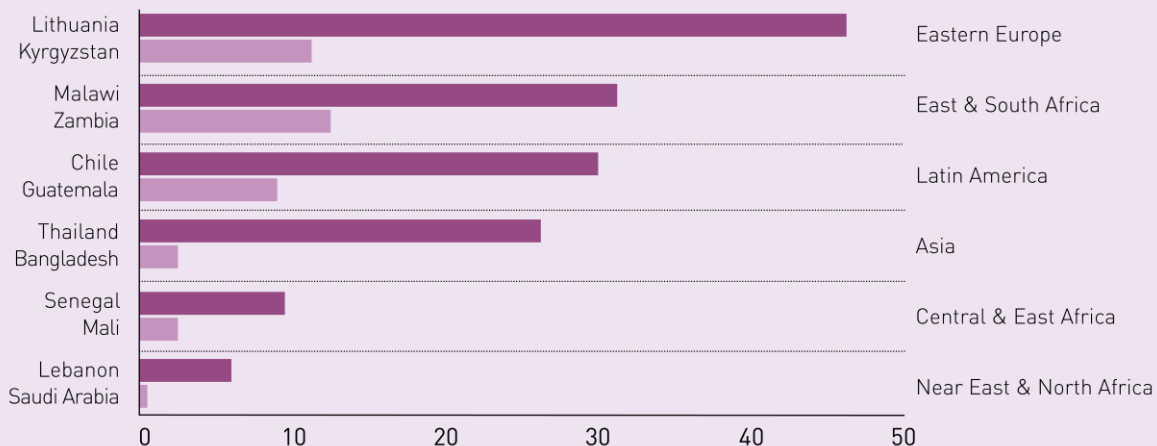
- Supporting awareness-raising and right to information including information about complaints mechanisms for women, men and communities about existing legislation and policies.
- Supporting initiatives that address power relations in the household through e.g. ensuring that rural development programmes have a methodology for addressing intra household power relations, or by supporting civil society organizations working with attitudes and behavioural change.

**Enforcement**

When a dispute arises, enforcement requires that the disputing parties are familiar with the law. It assumes the parties to have equal right to institutions and actors such as lawyers, legal aids, etc. as well as the ability to make a claim. A good level of enforcement is further jeopardised by: weaknesses in the institutional capacity of the judicial system to implement laws or handle all incoming cases; corruption, biased courts and legal officers (who adhere to discriminating norms); and conflict situations in which the legal system and law enforcement tend to be run, or even neglected, by the army or rebel groups. Sida can facilitate good law enforcement by:

- Supporting capacity building of law enforcement institutions such as courts, local councils, and police, through gender sensitization training, and by raising awareness of existing laws and tools to support women’s right to land.
- Supporting the creation of support mechanisms (formal institutions, paralegals and e.g. NGOs) that

**Percentage of agriculture land holdings held by women (high/low in selected regions)**



assist women who claim their legal rights and thereby go against societal norms.

- Advocating the creation of national or regional mechanisms to monitor the enforcement of policies, targets and laws on women's right to land.
- Promoting adult education and literacy courses for women and men.

### Land administration

The technical systems of land administration dealing with land delimitation, titling and registration of land and user rights, play an important part in creating equal rights to land in different systems of land tenure. It provides opportunities for ensuring that laws and policies on equality in right are implemented or that informal agreements on right to land are formalised and thereby improve tenure security. In systems of private tenure rights, land titling and registration are prerequisites for land owners to use their land as collateral. Processes of land delimitation, titling and registration of tenure have to be carried out in an open manner which does not discriminate against women in any way and which encourages an increase in women's right to land. Sida can support this by:

- Ensuring through analysis or dialogue that individual land titling and registration processes do not take away rights that women have had in a community tenure system.
- Supporting the creation of a systematic registration system which is accessible to illiterate women and men, where legal tenure documents only are valid if photographs or fingerprints are used in registration processes, instead of signatures.
- Exploring how land administration authorities, when registering community/village lands with joint user rights, can promote gender equality in rights within communities, as the communal user right is often distributed to individuals through customary practices.
- Ensuring that both women and men affected by land certification and registration programmes can participate in the planning and design of such programmes.
- Supporting the development of handbooks or guidelines for lawyers and personnel of cadastral offices to assure that correct information about marital status and joint ownership rights is known and upheld, as well as notices of security for debt, sales of property or transfers of title.
- When supporting land administration programmes, ensuring that the partner authority is aware of the International Federation of Surveyors' Guidelines on Women's Access to Land (see further reading).

### FURTHER READING

**Action Aid, 2008:** [Securing Women's rights to land and livelihoods - a key to ending hunger and fighting AIDS.](#)

**FAO, 2012:** [Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.](#)

**FAO, 2005:** [Gender and land compendium of country studies.](#)

**FAO, 2002:** [Gender and Access to Land, FAO Land Tenure Studies 4.](#)

**International Federation of Surveyors' (FIG), 2001:** [Women's Access to Land – FIG Guidelines. Principles for Equitable Gender Inclusion in Land Administration](#)

**UN Habitat, 2008:** [Gendering Land Tool – Achieving secure tenure for women and men.](#)

**The World Bank, 2009:** [Gender in agriculture source-book.](#)

### Example of indicators

- **Share of total land titles held by women** (% and trend) or
- **Share of women and men with tenure security** (impact indicator, measure effects on target group)
- **Reform process<sup>1</sup> supported by meaningful participation of relevant stakeholders** (outcome indicator, measure political will)
- **Share of land titles**
  - **issued during (specify time period) held by women** (output indicator, measure effects in target group)
  - **still held by women after 5 years** (outcome indicator, measure effects in target group)
- **Incoherencies/gaps identified in formal and informal institutions and systems (constitution/policies/legislation/customary law) related to women's land rights (e.g. land, inheritance, divorce, etc.)**
  - **Incoherencies/gaps identified**
  - **Plan for adjusting incoherencies/gaps adopted** (output indicator, measure capacity development as a prerequisite)
- **Adoption of explicit laws or clauses in existing legislation that reduce or eliminate gender discrimination in land rights/productive resources** (outcome indicator, measures political will)

<sup>1</sup> Not limited to a reform process, but could be other processes e.g. revision/development/adoption of a policy or legislation, etc.