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**Backgrounder: Gender inequalities in land rights in Africa**

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1. **Introduction**

Land is a key economic and livelihood resource for women in Africa. Most women rely on land for their livelihoods and are responsible for much of the agricultural production. In sub-Saharan Africa, women make up nearly 50% of agricultural workers. But many women are either landless or have limited and insecure rights to land. The important role that rural women play in agriculture means that insecure land rights threaten their well-being and that of their children and their communities.

Improving women’s access to land is one way of increasing gender equality and addressing other important development goals. So far, efforts to improve women’s access to land have focused on agricultural land. This focus needs to be broadened to include access to other resources linked to land such as forests, water, minerals, and urban space.

### Customary tenure and women’s right to land

*Customary tenure* can be defined as the systems of laws, rules, and norms that grant rights to land and natural resources. Customary tenure systems are central to the identity of many African communities and are often seen as more important than formal laws. These laws, rules, and norms are applied by an authority other than the government and are required to be followed by all*.* Customary systems are usually managed by a land or village chief, traditional headman, or council of elders. Men usually occupy these roles. This means that women have little decision-making power within their family and are also largely unable to challenge violations of their rights through customary structures that traditionally favour men. Thus, restructuring customary tenure systems is an important part of creating a more balanced system of land rights for both women and men.

Various African countries now have community land laws that make it possible for rural communities to register their lands as a single legal entity and to administer, manage, and conserve land at the community level. These laws also urge for gender inclusion in any such laws and agreements. For example, some laws specifically refer to equality of land rights for men and women, while other laws require women to be represented in land administration structures.

However, there is still a long way to go. A study in Senegal and Mozambique showed that not enough women take part in decision-making structures even in communities where relationships are based on the mother's family line. Other research in Malawi and Zambia found that even in communities where women are able to inherit land directly from their mothers, husbands usually make decisions about that land. In a similar way, in Rwanda, where laws favour women's land rights, traditional ideas of men's and women's roles continue to weaken women’s land rights (See Box 1).

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| ***Box 1: Traditional gender roles continue to challenge women’s land rights*** A study in Rwanda showed that, based on their traditional or customary roles, men and women take part in different areas of power and decision-making. Generally, women have poorer access to resources and opportunities than men. The concept of gender equality encourages equal ease of access, regardless of gender. Understanding this helps to explain the way that land-related decision-making affects rural life. An example is that women believe that “a good wife is patient with her husband's decisions and obeys, even if she disagrees.” This belief that women should be silent to keep the peace affects their ability to have a say in land decisions affecting them. |

Another concern is that customary tenure laws sometimes do not establish measures to ensure that community leaders are answerable to community members. For example, there may be few details on where and how community members can voice their complaints or how communities can reverse decisions not in their best interests. There may also be no penalties for activities that deny women equal land rights.

***What are the implications of insecure land rights for women?***

For rural women, access and control of land resources can lead to wealth, while lack of access and control can lead to rural poverty. Securing women’s land rights is therefore important for improving the status of women in society as well as improving general economic and social development.

Women are more likely to invest money, labour, and other resources in farm activities that can earn them an income when they are not fighting for land. They are also more likely to conserve the land by practicing environmentally-friendly farming methods that help save water and keep the soil healthy. Indeed, an increasing amount of research is finding that including women in political decision-making about land-based resources can result in better use and control of resources because women bring new ideas and fresh perspectives on the ways in which resources can be managed.

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| ***Box 2: Summary of key facts about land rights for women in sub-Saharan Africa**** In sub-Saharan Africa, women make up 48.7% of agricultural labor, but own only 15% of agricultural land.
* Land which women are allowed to control is usually of lower quality and smaller in size.
* Women’s ability to control their own lives increases when they have secure land rights.
* Women with secure land rights tend to use their land more productively.
* Women with secure access to land improve the nutrition of their households.
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***Challenges to gender equality in land ownership***

**a) Tradition**

Most African communities traditionally give total control of land to men and discriminate against women’s ownership and control of land. In such instances, women are only able to access land through male relatives, even though women represent the majority of land users in agriculture. This results in conflicts over land and in resolutions of these conflicts that disadvantage women.

Women are also marginalized in access to urban land for housing and other uses. For instance, research in Senegal found that very few women had access to a residential plot through purchase or inheritance—or even from municipal authorities, even though there are legal provisions for women to be given priority in accessing land.

**b) Lack of awareness of laws and measures for solving land-related problems**

This situation is made worse by the large number of illiterate rural women, women’s limited time, and the small number of women who currently work in or have access to decision-making structures and processes. Lack of awareness of their rights, along financial and cultural factors also limit women’s ability to seek justice when their rights are violated.

**c) Unequal and limited access to opportunities such as finances and farm inputs**

Opportunities are usually reserved for men, including opportunities to participate in income-generating activities, opportunities to receive inputs being handed out, and opportunities to participate in finance schemes. This limits women’s ability to use land efficiently. For example, when irrigation was introduced to a development project in Gambia where women were the main rice producers, 87% of the improved lands were registered in the names of men, while only 10% were allocated to women.

**d) Common misconceptions about the land rights of women**

* *Women own 1-2% of the world's land.* There is no clear data to justify this figure. The percentages vary greatly from country to country.
* *Improving women’s ability to access, control, and own land will strengthen their bargaining power and increase their incomes*. While secure land rights are beneficial, women face many challenges when it comes to increasing their incomes and bargaining power. Women's incomes and bargaining power are still strongly influenced by cultural perceptions of gender. Thus, improving their access to land by itself may not be enough to strengthen their bargaining power or raise their incomes.

**e) Predicted impact of climate change on the land rights of women**

* Natural disasters such as floods and droughts may reduce the value of women’s land because of their poorer access to resources and opportunities.
* Increased threats from other users as droughts and floods worsen.
* As droughts and floods increase, more women will be displaced from their lands.
* Climate change makes it urgent to create secure tenure of land and natural resources.
* Secure land rights for women will help in the fight against climate change.

**3. Positive efforts that support secure land rights for women**

***African regional responses***

African governments have made strong commitments to address women’s land rights issues. Below are some of the policy statements that the African Union (AU) supports as ways to improve women’s land rights. The Member States of the AU have begun efforts to change their laws to be consistent with the commitments described below. These efforts are strengthened by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), a global commitment that supports equal land rights for women.

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| **Box 3: Policy statements from African Union relevant to women and land rights*****African Charter on Human and Peoples' Rights (1981)**** Prohibits all unfairness towards women and protects the rights of women in line with international agreements.
* Promises to provide financial resources to implement all rights.

***Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa (2003)**** Ensures that governments act on their promises to provide resources for women's land rights.
* Requires governments to improve women's access to and control of land.
* Requires governments to encourage women's participation in decision-making at all levels.

***Framework & Guidelines on Land Policy in Africa (2009)**** Recognizes that unfair treatment of women related to land issues is an issue that affects women's livelihoods.
* Encourages laws that allow women to make land claims, enable women to inherit and transfer land, allow women to co-own land, and enable women to contribute to managing and administering land.
* Suggests that sufficient financial support be made available to implement laws.

***The African Union Guiding Principles on Large Scale Land Based Investments (2014)**** Emphasizes the need to strengthen women's rights to own, access, control, and make use of land and for large-scale land-based investments to benefit women.
* Highlights the importance of women's involvement in decision-making on land with regard to negotiating benefits, compensation, and terms.
* Recognizes the importance of gender equality in land and laws related to land.
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***Country responses***

African countries have begun to make changes to their land laws to secure land rights for women. In Senegal, development organizations have helped increase public support for women's land rights in the Valley of the Senegal River, where women’s groups have been given group rights over land by the community and local government. In Rwanda, major land tenure changes have been introduced by the government to give women the same land rights as men under the law. Kenya granted men and women equal land rights by specifically protecting women's land customary land rights where the challenge is often greatest.

The constitutions of some countries now provide women with equal access to land, with some stating the need to include women in decisions on how land is used and managed. For example, the Ugandan constitution now addresses unfairness against women and ensures that women have the same rights to land as men. In Ghana, the constitution now advocates for women to fully engage in economic development. This change is a result of work by a network for women’s rights which talked to and worked with many women’s rights organizations, researchers, the informal sector, youth, and students to pressure the government to remove any differences between men and women.

In Rwanda the constitution tries to ensure equal access to land for different groups of women. Article 11 of the 2004 Constitution states that women, married or not, should not be excluded from access to land, purchase of land, control of land, and the family land inheritance process. In Kenya, the Law of Succession Act treats male and female children equally in terms of their right to inherit property from their parents.

1. **Conclusion**

Women are still disadvantaged in their access to land and in their ability to make decisions on the land which they use. Much more needs to be done by women and their allies to successfully demand their rights. Some progress has been made. There are now more policies, land laws, and constitutions that promote women’s secure land rights. However, many of these measures have not been fully implemented. A greater political push is needed to ensure that women are placed at the center of land use and management in their communities.

**Definitions**

*Customary tenure*: Laws, rules, and norms governing rights to land and natural resources that are upheld by an authority other than the state and subscribed to by a collective defined by characteristics other than national citizenship.

*Use rights*: Rights for how land is used as determined by law, local custom, mutual agreement, or by other entities that hold access rights.

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