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LAND TENURE, PROPERTY RIGHTS, AND GENDER

CHALLENGES AND APPROACHES FOR STRENGTHENING WOMEN'S LAND TENURE AND PROPERTY RIGHTS
PROPERTY RIGHTS AND RESOURCE GOVERNANCE BRIEFING PAPER #7

BACKGROUND

While many people in the developing world lack secure property rights and access to adequate resources, women have less access to land than men do in all regions and in many countries (Food and Agriculture Organization of the United Nations [FAO], 2011b). Women across the developing world are consistently less likely to own land, have fewer rights to land, and the land they do own or have access to is of lower quality in comparison to men (FAO, 2011b).

Improving women's access to and control over economic resources has a positive effect on a range of development goals, including poverty reduction and economic growth (FAO, 2011b). Rural women in particular are at the strategic center of reducing hunger, malnutrition, and poverty as they play a central role in household food security, dietary diversity, and children's health.

The FAO estimates that, while the number of undernourished people in the world is declining slightly, approximately 870 million people—or one person out of every eight—is undernourished, and more than three million children die each year from malnutrition before their fifth birthday (FAO, 2012). When considering household well-being, it is important to consider who within the household manages the family's resources, including land, as women are much more likely than men are to spend income from these resources on their children's nutritional and educational needs (Quisumbing, 1996; Strauss et al., 2000; World Bank, 2007). Data from Central America indicate that an increase in female landholdings is associated with increases in household food expenditure and levels of child educational attainment (Katz and Chamorro, 2002). Similarly, a study in Nepal suggests that children of mothers who own land are significantly less likely to be severely underweight because those women are more likely to have control over household decisions (Allendorf, 2007). Another study indicates a positive relationship between the amount of assets, including land, that a woman possesses at the time of marriage and the share of household expenditures devoted to food, education, health care, and children's clothing (Quisumbing and Maluccio, 2002).

In many cases, socio-cultural factors limit women's access to and rights over resources. In patriarchal cultures—predominant in much of the world—men as *de facto* heads of households have the largest role in decision making



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about resources at both the household and community levels, meaning women have disproportionately fewer rights to land and property (FAO, 2011a; Doss, 2013).

Secure rights to land—including the right to manage it and control the income from it—go beyond mere access. For a majority of women, access to land and property essential for food production and sustainable livelihoods is dependent on natal and marital affiliations. Thus, women can lose rights to land when there is a change in marital status due to marriage, divorce, or death of a spouse. To be secure, women’s rights to access land should not depend on their marital status (FAO, 2007). To be effective, interventions must focus on women’s rights to access land, as well as on the cultural and social factors that prevent women from obtaining secure rights to that land. This issue paper presents challenges and approaches for strengthening women’s land tenure and property rights, and provides recommendations for *policy* formulation and implementation. Throughout this issue brief, policy and programmatic recommendations are consistent with the *Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries, and Forests* (Voluntary Guidelines). The Voluntary Guidelines are an internationally negotiated instrument of the Committee on World Food Security (CFS) under the aegis of the FAO (FAO and Committee on World Food Security, 2012).

CONCEPTUAL FRAMEWORK AND CRITICAL AREAS

Secure rights to land and property for women generate economic and social benefits

There are both economic and social benefits when women have secure land rights. Property rights in land—whether customary, formal, or religious—provide economic access to key markets and social access to non-market institutions, such as household- and community-level governance structures (Boudreaux and Sacks, 2009).

Secure land rights confer direct economic benefits because land is a key input into agricultural production and enterprise development; can be used as a source of income from rental or sale; and can provide collateral for credit where strong, well-regulated land markets and credit infrastructure exist. Women may not fully reap these benefits if they do not have legally and socially recognized rights to individually or jointly held land.

Worldwide interest in farmland investments has increased dramatically in recent years, particularly in the global south. As of 2011, an estimated 50 to 80 million hectares of land had been acquired in the developing world (High Level Panel of Experts on Food Security and Nutrition [HLPE], 2011). The 2008 food price shocks sparked significant increase in land values and global investments in farmland by investors, financial institutions, and governments, and will increase women’s vulnerability if their participation in decision making and their consent is not considered (Behrman et al., 2012). For example, a study of Maragra sugar plantations in Mozambique’s Manhica district found that while women enjoy equal rights to access land under Mozambique’s 1997 Land Law, they lack decision-making power over customary land. Thus, most women do not enter into long-term commercial leases with investors (Forum Mulher et al., 2010). A 2013 World Bank report found that although women generally provide a significant portion of agricultural labor, contracts for the production of export crops are overwhelmingly signed with men (Croppenstedt et al., 2013). The authors conclude that women’s weaker rights over land and other productive assets lead investors to deal primarily with men.

“Women farmers hold the key to sharply reducing world hunger. First and foremost, particularly in places like Africa where the hunger problem is most severe, women produce most of the food. In some countries, 70%, 80%, even 90% of the food people consume is produced by women small farmers.”

Peter O’Driscoll, Executive Director, ActionAid

The economic benefits of land apply to both rural and urban land. When title to informal urban settlements is secured, families are able to make structural improvements and lobby the government for better services, resulting in better sanitation and living conditions. Studies have found that women who have secure urban tenure in India have higher self-esteem, are better able to participate in local committees and governance structures, and are able to invest in their homes (Baruah, 2010).

Furthermore, providing rental housing is a major livelihood for women in slums (Gilbert, 1999). Other studies have found that secure land and property rights can enhance women's abilities to participate in informal trading and negotiate access to higher income markets in the formal sector (Charmes, 2000).

In addition to the short- and medium-term economic gains, women with stronger property rights in land are less likely to become economically vulnerable in their old age, in the event of the death of their spouse or divorce, or if land is sold without their consent. In Ethiopia, it was found that women's land rights within marriage might give them greater claims to assets upon divorce or the death of their husbands (Fafchamps and Quisumbing, 2002).

Aside from economic gains, land and property rights can empower individuals to participate more effectively in their immediate communities and in the larger civil and political aspects of society. 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 (FAO, 2002; International Development Law Organization [IDLO], 2013).

Research in Cameroon and Ghana found that increased interest in land and investments in agriculture, in some cases, can strengthen women's land rights and bargaining power. Two studies of female cocoa farmers in southern Cameroon and western Ghana found that individualizing land ownership in response to changes in market forces has strengthened women's land rights, often with the direct support of their husbands (Croppenstedt et al., 2013).

Gender-Equitable Resource Rights are Essential for Food Security

Although hunger and malnutrition are global problems, they have an especially profound impact on the rural poor and on women in particular. Rural women in sub-Saharan Africa are 68 percent more likely to be malnourished than urban women, and "malnourished mothers are more likely to die in childbirth and to give birth to low birth-weight babies who are more likely to have stunted growth" (Uthman and Aremu, 2008). This correlates strongly to women's land tenure insecurity: countries where women lack land ownership rights have an average of 60 percent more malnourished children (United Nations Human Rights Council, 2012).

Evidence from studies across the developing world shows that increases in land tenure security correlate with improved food security, particularly for women. Securing and recognizing women's land rights can increase agricultural productivity and shared household decision making, and thereby increase the total amount of resources available to the family for nutrition and food security (Allendorf, 2007).

A countrywide study in Uganda shows how land tenure insecurity can affect agricultural productivity and food security. When women farmers did not have independent and secure rights to the land they were farming, many chose not to let it lie fallow for an optimal period. Since their rights to use the land were insecure and dependent on a relationship with a man, the women feared that not using the land for one season would affect their longer-term access, thus they overworked the land. The study concluded that when women are forced to struggle to maintain control of their land, productivity and income fall (Mason and Carlsson, 2005; for a similar study conducted in Ghana, see Goldstein and Udry, 2008). Similarly, a study in Kericho, Kenya shows that women neglect tending tea plantations because they have limited control over proceeds from the tea, resulting in increased household tensions and lower productivity (Von Bulow and Sorenson, 1993).

When women farm, they prioritize growing food for the family, but they are commonly overlooked in agricultural policy. Until recently, investment in smallholder agriculture had been decreasing, and aid to rural development has decreased by 50 percent over the past 20 years (ActionAid, 2008). Studies have found that female farmers are just as efficient as male farmers are, and with equal access to inputs and services, would achieve the same yields as men. (FAO, 2011b). Studies conducted in sub-Saharan Africa conclude that total efficiency in agricultural production would improve if resources were allocated more equitably across men's and women's land plots (Allendorf, 2007). In Peru, a study found that 71.4 percent of Peruvian women with land rights live in male- or

dual-headed households. The same study found that peasant farmers in Peru felt that “female land rights are strongly associated with better outcomes for owner-operated farming households” (Deere et al., 2004).

Research shows that restrictions in women’s decision making and access to land and other productive assets affect their resilience to climate shocks and longer-term climate change (FAO, 2011b). Efforts to mitigate and encourage adaptation to the impacts of climate change on agriculture and food security will be more successful and equitable if they consider and address issues of agency, social norms, and household decision making that define the interactions between men and women (World Agroforestry Center, 2013).

Despite the positive relationship between secure land rights and increased agricultural productivity, and the fact that women play a significant role in agricultural productivity, food security programs designed to formalize land rights may weaken—rather than strengthen—the land rights of women. If women are not taken into consideration, formal rights to land may be documented in the name of the head of the household only, and the head of household is usually a male, as evidenced by Kenya, Uganda, and Zimbabwe’s post-independence land registration and formalization experiences (Sunungurai et al., 2010; Khadiagala, 2002; Syagga, 2006).

Food Security Affects HIV/AIDS Prevalence

Secure land and housing rights can help women to mitigate the effects of HIV/AIDS and play a role in protecting women from high-risk situations, thereby reducing their risk of contracting HIV. The negative impacts of HIV/AIDS on agricultural production and food security are well documented (FAO, 2003; International Fund for Agricultural Development [IFAD], 2011). In Africa, women are not only the primary food producers, but also the primary caretakers of the ill. Hence, when they or a member of their family becomes ill, women’s ability to engage in agriculture and other productive activities is reduced and family food security is often compromised.

Gender-based violence (GBV) is a risk factor for contracting HIV. A study reviewing evidence from 22 countries showing the impacts of economic empowerment upon women’s vulnerability to GBV found that, in general, when women own household assets and are better educated, they are less susceptible to GBV (Vyas and Watts, 2008). While secure property rights alone are not a panacea against violence, they can improve women’s economic independence and bargaining power in the household. Increasing women’s bargaining power in the home has been shown to decrease their susceptibility to GBV, and therefore reduces their risk of exposure to HIV (International Center for Research on Women [ICRW], 2008).

Poverty is a factor leading to behaviors that expose people to the risk of HIV infection. Women’s weak tenure status 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 HIV/AIDS infection and spread.

Women’s food security (defined as having sufficient quantity and quality of food to eat on a continual basis) is also an important determinant of their ability to protect themselves and their children from HIV infection. HIV prevalence is highest in the most food-insecure countries; hunger is both a result and an exacerbating cause of HIV/AIDS. In southern and eastern Africa—the sub-regions with the highest HIV prevalence—30 percent of the population is undernourished (FAO, 2011b).

Worldwide, women make up 60 percent of the chronically hungry (ActionAid, 2008). When women are food insecure, they are more likely to engage in unsafe sex. A study in Botswana and Swaziland found that women with insufficient food were 70 percent more likely to lack control in sexual relationships, 80 percent more likely to sell sex for money, and 70 percent more likely to engage in unprotected sex (Weiser et al., 2007).

However, a study in a peri-urban area of South Africa found that women who are able to acquire their own property are significantly more capable of escaping abusive relationships and leaving sexual partners who refuse to use condoms, thereby lowering their risk of HIV/AIDS infection. Examining one area of rural Uganda, the same

study found that having the right to rent out household land enabled women to cope better with the impacts of losing a partner to HIV/AIDS (ICRW, 2008).

INSECURE LAND AND PROPERTY RIGHTS FOR WOMEN IN AFRICA

Women's insecure land tenure and property rights in Africa can be linked to a mix of economic and social pressures that have profoundly transformed social structures and land tenure systems. These factors include colonial and post-colonial private property legislation, an influx of investments, an increase in the resource value of land, liberalization of markets through structural adjustment programs in the 1980s and 1990s, commodification of land, growth of land markets, population increase, large-scale resettlement of people, rise in competition over land, "land scarcity," and recent large-scale land acquisitions (FAO, 2007; Cousins, 2009; Anseeuw et al., 2012).

The introduction of private property tenure systems and the growth of land markets sustained by post-independence governments have triggered changes in customary tenure regimes (FAO, 2007). The largest impact has been on the social networks that existed in earlier customary systems. Where women's access to land (whether in natal or marital homes) was once protected by the clan and patrilineage, social safety nets are now highly individualized and less certain (Flintan, 2010). The following are implications of these changes.

"The rules, norms, and customs which determine the distribution of land and resources are embedded in various institutions in society—family, kinship, community, markets, and states. The distinctions between ownership, access, and control, and between statutory and customary laws, have resulted in varying degrees of complexity in the distribution of land and property"

United Nations Department of Social and Economic Affairs, 2009

Inequities Arise from the Transformation of Customary Laws and Practices

Post-colonial land distributions, formalization of individual land rights, and subsequent land transactions frequently vested titles to land in the head of the household only. These were most often men, according to patrilineal custom, and this vesting shifted the traditional concept of what it means to have rights to land. One study in Uganda observes that now "[t]he man as an individual, rather than as the responsible representative of his family, has become the person with all the authority to use, sell, and control land" (Adoko and Levine, 2005).

While clan elders continue to facilitate allocation of land and patrilineal inheritance procedures, their authority to regulate and protect women and children from land grabbing, distress land sales, and forced eviction upon spousal death or divorce has been weakened. In many cases, wives in polygamous marriages are vulnerable to insecure land rights and require clan intervention for protection. Where land is scarce, first wives may lose rights to a portion of their land when their husband takes a second or subsequent wife, because traditionally each wife has her own plot of land, and this plot may be taken from the first wife's portion of land. Second or subsequent wives may also have insecure land rights due to their status within the family. In Burundi, for example, the law does not recognize polygamous marriages, so only the first wife's children are entitled to inherit land. Subsequent wives would need to appeal to clan elders for assistance. This has led to increased female poverty and household food insecurity (Doss et al., 2011). One study of Borana pastoral communities of southern Ethiopia found that while women's rights as primary and secondary users of rangeland were strongly protected by traditional rules, the declining authority of customary leaders, combined with increasing privatization of rangeland, was having a disproportionately negative impact on Borana women (Flintan, 2010).

In general, married women in sub-Saharan Africa access land held under customary tenure through their husbands. These women are especially vulnerable to losing their land when their husbands become ill or die from HIV/AIDS (Budlender and Alma, 2011). In many customary systems, people risk losing their land if they are not using it productively. Many widows struggle to retain land when their husbands die because tribal or customary leaders may assume that she cannot productively use some or all of the land. Research in Uganda found that, due

to constraints on labor, households decreased land cultivation area when HIV affected a household member. Female-headed households decreased cultivation area by 26 percent compared to an 11 percent reduction for male-headed households (FAO, 2003). Moreover, a rise in forced sales of customary land without regard to women's and children's rights has resulted in the loss of livelihoods, as documented by studies in Uganda (Adoko and Levine, 2005). In Kenya, where women head 70 percent of all squatter households, more than 25 percent of female slum dwellers report having been displaced from their rural homes as a result of land dispossession (Benschop, 2004). The current surge in interest in farmland in Africa by large-scale investors is likely to cause greater vulnerabilities among women, because their claims to land rights are generally weak. As a study by the World Bank indicates, "countries with poorer records of formally recognized rural land tenure...attracted greater interest" from investors (World Bank, 2010).

Statutory Law Impacts Women's Land Rights

Traditional land tenure systems have often been transformed in ways not beneficial to women, while positive changes in statutory law to protect women's rights may have a limited effect due to the lack of enforcement and cultural and social norms that may limit women's willingness to exercise their rights under the law (Budlender and Alma, 2011). Statutory law—if enforced—can support women's secure rights to land, but enforcing the law can be difficult, because the justice system is often inaccessible and costly, and high land values provide an incentive for illegal land grabbing. In Rwanda, where 50 percent of women are widows, 34 percent of women head households because of the 1994 genocide. The formal legal system and land law provide equal rights to land for women, including equal rights to inherit land. However, a study in Bugesera district, the area with the highest number of cases of women involved in land disputes, found that the most common cause of disagreement was women trying to enforce their right to inherit land. The study shows that the majority of defendants in the disputes were male relatives and spouses of the women (Rwanda Women Network, 2010).

A study on the impact of statutory land policies and land reform in Uganda's Kapchorwa and Luwero districts found that a majority of women did not have land registered in their names. In most cases, the few women who purchased land registered the land in their husband's names, according to custom. The same study showed that women have limited knowledge of their property rights under the legal system, and that gaps in the legal system prevent inheritance and co-ownership of property acquired in marriage (Women's Land Link Africa et al., 2010).

Statutory law can also weaken customs that favor women. The Malawi National Land Policy, which passed but is being implemented very slowly, provides for all children to inherit land equally from their parents. However, some ethnic groups in Malawi are matrilineal and matrilocal, and their current customary system is more protective of women's land rights than the new law (Economic Commission for Africa, 2003; Government of Malawi, 2002).

INSECURE LAND AND PROPERTY RIGHTS FOR WOMEN IN ASIA

Women in Asia face similar challenges in securing and enforcing rights to land. In some cases, legal and policy reforms, though gender neutral and not explicitly discriminatory, have nevertheless failed to benefit women equally to men. As in Africa, rights to land have to be recognized both legally and socially to be enforceable. In many cases, such as those listed below, social recognition is more difficult to achieve.

Customs Influence Implementation of, and Sometimes Supersede, More Progressive Formal Law

In many Asian countries, the formal law strengthens women's property rights, but social norms limit women's willingness to enforce the law. In India, although women have the same legal rights to own land as men do, less than 10 percent of privately held land is in the name of a woman. One reason for this is dowry, prohibited by formal law, but nonetheless widely practiced. A family views a daughter's dowry as her portion of the inheritance, even though it is typically given to her new husband and his family. Therefore, although women have formal rights to inherit land, these rights are trumped by the social understanding that women's dowries represent their inheritance (Scalise, 2009).

In Pakistan, dowry is similarly recognized under customary law as compensation for inheritance, although many women reject the idea that the tokens and other small gifts that make up a dowry are an adequate compensation for the land rights of men. Family pressures and customs also prevent women from exercising their formal rights. In Pakistan, women's property rights are based on both Muslim personal law and tribal custom. Although Sharia's law provides that women have the right to inherit half as much as men, in practice, many women do not claim their right out of fear or deference to their family. One study found that a widow's claim to her deceased husband's land is a source of discord and meets with hostility by her in-laws and brothers (Sustainable Development Policy Institute, 2010).

Similarly, in Tajikistan, women seldom hold title to land, despite the fact that formal law provides for wives to exercise property rights, and makes joint ownership of land by husbands and wives the default property regime. This is primarily because many rural marriages are not documented, and these provisions do not apply to marriages that are not registered. Moreover, customarily, wives only have rights to their dowry of moveable property; have no rights to household property; and can only own land if they have been divorced, widowed, or abandoned (Djusaeva, 2012). A study conducted in 2007 found that these restrictions on land ownership are widely accepted by women. Because of this, even where formal laws might be beneficial to women, they are often irrelevant in practice (Giovarelli and Undeland, 2008).

There are also some examples of formal law deferring to customary law, thereby formalizing it. For example, in Afghanistan, there is a pluralistic legal regime that first recognizes statutory law, then religious law where statutory law is silent, and finally customary law. The Civil Code establishes that religious law governs property rights and inheritance law generally. However, it specifically recognizes customary law in the case of women's property rights. This means that when women are involved, customary law is applied first. Therefore, even where formal laws grant women rights, often they are not implemented in practice, and this lack of implementation is legal. For instance, although both the Afghan Civil Code and Islamic Law provide that women are entitled to inherit, customarily, the husband pays his wife's family a bride price that then terminates her family's obligations to her. Further, while statutory law mandates that women receive a dowry on marriage that is exclusively her property, dowry is not customarily given. Since custom is given precedence over formal law, wives are often left without a dowry or the chance to inherit, and therefore, without any economic security (Scalise, 2009).

In China, the 2002 Rural Land Contracting Law states "men and women shall enjoy equal rights with respect to the contracting of rural land. The legal rights of women shall be protected in the contracting process, and women's rights to contracting land shall not be deprived or illegally restricted by any unit or individual" (Government of the People's Republic of China, 2002). In practice, however, women frequently lack control over household land because men are generally regarded as the heads of household and land is allocated to households. This same law governs the allocation of collectively managed forestland. As implemented through subsequently issued policies, it leaves considerable discretion to local governments, which are free to apply local rules to determine who has access rights to collective forestland and who gains from the distribution of benefits generated from the land. Because these local rules sometimes disadvantage women—especially divorced women and women who marry out of their natal village—benefits of the reforms are not distributed evenly among women and men (Wang et al., 2012).

INSECURE LAND AND PROPERTY RIGHTS FOR WOMEN IN LATIN AMERICA

In Latin America, civil or family laws that mandate joint ownership of land acquired during a marriage for married couples or couples living in consensual unions automatically give women some control over land while married, and a share of the land in case of divorce or abandonment. Most Latin American countries have some form of marital property laws. Moreover, a "second generation" of agrarian reform in Latin America—one in which the clarification and legalization of property rights has taken precedence over redistribution—has been targeting women.

Despite having highly progressive marital property and inheritance rights for women, entrenched patriarchal values pose obstacles to securing women's land rights. A vast majority of these countries provides full or partial ownership of property as the default marital regime and the equal inheritance rights of boys and girls, and countries like Colombia and Bolivia restrict testamentary freedom to ensure widows and children are entitled to a share of inheritance. Still, enforcement is often dependent on custom. In Nicaragua, for example, some women reported that despite mandatory joint titling, women failed to exercise control rights over land (Deere and Leon, 2001). Although Chilean law states that male and female children have equal rights to inherit, in practice inheritance is strongly skewed toward men (Deere and Leon, 2003). Overall, joint ownership of the family home is an important reason for the relatively high share of female homeowners in a number of Latin American countries. The ownership of land is much more skewed than is the ownership of homes, however; only one-third are constituted by women (Deere et al., 2010).

Encouragingly, some laws in Latin America are helping to increase the tenure security of female household heads through positive provisions that aim to proactively overcome historical discrimination against women and give special protection to the most vulnerable rural households. Colombia's 1994 land distribution gave priority in land distribution to all rural women who experienced "lack of protection" due to ongoing violence in the country. Women in Colombia, Nicaragua, Costa Rica, and El Salvador have shared in recent land distributions to a much greater extent than in the agrarian reforms of past decades as a result of legislation that expressly considered and protected women's tenure rights. In Colombia, mandatory joint titling of land distributed to couples, once properly enforced, together with the prioritized inclusion of female-headed households and unprotected women in the distribution, increased women's share of allocations by over 30 percent (Deere and Leon, 2003).

PROMISING OPPORTUNITIES FOR STRENGTHENING WOMEN'S LAND TENURE AND PROPERTY RIGHTS

Innovative practices and programming have been developed to facilitate gender-equitable property rights in many parts of the world. These innovations provide valuable examples of how the complex issue of women's rights to access and own land can be addressed in different contexts. In developing strategies to address these issues, USAID might consider the following examples.

Legal and Policy Reform

- **Statutory laws.** In a number of developing countries, laws have been enacted that protect women's land rights. While formal laws are not enough, they create the space for change. In Guatemala and India, for instance, state-sponsored land programs require that land documents be in the name of both spouses or in the name of the female only (Deere and Leon, 2001). The same study found that the proportion of women beneficiaries of Colombia's agrarian reform increased from 11 to 45 percent after joint titling of land parcels became mandatory and it was enforced. In India, ownership rights for women are encouraged by incentives offered at the state and local government levels, including a reduced stamp duty rate for land registered jointly or in the name of the woman only (Department of Planning Government of Rajasthan, 2006). Also in India, research shows that the passage of legislation granting daughters equal inheritance shares relative to sons significantly increased women's likelihood to inherit land and led to an improvement in girls' educational attainment (Deininger et al., 2010). In the Mozambique Constitution and land and family laws, women have equal rights to use and benefit from land, and women are joint owners of community title (FAO, 2010). Kenya's new Constitution and land policy provide for joint ownership of marital property and equal succession rights for men and women. In Ethiopia, photographs of spouses on joint land title deeds have been used to secure women's land rights in marriage (USAID, 2008).
- **Formalized customary laws.** In other countries, governments have recognized and strengthened customary laws in ways that emphasize the rights of women. For instance, Tanzania's Village Land Act of 1999 grants customary rights of occupancy to families, and simultaneously protects "the right of every woman to acquire, hold, use, and deal with land, to the same extent and subject to the same restrictions...as the right of

any man” (Article 3(2), Government of the United Republic of Tanzania, 1999). Spousal and family rights over property are protected because applications are required to be presented and signed by at least two family members, and village adjudication committees must record when two or more persons or groups of persons are co-occupiers and users of land. Land rights may not be surrendered or assigned if that would defeat the occupation right of any woman or leave the assignor’s dependents destitute. At least three of the seven village council members, and at least four of the six to nine adjudication committee members, must be women (FAO, 2010; Government of the United Republic of Tanzania, 1999). Although this approach is a good example of securing women’s tenure rights in customary systems, it is expensive and involves codifications that may constrain the flexibility inherent in customary tenure systems (FAO, 2007; Fitzpatrick, 2005).

- **Hybrid laws.** In Mozambique, the state owns all the land in the country and grants land use rights to communities that occupy the land according to customary tenure. Its 1997 Land Law allows these communities to abide by their own customary rules and governance structures within their collective holdings, and adapt them as needed as long as they do not contravene principles of the Constitution, including the principle of gender equality in ownership of land. Ideally, this means that women have full rights to participate in all decisions made about the land (FAO, 2010; Government of Mozambique, 1997).

Project Design and Implementation

By considering women’s rights in both design and implementation, projects can complement and support legal reform. Below are examples of how this can be done.

- In Kenya, the USAID Women’s Property Ownership and Inheritance Rights Project advocated for women’s property rights through highly respected local tribal elders, helping widows with HIV who had been previously evicted from their homes to regain control over land and family property. In some cases, the program assisted with legal costs for women seeking redress through the courts as a way of creating awareness of the legal system as another alternative for dispute resolution (USAID/Kenya, 2009).
- A USAID/Kenya horticulture program helps women to grow cash crops that men do not traditionally grow, such as high-value indigenous vegetables. Women often have more control over land and income when farming crops that are traditionally farmed by women (USAID/Kenya, n.d.).
- In the Gambia, with the consent of the community, an agricultural development project allocated land to previously landless women who in return rehabilitated local swamplands for rice cultivation (World Bank/FAO/IFAD, 2009).
- With UN-HABITAT’s assistance, Women Land Access Trusts (WLAT) in Kenya, Tanzania, Uganda, Ghana, and Burundi provide financial intermediation for poor urban women to access land, housing, mortgage finance, and empowerment through training (UN-HABITAT, 2009).
- In India, Landesa is partnering with the Government of West Bengal to train adolescent girls living below the poverty line on how to garden very small plots of land to produce vegetables for consumption and sale. The program is designed to improve nutrition of adolescent girls, and to increase the value of the girl child in the family, possibly delaying her marriage (Landesa, n.d.).

CONCLUSIONS AND RECOMMENDATIONS

The limited research on the benefits of women gaining secure rights to land and property suggests positive results: an increase in women’s participation in household decision making (Field, 2003; Datta, 2006); an increase in net household income (Deere et al., 2004); a reduction in domestic violence (Panda and Agarwal, 2005); an increased ability to prevent infection by HIV/AIDS (USAID, 2008); and increased expenditures on food and education for children (Katz and Chamorro, 2003; Doss, 2005).

Understanding the complexity surrounding women's land rights is critical to ensuring those rights are protected and improved. Laws, customs, and norms can change from country to country, and even vary between regions and ethnic groups within countries. Therefore, women must be meaningfully included in the design and implementation of projects and policies to secure women's land and property rights. That being said, a few broad recommendations can be made based on lessons learned:

- Use the *Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security* (Voluntary Guidelines) to provide guidance to policymakers and program managers as a tool for encouraging investments in strengthening women's rights and access to land as discussed in this brief. The guidelines strongly support gender equality as noted in the Principles of Implementation and elsewhere throughout the document: "States should ensure that women and girls have equal tenure rights and access to land, fisheries and forests independent of their civil and marital status" (Article 3B.4).
- Support legislative and institutional reforms that build on local tenure systems and practices that secure women's rights to land and property. Strengthen common property law to enable legal claims. Understand how land laws and family laws have an impact on women's secure rights to land and property.
- Attempt to identify all property rights holders and/or resource users within households and within communities prior to the implementation of land reforms to ensure these rights are respected, secured, and enhanced. Consider registration systems that record multiple use rights as well as ownership. Ensure that both husbands' and wives' names are listed on land documents and registered. Document and register the rights of those living in consensual union or married under customary or religious law.
- Include women's voices, knowledge, and interests in land programs. Systematic field-level research to ascertain opportunities for, and barriers to, strengthening women's rights should inform policy formulation.
- Support rights awareness and positive behavior change among women and men with regard to women's land and property rights according to local customary institutions and formal legal systems.
- Support programs that empower women through cooperative action via women's groups or associations. Invest in governance structures, both formal and customary, that promote inclusivity, transparency, and accountability.
- Support alternative dispute resolution, land claims courts, or legal aid to help provide legal recourse when women's land rights are violated.
- Monitor the gender impact of land and property reforms and legislation.
- Support legislative changes that improve the transferability of land and productive assets via secure and enforceable contracts, especially rental agreements.
- In urban areas, and where municipal budgets and/or donor funding allow, provide low interest loans for the poor to purchase or rent land, or to acquire or improve housing. Such loans will benefit women if adequate attention is given to strengthening their empowerment, interest, knowledge, and engagement in the services offered.
- In rural areas, strengthen land rental markets and increase access to market opportunities to increase the value of the land and asset holdings. Support value chain projects that deliver inputs when and where women need them. Target extension services to crops women are involved in producing or to livelihood strategies specific to women.

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**Further Reading on USAID Land Tenure and Property Rights Interventions: See "USAID Property Rights and Resource Governance Information Portal" <http://usaidlandtenure.net/>.

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