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Land Rights for Women and Vulnerable Populations

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**Best Practices for Land Tenure and
Natural Resource Governance in Africa
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Objectives

Introduce programmatic approaches for strengthening women's rights to land and resources, while still respecting local institutions and customs.



Introduce programmatic approaches for strengthening the land rights of vulnerable populations.

Convey why it is important to consider land rights for women and land rights for vulnerable groups separately.

Why distinguish land rights of women and land rights of vulnerable populations?

- Strengthening land rights of vulnerable populations may not improve women's land rights, without specific focus on intra-household distribution of rights. (Scalise 2012)
- Land rights and governance systems of vulnerable populations may be discriminatory against women: strengthening these without focus on women may make things worse. (Scalise 2012)
- Where the two may intersect: improving women's land rights through working with (and strengthening) customary justice institutions.

What do we know about secure land rights?

Positive relationship between secure land rights and increased agricultural productivity/increases in income.



Photo credit : Deborah Espinosa

BUT, increased agricultural activity/income may *not* lead to decrease in household poverty or to improved family nutrition

BECAUSE it matters *who within the household* has secure land rights

When women have land rights

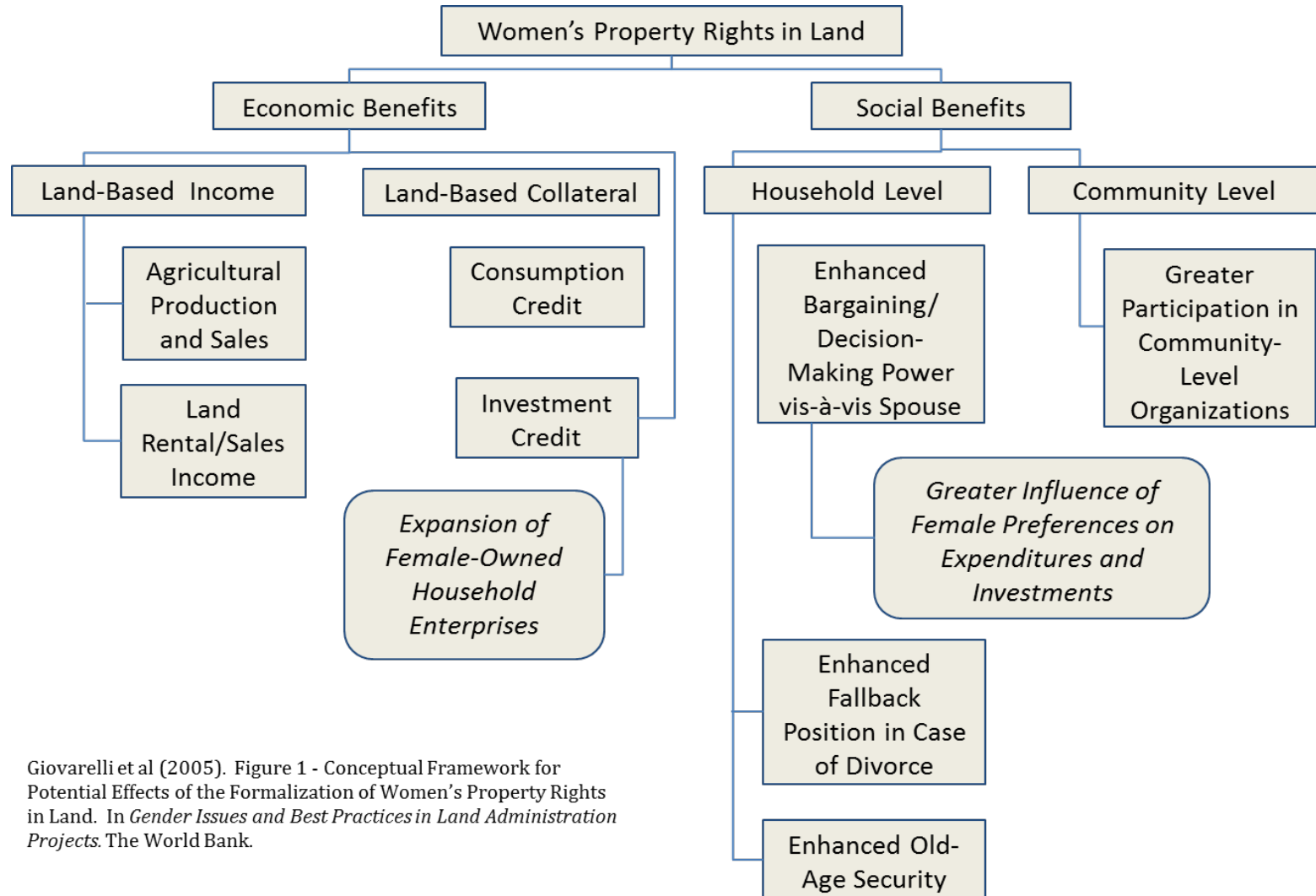
- Women are more likely than men to spend income from family resources (including land) on children's nutrition and education. (Quisumbing 1996)
- Increase in female landholdings associated with increase in household food expenditure (Central America). (Katz and Chamorro 2002)
- Children of mothers who own land less likely to be severely underweight because women have control over household decisions (Nepal). (Allendorf 2006)

When women have land rights (continued)

- Positive relationship between amount of assets a woman has at time of marriage and share of household expenditures on food, education, health care, and children's clothing. (Quisumbing and Maluccio 2002)
- Increased security for widows in HIV/AIDS context. (NACO, NCAER and UNDP 2006, FAO 2003)
- Reduced marital violence. (Panda 2005)



Women's land rights framework



Giovarelli et al (2005). Figure 1 - Conceptual Framework for Potential Effects of the Formalization of Women's Property Rights in Land. In *Gender Issues and Best Practices in Land Administration Projects*. The World Bank.

“Rights”

What rights are we talking about?

- Ownership, access, use, transfer, gift, receive, “license”, rent, lease, inherit, bequeath, etc.
- Rights obtained via marriage relationship
- Joint/individual/communal
- Formal/informal; statutory/customary



Photo credit : Espinosa

“Secure” land rights for women:

- Are *legally* and *socially* recognized
- Are able to withstand changes in the family and in the community
- Are long-term
- Are enforceable
- Exercising them does not require consultation or approval beyond that which is asked of men

“Insecure” land rights for women/barriers

- Cultural or legal prohibitions to acquiring land via markets, inheritance, transfer, or gift (individually or jointly)
- Gender differences in customs around marriage, death, inheritance, marital residence
- Gender differences in how different types of land rights, are allocated, held, recognized, managed, etc.
- Discriminatory laws and policies at central or local level; poorly drafted regulations
- Failure of “implementation” of laws
- Lack of awareness, information, and enforcement
- Gender differences in social roles, structures, access

What is being done? Law and policy

- ***Tanzania:*** Village Land Act grants customary rights to families and protects the right of women to acquire hold use and deal with land to the same extent and subject to the same restrictions as any man. (Article 3(2) 1999)
- ***Mozambique:*** Constitution, family law and land laws all provide that women have equal rights to land and women are joint owners of land held under community title. (See FAO 2010)
- ***Kenya:*** Constitution, National Land Policy and new land laws provide that women have equal rights to land and protect wives from unilateral transactions by the husband over shared household property. (See Land Act and Land Registration Act of 2012)

What is being done? Land administration

- ***Guatemala and India:*** State-sponsored land programs require land documents be in the name of both spouses or in the name of the female only. (Deere and Magdalena, 2001)
- ***India:*** Ownership rights for women encouraged by incentives offered at state and local government levels, including reduced stamp duty rate for land registered jointly or in the name of the woman alone. (DPGR 2006)
- ***Ethiopia:*** Photographs of spouses on joint title deeds to secure women's land rights in marriage. (USAID 2008)
- ***Kenya:*** Constitution requires that every publicly elected or appointed body (including those for land administration) be comprised of not more than 2/3 of the same gender. (2010 Constitution)

What is being done? Improved access

- Women Land Access Trusts provide financial intermediation for poor urban women to access land, housing mortgage finance and training in Kenya, Burundi, Uganda, Ghana, Tanzania. (WLAT, UN-Habitat)
- Kenya: USAID's JUSTICE project facilitated elders' recognition for women's constitutional land rights in Maasai community in the Mau Forest.



Photo credit:: Espinosa

Approaches to consider in programming

- Support legislative reforms that *build on* local tenure systems that secure women's rights to land.
- Understand how land laws, family laws, regulations, procedures intersect and impact women's land rights.
- Identify all property rights holders *within* households, and rights other than ownership.
- Understand what *women* and *men* want/think feasible.
- Support rights awareness for men, women, and local leaders/influential people.

Approaches to consider in programming

- Help provide legal recourse when rights are violated (ADR, customary institutions, paralegals).
- Monitor impact of land rights related reforms on men and women; make mid-course adjustments.
- Provide incentives and motivation to project personnel, local authorities, and stakeholders for gender integration.



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Land Rights of Vulnerable Populations: Defining Vulnerability

- Situation and location specific, depending on diverse social, political, economic conditions
- Historic vulnerability: indigenous groups, pastoralists
- Newer contexts for vulnerability:
 - Land rush (customary rights holders)
 - Mining
 - Urbanization
 - Climate change
 - Natural resource development
- Can be many layers of vulnerability within group

Land Rights Vulnerability and Good Governance

- Land rights vulnerability closely related to exclusive political and governance systems over land
- Long-term solutions therefore require increased political access and participation by vulnerable groups (need representation/ accountability/ transparency/ equity)
- Good land governance for vulnerable groups requires:
 - Participation in law-making
 - Rule of Law/ adequate enforcement
 - Access to justice



Photo credit : Landesa

Case Study: Community Land Rights approaches

- Objectives: identify and “ring fence” the perimeters to protect from unwanted incursion; build participatory community self-governance; encourage effective NRM; bridge gap between customary and formal governance systems (e.g., “ring fence” registered or recognized by formal system)
- Best practices/methods: establish coordinating committee; negotiate external boundaries; create community by-laws; draft community land/NRM plans; elect governing council; complete admin steps (Knight et al., 2012)
- Challenges: “demand driven” ideal often elusive; elite capture within community; pervasive top-down approaches; boundary disputes, how to define “community”, women’s land rights may be compromised

Best practices and approaches to consider in programming

- Thorough LTPR assessment for vulnerable populations: threshold for any development project, including large-scale agricultural investments
- Community self-governance
- Benefits sharing agreements (but need enforcement mechanism)
- Access to justice and enforcement of existing legal protections of land and natural resource rights of vulnerable groups
- Building political and social access/participation to land and NRM governance by vulnerable populations
- Support for self-governance approaches and demand-driven solutions (e.g., customary governance over community lands)