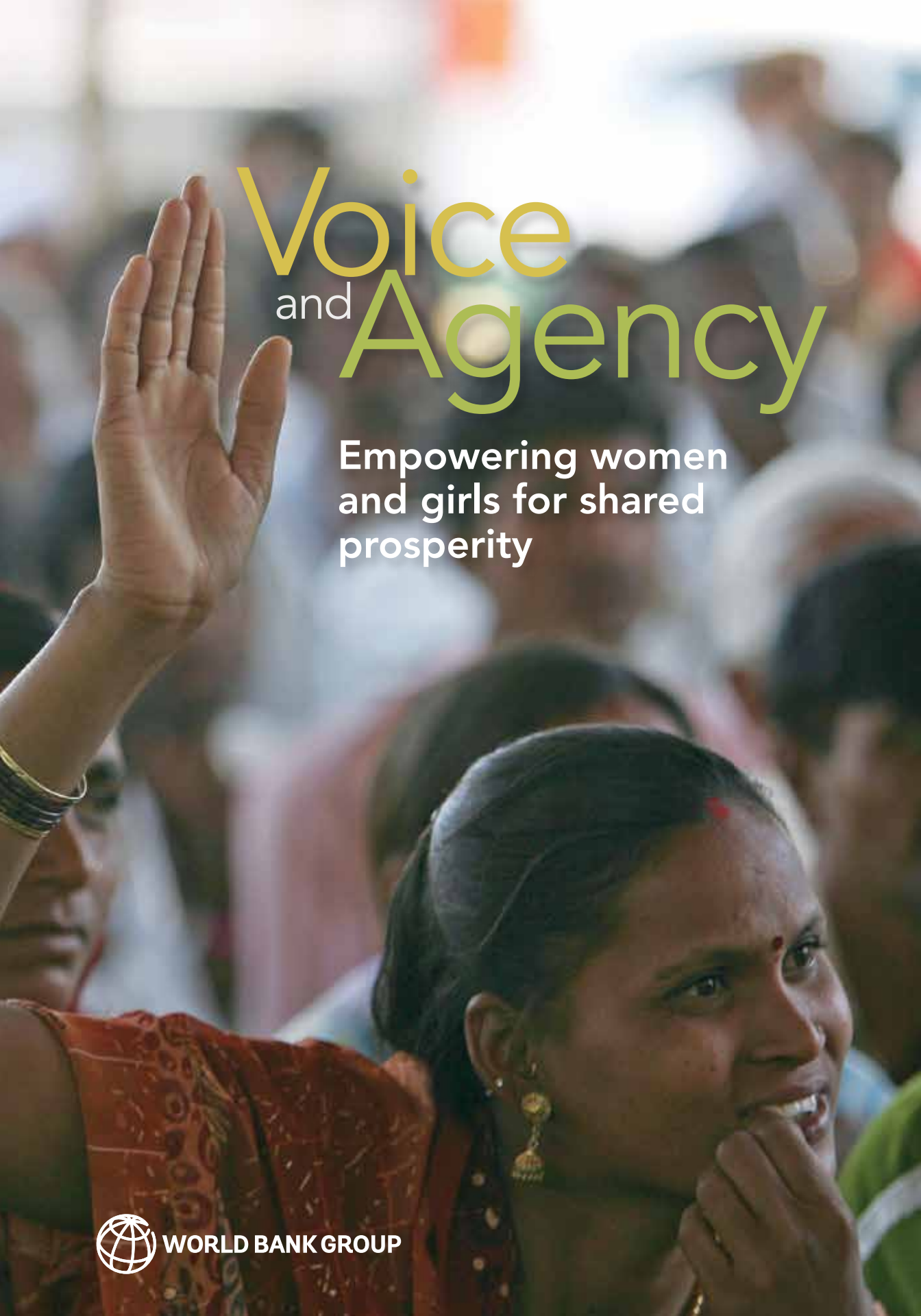


A photograph of a woman in a red sari with a gold border, her hand raised in a crowd. She is looking towards the right with a slight smile. The background is a blurred crowd of people.

Voice and Agency

Empowering women
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Chapter 5

Control over land
and housing

Box 5.1 Key messages

- Access to and control over land can expand women's agency, increasing self-esteem, economic opportunities, mobility outside of the home, and decision-making power.
- Fewer women than men report owning land or housing. More women who are married, divorced, or widowed report owning land than do single women. Women are more likely to report they own land jointly than individually.
- Social norms, customary practices, inaccessible and weak institutions, and, in many cases, women's lack of awareness of their rights are important barriers to the full realization of women's land rights.
- Three key areas of legislation—family law, inheritance law, and land law—affect the right to own and control property. Complex and sometimes contradictory sets of statutory laws, customs, and norms affect women's land ownership.
- Law reform and improved implementation, better gender-sensitive administration, and richer sex-disaggregated data are all needed to ensure women's land rights are fully realized.

Women's control over land and housing as a development challenge

Access to and control over housing and land can expand women's agency and increase their access to a range of opportunities. The *World Development Report 2012*¹ emphasized that assets are instrumental in increasing agency through boosting voice and bargaining power in household decision-making, access to capital, and overall economic independence. This chapter explores the benefits for women of owning and controlling land, presents new analysis about ownership patterns, and highlights evidence about what work to increase women's ownership. Access to movable assets and credit are clearly important for women's economic empowerment but are outside the scope of this report.

A growing global consensus recognizes the intrinsic and instrumental importance for both women and men of secure rights to land and other productive resources in eradicating poverty and reducing gender inequality.² Equal rights to access, use, and control land are enshrined in international agreements such as the Universal Declaration of Human Rights and CEDAW and regional agreements such as the Arab Charter on Human Rights. These rights have become increasingly important with the advent of large-scale land deals in developing countries. Women are often marginalized in such processes because they lack formal land rights and are not included in negotiations leading up to the leasing or sale of land.³

Women's ability to exercise agency over land and housing is determined by

the interplay of laws—including statutory, customary and religious laws—and social norms. Where good laws do exist, social norms that dictate men are the sole decision makers in the household may mean that those laws are not implemented. We focus on three key areas of legislation—family law, inheritance law, and land law—which affect the right to own and control property.⁴ Together these govern the distribution of household property and assets and discrimination against women in these areas can result in unequal property rights. Today, 37 of 143, countries included in *Women, Business and the Law 2014* still have discriminatory laws in place.⁵

Potentially transformative effects

"When I have the feeling of security, that my land will not be taken away, I am able to grow food on it to feed my family and support my community. My community is more secure when I am secure."

—Parents of Children with Disabilities (ZPCD), (Zimbabwe)
Huairou Commission member⁶

Control over land and housing has instrumental value. Women who have more control over land—whether through inheritance, land titling, improved documentation, or stronger communal rights—tend to have greater self-esteem, respect from other family members, economic opportunities, mobility outside of the home, and decision-making power.⁷ Constraints on their land ownership can reduce the efficiency of land use⁸ and women's economic opportunities,⁹ and can exacerbate land conflict.¹⁰ Studies document

that women's access to land and housing can affect girls' survival rates,¹¹ their nutritional status¹² and investment in girls' schooling,¹³ suggesting far-reaching benefits.

Amartya Sen has noted that female land ownership can increase a woman's contribution to the common good of the household, giving her a stronger voice.¹⁴ A broad selection of literature affirms this view, showing that enhanced ownership of assets, particularly land, raises household wellbeing through increased female bargaining power.¹⁵ This increase can translate into greater participation in household spending decisions and stronger, more realistic exit options in the case of an unhappy or abusive relationship. Twenty years ago, Bina Argawal's study of rural South Asia identified gaps in land ownership and control as the most important contributor to disparities in economic well-being, social status, and empowerment.¹⁶ More recent studies reinforce and extend this finding, with the following associations:

- In Vietnam, women with a joint title are more aware of legal issues, are more likely to proactively seek a Land Tenure Certificate, have more say in the use and disposition of land, and are more likely to earn independent incomes than those who are not on the title.¹⁷
- In Peru, squatter households who were given property titles experienced a 22 percent reduction in fertility rates, and females who received a joint title reduced their probability of having a child twofold compared to those in families where the title was in the male partner's name only. Receipt of titles also allowed women to

seek paid work, instead of spending time safeguarding their land against property invasion.¹⁸

- In Nepal, women who own land are significantly more likely to have a final say in household decisions, and children of mothers who own land are less likely to be underweight,¹⁹ with associated benefits for almost all maternal and child nutritional outcomes.
- In Ecuador, joint land ownership increased women's participation in household decisions about crop cultivation.²⁰
- In rural Karnataka, India, ownership of land and housing improved women's mobility outside the home and their ability to make decisions about their work, health, and household spending.²¹

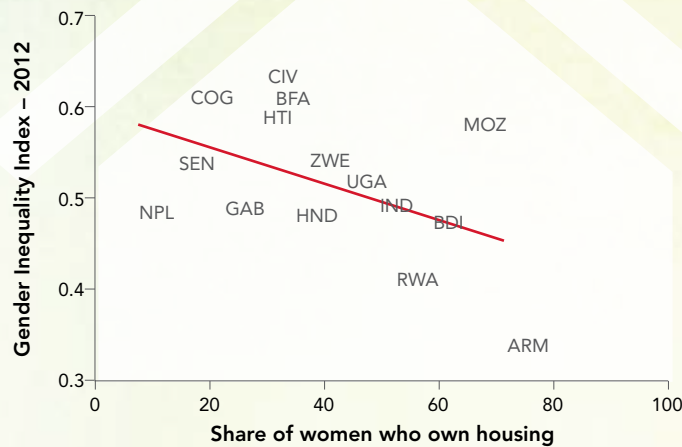
Our analysis of 15 countries suggests the overall level of gender equality in a country is correlated with the share of women who report owning housing (figure 5.1).

For single women, land ownership can provide independence. It may allow them to postpone marriage or to stay in school longer. In India, for example, changes in the inheritance laws allowing unmarried daughters to inherit ancestral land delayed the age of marriage and increased investment in education for girls (see also box 5.2).²²

Expanding women's ownership of land and housing is not a panacea, nor is land legislation alone. Access to credit, markets, education, extension services, technology, personal mobility, and public voice all influence women's ability to claim and make use of property rights.²⁴

FIGURE 5.1

Higher shares of women's housing ownership are associated with more gender equality



Sources: Demographic and Health Surveys data 2010-2012; United Nations Development Programme Gender Inequality Index.

Box 5.2 Can control over land reduce gender-based violence?

Chapter 3 reviewed the extent and gravity of gender-based violence, focused primarily on violence in the home. Women's asset ownership may provide exit options from unhappy or abusive relationships and can reduce vulnerability to domestic violence. In Kerala, India, a panel survey of ever-married women (that is, married women, widows, or divorcees) found that more than 70 percent of the women who owned land or housing and who had experienced long-term physical violence had left their husband and the matrimonial home, and few had returned. In contrast, almost all of the 20 percent of women who did not own such property went to live with their parents, and, ultimately, half returned to their husbands. Land and housing ownership also demonstrated a more secure exit option than employment: only one-third of women were employed, and the majority were in low-paying and irregular employment.

In West Bengal, India, women who did not own land or housing were more likely to report domestic violence than those who did—57 percent of those without property compared to 35 percent of women property owners. In contrast, in Sri Lanka, women who owned property did not report lower rates of intimate partner violence than women who did not own property. The mixed nature of these findings may be due in part to women acquiring property after marriage, when a pattern of violence may already be entrenched in the relationship, but further exploration is needed.

The introduction of joint titling in Ethiopia's Amhara region in 2000, supported by strong implementation, has meant that men are more reluctant to ask for a divorce because they risk the division of their property. However, whether this trend is beneficial for women or ties them to abusive relationships is unclear. It is important to bear in mind that most of the studies do not show causal relationships but instead demonstrate associations.

Sources: Agarwal and Panda, 2007; Teklu, 2005.²³

What does ownership and control mean?

Ownership and control are defined in box 5.3. Generally, survey measures of ownership use self-reported ownership, which is obtained simply by asking respondents whether they own the land. This means that land may be reported as “owned” even when this is not strictly the case legally. Questions about asset ownership more generally typically refer to the household and are only sometimes followed by inquiries about individual ownership, which is needed to conduct gender analysis. Questions about

access and control may differ depending on the purpose of the survey. The Demographic and Health Surveys, for example, ask men and women individually about ownership of land and housing.

The different types of ownership and use rights outlined in box 5.3 affect the degree of women’s control over land or housing, which in turn can have important bearing on household decision-making and well-being. It is also important to recognize that joint ownership does not necessarily mean that women and men have equal management rights over the land or housing they own.

Box 5.3 What do we mean by ownership and control?

Clarifying ownership and control in relation to land and housing is important.

Reported ownership is where a respondent reports that they own land or housing (usually posed at the household level). However, even when women self-report as joint owners of land parcels with their husband, often only his name is on the documentation.

Documented ownership indicates that an individual’s name is on the relevant document, either alone or jointly with someone else. This document may be a formal land title or a customary certificate, certificate of sale, or inheritance documentation. Inclusion on a document provides a verifiable form of ownership, and important for women in the wake of a divorce or a husband’s death and also in the case of sale or transfer of land.

Effective ownership is about decision-making power over how to use and dispose of property. Individuals may have partial ownership rights, such as user rights to cultivate, rent, and even bequeath land, but lack authority to sell the land.

In general, women’s documented ownership of land is lower than self-reported ownership. For example, 8 percent of women and 15 percent of men are self-reported landowners in Ghana, which falls to 1 percent and 2 percent, respectively, among those with a formal ownership document.

Individuals can have control over land under customary law in a number of countries, including Malawi and Rwanda. Under customary law individuals may have rights of use, with differing degrees of freedom to lease out, mortgage, bequeath, or sell. Land rights also may have a temporal or locational dimension: they may accrue only for a person’s lifetime or some lesser period, and may be conditional on the person residing on the land or locally. The extent to which an individual perceives herself to be an owner may affect her choices about the land and decision-making more broadly.

Sources: Doss et al., 2013; Doss et al., 2011; Agarwal, 1994; and Doss, 2012.²⁵

Land and housing rights may differ in urban as compared to rural areas. Increased urbanization means that owning housing in urban areas will become increasingly important for providing a place for women and their families to live as well as a potential source of income. In rural areas, agricultural land may be more important for men's and women's livelihoods and have greater benefits for women's agency than house ownership.²⁶ This is an area where data and evidence is limited and further research is needed.

How large is the challenge?

Data on land ownership are scarce and often not comparable across countries but available data suggest that women are disadvantaged. Women who own land are more likely to own it jointly, whereas men are more likely to own land alone. Often women can access land only through male relatives. A women's ability to inherit or hold onto land in the case of divorce is often limited, and daughters may not be entitled to inherit land. Our analysis of Demographic and Health Survey data finds that women, who are younger, have less education, and single are more disadvantaged than others and that certain characteristics, such as being married or working, can increase women's likelihood of owning land and housing.

Existing disparities

A recent review of 17 micro studies from Sub-Saharan Africa suggests that regardless of indicator and country, women are disadvantaged relative to men in self-reported land ownership, documented ownership, management control, and decision-making

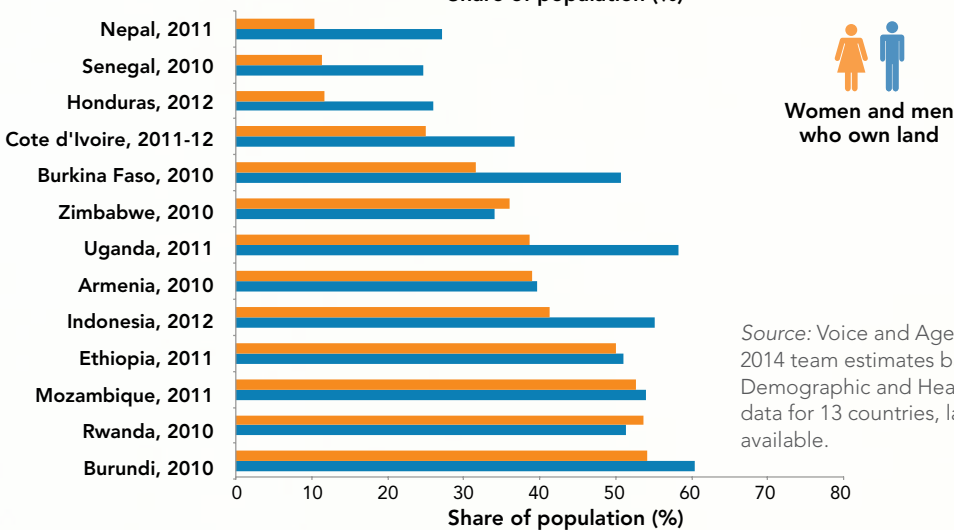
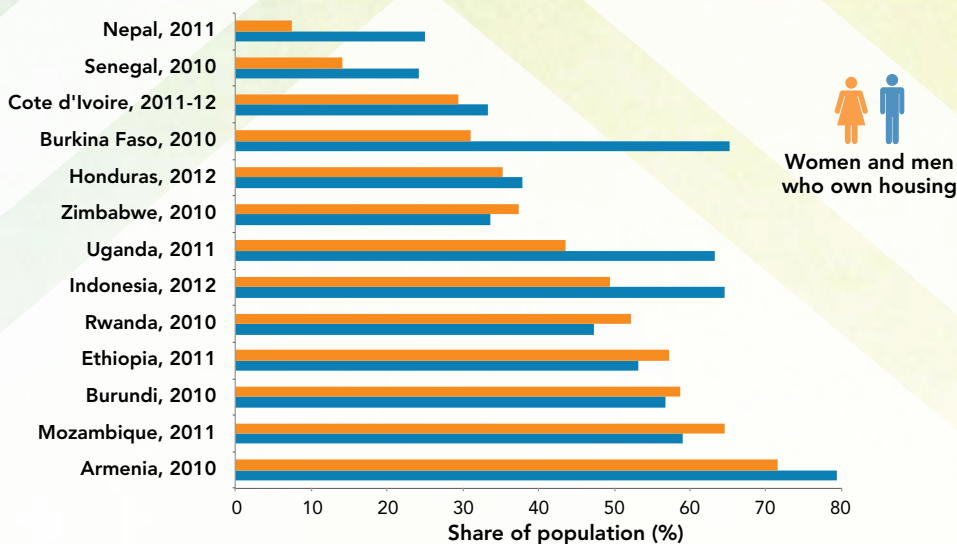
authority over land. In Africa, the size of the gender gap varies by country and type of land and by type of landholding.²⁷

Our analysis of Demographic and Health Survey data suggests that women are less likely to report owning land or housing than are men in most of the 13 countries covered.²⁸ In some cases, the gaps are striking (figure 5.2). In several countries, the share of male landowners exceeds that of women by a large margin, but the reverse is never true; where women report owning more land than do men, as in Rwanda, the difference tends to be slight. In Burkina Faso more than twice as many men than women (65 percent and 31 percent, respectively) report owning housing. In a few countries, women's reported ownership is equal to or slightly greater than men's; in Mozambique, 64 percent of women and 59 percent of men report owning housing for example. In some countries, very few women *or* men own property; in Nepal, roughly one-quarter of men and less than one-tenth of women report owning housing.

Men's reporting of sole ownership is higher in all 13 countries, most notably in Burkina Faso, Burundi, Côte d'Ivoire, Honduras, Nepal, Senegal, and Uganda. Women tend to report owning land jointly rather than owning it alone, with the exceptions of Honduras and Nepal (figure 5.3). In Armenia, Honduras, Indonesia, and Senegal, similar proportions of men and women report owning land jointly, but in the other countries, the share of women reporting joint ownership of land is much higher than that of men.

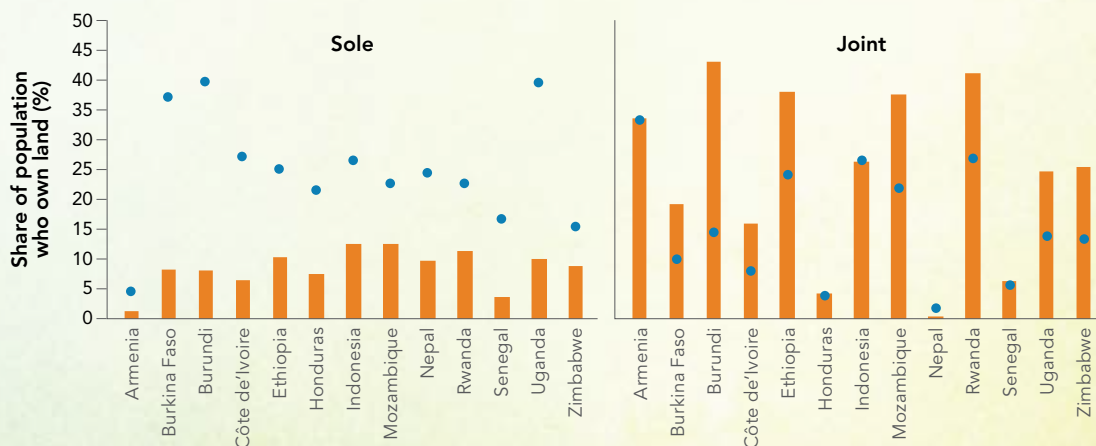
Widespread debate surrounds the merits of joint versus individual titles, but rigorous evidence is limited and the patterns

FIGURE 5.2 Share of women and men who report owning housing or land



Source: Voice and Agency 2014 team estimates based on Demographic and Health Surveys data for 13 countries, latest year available.

FIGURE 5.3 Joint and sole reported ownership of land by gender



Source: Voice and Agency 2014 team estimates based on Demographic and Health Surveys data, latest year available, 2010–12.

are complex and differ widely within and between countries. Social norms are important; contravening social norms by obtaining individual property rights may carry high social costs, making joint property rights more attractive.²⁹ In Chandigarh, India, where joint titling was introduced in 2000, women reported valuing joint tenure because their husbands could not sell the property without their consent, and joint titling improved their self-esteem and access to financial and economic information and increased their involvement in household decision-making.³⁰ In Heredia, Costa Rica, joint titles gave bargaining power to women during divorce proceedings, but also meant that couples were more likely to stay in unhappy or violent relationships because neither could afford to buy out the other.³¹

The effects on women's decision-making power vary. In Mali, Malawi, and Tanzania, women's individual property ownership increased their agricultural decision-making power compared to women with joint ownership, but had little effect on non-agricultural decision-making. In India, individual property ownership had little influence on agricultural and household decision-making and joint ownership had a negative correlation with women's inputs into household decision-making. Social norms in India may mean that women with higher social status who are property owners prefer to say that they are not involved in agricultural decision-making. More data and evidence are needed (for example, on individual ownership at plot level) to enhance our understanding of how individual and joint ownership affects women's role in household decision-making.³²

Post conflict reconstruction may provide opportunities for reinforcing women's land rights. In the aftermath of the conflict in Rwanda for example, the government initiated a policy of inclusive land reform to avert the possibility of future disputes over land. The resulting Matrimonial Regimes, Liberties and Succession Law (2000) and Organic Land Law (2005) have improved inheritance rights and joint titling for women.³³

Marital status and work

Our analysis of DHS data for 15 countries identifies some of the characteristics associated with women's land and housing ownership. Marital status, participation in labor markets, and geographical location influence whether women are likely to report owning property. Figure 5.4 shows that in rural areas, married women (including women who are formally married or in de facto partnerships) have the highest probability of owning land and are about five times more likely to own land than women who have never married. Employment increases the likelihood of land ownership too.³⁴ In some countries, the effect is particularly notable. Women who work in the Republic of Congo, for example, are 24 percent more likely to report owning land than women who do not work. Evidence from India also suggests that land ownership is

Social norms in India may mean that women with higher social status who are property owners prefer to say that they are not involved in agricultural decision-making.

FIGURE 5.4 Probability of rural land ownership, by marital and working status

Source: Voice and Agency 2014 team estimates using Demographic and Health Surveys data for 15 countries, latest year available, 2010–12.

Note: Figure shows marginal effects on land ownership in rural areas controlling for age, work status, number of children, husband's education, marital status, various household characteristics, property regime (separate or community of property), and country fixed effects. Note: IPV = intimate partner violence; GDP = gross domestic product.

a strong predictor of self-employment for rural women.³⁵ In urban areas, married women are three times more likely to report owning housing than never married women.

Laws and norms

Statutory laws, customs and norms affect land ownership. Customary and local tenure systems are widespread. Worldwide, as many as two billion people live under customary tenure regimes,³⁶ and less than 10 percent of land in Africa is held under statutory land tenure.³⁷ These sets of laws and norms can be complex and sometimes contradictory. Most developing countries have hybrid or plural land tenure systems, where statutory property tenure rights exist alongside customary regimes. Customary tenure is often recognized under statute or

in constitutions; in Cambodia, the Land Law (2001) grants collective ownership rights to indigenous communities,³⁸ and in Rwanda, the Organic Land Law (2005) recognizes customarily acquired land.³⁹

Inheritance regimes reflect norms around women's property ownership and are often very complex. Key aspects include whether sons and daughters are treated equally and whether spouses have equal inheritance rights to each other's estates, in addition to provisions governing those who pass away without a will. In 28 of the 143 countries in the WBL database, statutory inheritance laws differentiate between women and men.⁴⁰ These countries include all those covered in the Middle East and North Africa and nine in Sub-Saharan Africa (Burundi, Guinea, Lesotho, Mali, Mauritania,

Senegal, Sudan, Tanzania, and Uganda). Ten countries (Cameroon, Chile, Democratic Republic of Congo, Republic of Congo, Côte D'Ivoire, Ecuador, Gabon, Haiti, Mauritania, and the Philippines) limit married women's rights over property by requiring women to have their husband's permission to enter into a transaction concerning land (but lack a similar requirement for men).

Customary inheritance laws prevail constitutionally in more than one-quarter of countries in Sub-Saharan Africa, and are often biased against women.⁴¹ Customary land in Ghana is specifically excluded from statutory inheritance laws and, instead, usually devolves to a male heir in accordance with custom.⁴² In some instances, judges may have a choice as to which law to apply. This is the case in Sri Lanka, where inheritance questions may be answered by the body of case law, Roman-Dutch law, Shari'a law, or customary law, depending on the ethnic group.⁴³

The reform of discriminatory inheritance laws can have broad positive impacts. Females whose father died after the 1994 reform in India were 22 percentage points more likely to inherit land than those whose father died before the reform came into effect. The reform also had additional benefits for women's agency, including an increase in women's age at marriage relative to men and increased educational attainment.⁴⁴ However, implementation of the law is still weak, suggesting potentially more far reaching results. For example, public officials may be ill informed, and women may lack awareness of their rights. Social norms can lead to women giving up their rights in return for protection from male relatives,

and families may feel they have fulfilled their financial obligations to their daughters by providing a dowry on marriage.⁴⁵

Across plural legal systems, there is no clear pattern as to which source of law is more advantageous for women; this will depend on local context. Where discriminatory practices prevail, statutory laws may provide women with more secure rights than under custom. In other cases, women's rights may be better protected under customary tenure.⁴⁶ Statutory titling systems introduced in Kenya resulted in titles being held mostly in men's names only and failed to recognize women's customary rights to use the land.⁴⁷ Statutory laws can reinforce norms around women's traditional roles in land cultivation. In India, the Odisha Land Reforms Act allows only female heads of households to lease their land for cultivation on the premise that women should not have to engage in such activities directly.⁴⁸ In many countries in Europe and Central Asia, privatization of farmland meant that the male head of household is the person listed formally on the title or deed, thereby reducing the *de facto* rights of other family members.⁴⁹

In Rwanda, a land tenure regularization pilot found that legally married women were more likely to have their informal land rights documented and secured and to be regarded as joint owners than women in customary unions. Analysis of the pilot program's effect showed the probability of having documented land ownership fell by nine percentage points for women in customary unions.⁵⁰ In response to these findings, the government changed the program to enable women in all types of unions to register land. This result suggests the wider social

context, including social norms and customary practices, needs to be explicitly considered when introducing land tenure reform.

While the lack of statutory rights can leave women vulnerable to displacement or land grabbing in the event of widowhood or divorce, social norms can limit statutory laws effectiveness, depending on the woman's social position, education, and residency in a rural or urban area.⁵¹ In some places, longstanding social norms shape women's access to rural land. It has been found that plough-intensive farming communities that were historically more dependent on male labor, limit women's role in agricultural activity and their access to land.⁵²

Discriminatory family laws can place control in the hands of men even in cases where joint ownership is formally recognized, reflecting patriarchal social norms around men's and women's role within the household. In 29 countries, married women cannot be the head of household or head of the family in the same way as a man. In the Democratic Republic of Congo, a married woman must obtain her husband's permission for all legal acts in which she incurs a personal obligation, including registering land in her name, and the husband has the right to administer joint marital property.⁵³ In Cameroon, a husband can legally dispose of joint property without his wife's consent and can even administer his wife's personal property.⁵⁴ These examples indicate the possible need for wide-reaching reforms of family laws as part of the process of land reform in order to achieve the intended effects.

Head-of-household provisions can also limit the effect of land titling programs. The CEDAW Committee in its recent Concluding

Observations on Sri Lanka, for example, noted "discriminatory practices prevent women from acquiring ownership of land since only the 'head of household' is authorized to sign official documentation such as land ownership certificates and receive pieces of land from Government," because social norms mean that the head of the household was most often deemed to be male.⁵⁵

Default marital property regimes

The default marital property regime will automatically apply to distribution of assets upon death or divorce, unless the spouses choose to opt out in. These laws and the manner in which they are implemented often reflect social norms around the allocation and control of household property and directly affect access to land. In some countries, no alternative to the default regime exists. The main types of marital regimes are outlined in box 5.4.

Our analysis across 15 countries suggests that the type of marital property regime affects the reported levels of women's property ownership; women who live in countries with community of property regimes are more likely to report owning land and housing than those who live in countries with separation of property regimes. This is illustrated in figure 5.5, with the size of the circles reflecting the share of property owned by women relative to men. In Burundi, Ethiopia, and Mozambique, countries with community of property regimes, more than three-quarters of women report owning property. In contrast, Nepal and Senegal, countries with separation of property regimes, have the smallest share—16 percent and 20 percent, respectively.

Box 5.4 Main types of marital property regimes

Community of property regimes treat all assets, including land and housing, acquired during the marriage as the joint property of the couple, with the exception of inheritance or gifts specifically earmarked for one spouse. These regimes implicitly recognize nonmonetary contributions to the household, including domestic labor and child care. About 87 countries have community of property regimes. Community of property regimes can be divided into three categories:

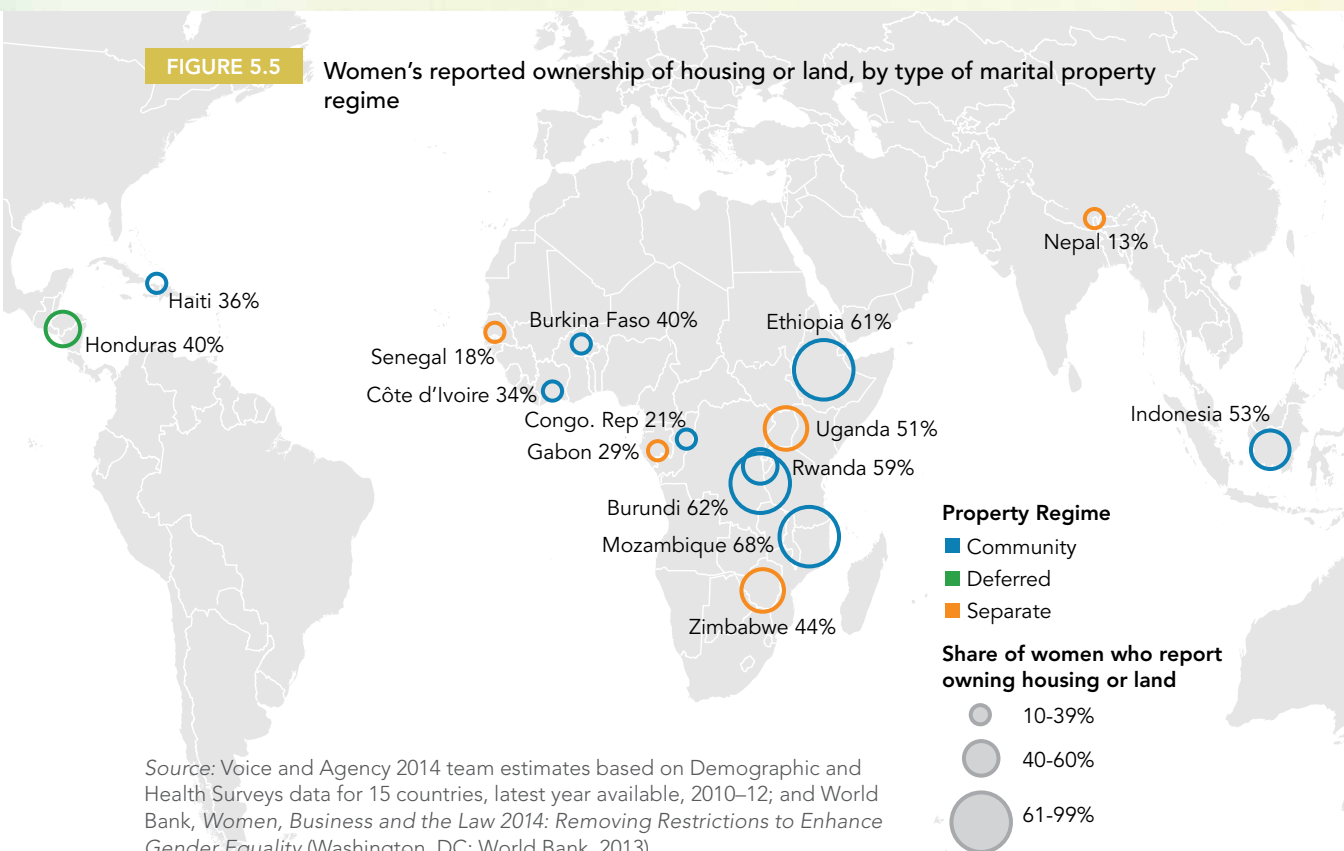
- › *Full*: all property acquired before marriage is regarded as joint property.
- › *Partial*: all property acquired before marriage remains personal property of each spouse.
- › *Deferred*: all property acquired during marriage is treated as individually owned during the marriage but is divided equally on divorce or death.

Separation of property regimes provide that all property is individually owned unless specified as jointly owned. In the event of marital dissolution, each spouse leaves with the property they brought into or acquired during the marriage. Specific legislation can be enacted to recognize nonmonetary contributions, but these provisions are rare. Of the 46 countries that have separation of property regimes, only nine recognize nonmonetary contribution.

Sources: World Bank, 2014.⁵⁶

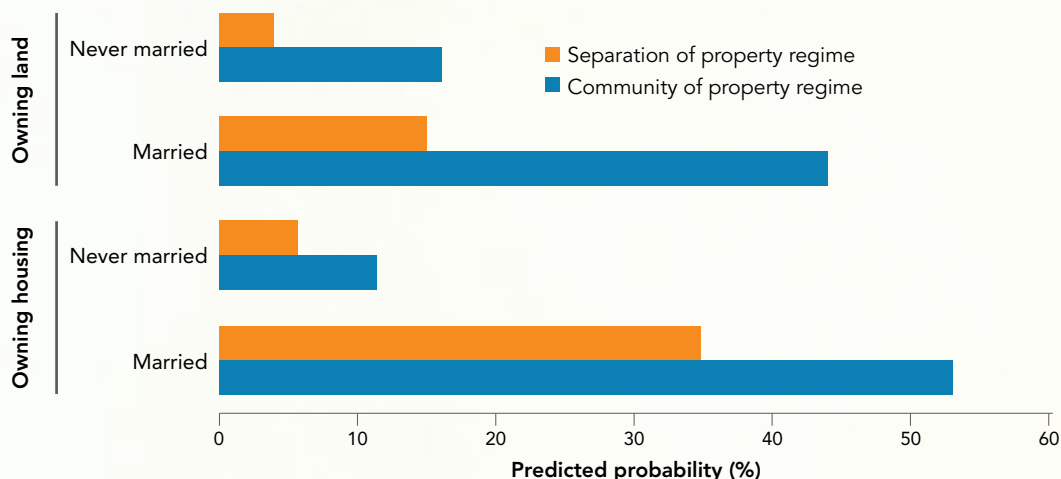
FIGURE 5.5

Women's reported ownership of housing or land, by type of marital property regime



Source: Voice and Agency 2014 team estimates based on Demographic and Health Surveys data for 15 countries, latest year available, 2010–12; and World Bank, *Women, Business and the Law 2014: Removing Restrictions to Enhance Gender Equality* (Washington, DC: World Bank, 2013).

FIGURE 5.6 Probability that a woman will report owning housing or land in rural areas, conditional on type of property regime and marital status



Source: Voice and Agency 2014 team estimates based on Demographic and Health Surveys data, latest year available.

Note: Figure shows marginal effects on housing and land ownership in rural areas controlling for age, work status, number of children, husband's education, marital status, various household characteristics, property regime (separation or community of property), and country fixed effects.

For rural married women, the probability of reporting land and housing ownership is 17 and 29 percentage points higher, respectively, if they live in a country with a community of property regime compared to a country with a separation of property regime (figure 5.6). And married women in urban areas are nearly three times more likely to own housing in those countries.⁵⁷ The probability of land ownership for unmarried women in a country with a community of property regime is higher too, most likely because such countries also have more gender-equal inheritance laws.

Research in Ecuador, Ghana and in Karnataka, India, supports these findings. In Ecuador, which has a partial community of property regime and inheritance laws that

provide for all children to inherit equally, women's share of a couple's wealth is around 44 percent. In comparison in Ghana and Karnataka, which both have separation of property regimes and inheritance practices that are male biased, women's share of a couple's wealth is much lower, 19 percent and 9 percent, respectively.⁵⁸

Weak implementation of laws

Social norms, customary practices, the inaccessibility and weak capacity of institutions and women's lack of awareness of their rights all pose important barriers to the realization of women's land rights. Qualitative work undertaken in Niger as background for this report found that women tend to accept

a range of normative constraints on their rights. Legally, they can buy land, but the few women who did this were strongly criticized for not following customary ways and told they were dishonoring their families.⁶⁰ In Tanzania, the Land Act (1999) abolishes customary discriminatory practices, and makes local land authorities responsible for protecting women but implementation of the law has been slow and uneven.⁶¹ Most countries in Europe and Central Asia have laws that require property to be divided equally among heirs regardless of gender; however some groups require women to relinquish their inheritance in favor of male relatives.⁶² In Honduras, the World Bank is working with the government to overcome implementation challenges to enable women's access to equal property rights (box 5.5).

Land administration systems can help to ensure women's land rights are effectively implemented. Special provisions can ensure women and other family members enjoy equal rights under land reforms where men are assumed to be the head of the household. Monitoring sex-disaggregated land administrative data can help flag implementation issues, but often these data are difficult to access and not well maintained.

The state of the evidence: What works?

Improving women's ownership and control of land and housing requires institutional change, as shown by the cogs in our framework in figure 1.1, where social norms, laws and household decisions interact to impact gender equality outcomes. Any intervention intended to improve women's access to and control over land therefore needs to begin

"Women cannot buy land because of social norms that forbid it."

—Men's focus group, Alpha Koura, Département of Dosso, Région of Dosso, Niger⁵⁹

with an analysis of how existing legislation and social norms affect the distribution of property between husbands and wives, and sons and daughters. We identify two broad areas of focus—ensuring gender equality under the law and ensuring effective implementation of laws and land policies.

Ensuring gender equality under the law

Gender equality in the distribution and ownership of land should be clearly specified in country constitutions and land administration laws. Constitutional protections can provide oversight of all sources of law and for redress against discrimination. In 2014, for example, the Nigeria Supreme Court voided Igbo customary law, which prevented girls from inheriting their father's estate, as unconstitutional.⁶⁴ Any divergence between different sources of law can be addressed under the constitution. The Constitution of Uganda, Article 33, for example prohibits "laws, cultures, customs or traditions which are against the dignity, welfare or interest of women..." Beyond this, strengthening family, inheritance, and land laws for women; reforming discriminatory laws; and harmonizing statute, customary, and religious laws are all critical.

Promoting gender equality in family, inheritance, and land laws

Community of property regimes can provide solid legal ground for advancing married

Box 5.5 Expanding women's access to land rights in Honduras

In 2003, the Honduras Land Administration Program (PATH) was launched to address gaps in formalization of property rights, promote a more dynamic land market, increase investments in land, and reduce social instability resulting from conflict over land. Increasing formal property ownership for women was also seen as critical for improving rural productivity. At that time, about 30 percent of the country's land was registered, of which women owned less than 13 percent.

A World Bank gender audit revealed that despite provisions allowing for joint titling, few women were named on a land title. The audit identified three primary constraints, namely limited awareness of legal rights among women and land administration personnel, land registries and other municipal offices who lacked capacity and procedural guidance on ways to implement the laws, and social norms which dictated that men were the head of household, resulting in titling being in their names alone.

To address these gaps, PATH held almost a dozen stakeholder workshops in different municipalities. The participants included local authorities, community leaders, and indigenous peoples' organizations, and the aim was to facilitate better understanding of the program among beneficiaries and the importance of gender-responsive design. The resulting gender strategy employed the following methods to improve implementation:

- › The guiding documents and instruments were revised so that implementation included specific objectives for strengthening women's access to land.
- › A media campaign, including a radio program on "Gender situation of women in indigenous communications," was initiated, with materials targeted at men and women of all ages to convey clear messages on the importance of land titling and ways to use titles to advance economic opportunities.
- › Project indicators were strengthened to include joint titling. The revised results and monitoring framework includes such targets as 30 percent of new titles to include women, and 25 percent of those receiving training in alternative dispute resolution, and in territorial planning and natural resource management are women.

Source: World Bank, 2012.⁶³

women's ownership of property and for securing women's property rights upon dissolution of a marriage. Clear consent requirements should be in place for transfer or sale, requiring the informed written consent of both spouses. Separation of property regimes should recognize non monetary contributions to family wealth and provide for equal division upon divorce or death. Marital property regimes should also extend to cover those in de facto relationships. Family,

inheritance and land laws all interact. We have seen that reforms to marital property laws and land laws can be undermined by discriminatory inheritance laws. Similarly head of household laws, which limit women's rights across a range of spheres including property ownership, should be repealed.⁶⁵ Laws in other areas can also address women's property rights. In Brazil, India, and Serbia, for example, national domestic violence legislation now provides that victims

of domestic violence may stay in the marital home, regardless of who owns it.⁶⁶

Inheritance laws should ensure that property rights are transmitted equitably across generations. As the example of India demonstrates, equalizing entitlements under inheritance laws can dramatically improve girls and women's lives and potentially transform social norms. Discretion to circumvent women's inheritance rights through a will should be restricted. In Ethiopia, the Land Use and Administration Proclamation (2000) requires that the transfer of land through inheritance is legal only if the wife has signed the husband's will, which serves to protect the widow's interests.⁶⁷

Social norms mean that widows are often pressured to waive their rights in return for protection from male family members. Laws that prevent women from giving up their rights for a specified period of time following a spouse's death can help offset such familial or community pressure. In Jordan for example, a recent law prevents women from handing over their inheritance for three months following receipt and requires them to formally register the housing and land in their name.⁶⁸ The legal grounds for divorce and allocation of property rights upon divorce in family laws should be reviewed so that joint titling does not become a constraint to exit. This is especially important for women living in abusive relationships.

Reform of land administration laws can also have positive impacts. Mandatory joint titling has led to a marked increase in married women's land ownership in Rwanda, for instance.⁷⁰ Laws should ensure that the surviving spouse has at a minimum

occupancy and use rights over the marital home as well as to movable and immovable property. Namibia's Communal Land Reform Act (2002) gives surviving spouses who reside in rural areas the right to remain on communal land that had been allocated to the deceased. This right is not affected by remarriage.

Harmonizing statutory, customary, and religious regimes

Experience from more than 40 World Bank land reform projects in Europe and Central Asia over the past two decades has demonstrated that challenges associated with social norms and culture, cannot be solved by legal reform alone.⁷¹ This underlines that the importance of understanding local context and the realities on the ground, including customs and traditions and the way statutory rights play out, is essential for the design of effective land reform policies and interventions. Country gender assessments are a useful tool to advance this understanding (see box 5.5).

Where constitutional and legal reforms strengthen the rights of women but conflict with norms and custom, changes in customary tenure systems need to be accommodated.⁷³ As far as possible, protections afforded under constitutional and statutory law should be extended to include situations covered by custom. Some examples:

- In South Africa, the community of property regime applies to customary marriages as well as civil marriages.⁷⁴
- In the Lao People's Democratic Republic, where strong matrilineal rights exist, the World Bank worked with the Lao

Box 5.6 Tools to guide gender land assessments

The World Bank's "Toolkit for Integrating Gender-Related Issues in Land Policy and Administration Projects" provides guidelines for a gender analysis of the socioeconomic and cultural conditions in the project area, including with regard to statutory and customary property rights, land policies and legislation, land administration institutions, and land market transactions. In the West Bank and Gaza, for example, such an analysis identified that inheritance is determined according to Shari'a law and proof of ownership is issued by the Shari'a court. However, customary practice has encouraged women to cede their shares to their brothers. A gender analysis of the local conditions led the project design to counteract this type of pressure by issuing titles that include the names of all rightful heirs and specify their shares.

Landesa's "Women's Land Tenure Framework for Analysis: Inheritance" provides a framework for assessing women's ability to inherit land in a specific country, state, or community. Collaboration between the state and progressive traditional authorities can identify options for upholding women's land rights in customary tenure areas. In Foshan City, Guangdong Province, China, for example, the local government took action to address land rights of women who married someone from another village. Using clear guidance and principles based on relevant Chinese laws, the district government set up a working group of government officials to review village rules and work together with villagers to change the local provisions that discriminate against women's equal rights to land. Judicial procedures were applied to enforce compliance. After one year of the administrative and judicial intervention, 95 percent of married women in the district (about 18,000 women) were granted equal land rights.

Sources: World Bank, 2009; Landesa, 2013; PLAAS (Institute for Poverty, Land and Agrarian Studies), 2011; UN Women (United Nations Entity for Gender Equality and Empowerment of Women), 2013.⁷²

Women's Union to ensure that existing customary rights were reflected in the new land registration systems.⁷⁵

- The Uganda National Land Policy commits to reform customary law, to modify the rules of transmission under customary land tenure, to guarantee gender equality and equity, and to ensure that the decisions of traditional land management institutions uphold constitutional rights and obligations on gender equality.⁷⁶

Improving implementation

Policy reforms and programmatic interventions need to be coupled with awareness raising for women, men, and local leaders

(including customary and religious leaders) on women's rights as well as on the benefits of women's land ownership. In Aceh, Indonesia, for example, the RALAS (Reconstruction of Aceh Land Administration System) project worked with local Shari'a courts to produce a manual that provided guidance on inheritance rights and helped protect widows from dispossession.⁷⁷

An initial gender assessment can also help identify potential implementation challenges associated with social norms. In some cases, implementation challenges can be as obvious as allowing space for a second name on a land title, or adjustment of the ways in which acreage is distributed, for example to address inequalities that may result from

gender differences in seemingly unrelated legislation, such as retirement age, as in Vietnam (box 5.6).

An obvious key to the successful implementation of land rights is the commitment, willingness, and capacity of government staff and agencies. Establishing gender units within land administration units and appointing a lead gender focal point within land registries can help.⁷⁹ Female representation in land administration institutions can also be mandated by law, as in the Uganda Land Commission, in district land boards and in parish level committees.⁸⁰ Women should also be involved in the design of national land policies and in the monitoring of their implementation. In Pernambuco, Brazil, women formed local committees to monitor the land titling program and make their needs known.⁸¹ Similarly, in Nicaragua a World Bank project involving demarcation

of indigenous lands included participatory workshops to identify the most important factors affecting women and engaged women in the cadaster process. The project includes targets for the number of new titles given to women in the monitoring and results framework. Project results suggest the gender strategy has raised awareness of gender inequality in land access across all agencies involved and has increased women's access to services through the provision of additional opening hours and hotlines for women.⁸²

Awareness building and training programs are important for ensuring women and men, as well as land administration officials, are aware of what rights women and men have. Some examples:

- In Tanzania, a World Bank study exploring the barriers to formalization of land title in Dar es Salaam found that demand

Box 5.7 Lessons from Vietnam's land reform process

Vietnam's 1993 Land Law did not appear to discriminate in granting land rights because it used neutral language such as "individuals" and "users" when referring to the targeted beneficiaries of the reforms. The 2000 Family and Marriage Law also provided for equal spousal rights to assets and property, including land. In practice however, gender disparities resulted. Initially, the Land Use Certificates that were used had space for only one name, which was to be filled in by the household head (generally the husband). The unintended consequence was that fewer women had their names on certificates. Gender disparities also resulted from the allocation of acreage based on the ages of household members, whereby working-age individuals received the largest shares. Because female households tended to have fewer adults of working age, they received on average less land than male-headed households. The legal retirement age for women was also five years earlier than for men. In practice, this led to women ages 55–59 being allocated half the amount of land allocated to men of the same age.

Vietnam has made progress in remedying these disparities. For example, a 2001 government decree stipulated that the names of both husband and wife should be included on the certificate if the land was jointly owned, and the 2003 Land Law mandates joint titling.

Sources: Menon et. al, 2013; Food and Agriculture Organization of the United Nations, Gender and Land Rights Database.⁷⁸

for land titles, when offered at affordable prices, was very high. When combined with a campaign emphasizing the importance of women being registered as joint landowners and discounts for female registration, the share of households that indicated they would include both husband and wife on the title increased from 24 percent to 89 percent.⁸³

- In Romania, the World Bank's Complementing EU Support for Agricultural Restructuring Project included a communication and mediation specialist in field teams to provide information on social issues. Local leaders were also involved in public awareness campaigns, and special meetings were organized just for Roma women.⁸⁴
- In Rwanda, the National Land Centre has undertaken training of local land committees across the country, including making a video showing how women's rights should be recorded.⁸⁵

Local awareness-raising campaigns and community dialogue can also be effective ways to build understanding and support

for women's land rights. There are several examples from Europe and Central Asia:

- In the Kyrgyz Republic, men and women were trained as community-based advisers to provide free advice to villagers on the process of applying for land ownership.⁸⁶
- A land reform project in Tajikistan in 2007 sponsored by the U.S. Agency for International Development included supporting a group of women to mount a legal challenge to the decision of a local official to revoke their land rights. The women were successful, and the court's decision was used around the country to educate communities and local officials about respecting women's land rights.⁸⁷
- In Moldova, Joint Information and Services Bureaus offer a one-stop shop for advice on the job market, health care, agriculture, and land laws. The bureaus centralize at least nine key service providers in one office, reducing time spent visiting multiple locations, and have helped more than 10,000 women, primarily those from remote rural areas.⁸⁸

* * *

Control over land and housing affects women's agency across a range of domains, including household decision making and access to economic opportunities. Improving women's property rights can have transformative effects on social norms and women's status within the household and the community. More and better sex-disaggregated data are needed to highlight gaps in ownership and access. This will help inform policy interventions to ensure the inclusion of women in land titling programs. Data availability and gaps are reviewed in chapter 7. A broad approach needs to ensure that beneficial customary and communal rights are recognized and respected, coupled with reforms to promote gender equality and provide effective implementation.

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