

# The Case for Including Women’s Tenure Security and Access to Land in DFAT’s New International Gender Equality Strategy

## Introduction

DFAT is seeking inputs on a new international gender equality policy to set the long-term direction for Australia’s important work in this area. This rapid submission has been prepared by Land Equity International (LEI). LEI is an experienced, innovative international consulting firm specialising in land administration, spatial planning and the implementation of land rights. We have managed land-related projects in over 35 countries across Asia, Africa, the Middle East, Eastern Europe, Latin America and the Pacific. Whilst not a gender-specific organisation, a significant amount of the ‘equity’ in LEI’s work concerns ensuring women’s equal access to, and ownership over, land.

In this submission, we underline the importance of working towards gender equitable land tenure and women’s access to land to achieve gender equality objectives. As explained below, **engaging with the land sector, and specifically undertaking context-specific and inclusive measures to support land tenure security advances the implementation of women’s rights** (including progress on the eradication gender-based violence), **while also underpinning the achievement of numerous development milestones that are key to regional success**. These include improved service delivery through the establishment of key infrastructure, improved food security and childhood nutrition, progress on reforestation, land degradation neutrality and decarbonisation and managed and sustainable urbanisation. Working in the land sector also builds on Australia’s capacity, expertise and leadership in this sector, building on the initiatives conducted for the seminal 2008 publication *Making Land Work*, published as part of AusAid’s Pacific Land Program.<sup>1</sup>

After providing some key definitions, this submission is loosely structured around the four questions posed at the SURGE expert roundtable:

1. *What are the gender equality priorities you see over the next 5-10 years?*
2. *What do you see as the most effective approaches for achieving gender equality?*
3. *How can Australia best support gender equality internationally?*
4. *What else should we consider in drafting our new International Gender Equality Strategy?*

Due to time limitations, this is not a comprehensive submission that covers all relevant aspects. A more formal submission can be provided in due course if necessary.

## Key definitions

**Land tenure** refers to the set of relationships legally or customarily defined amongst people with respect to land – in essence it is the means by which land is held. Related, **property rights** refers to who can do what on a piece of land. The exact nature and content of these rights, the extent to which people have confidence that they will be protected, and their various degrees of recognition by public authorities and the concerned communities, has a direct impact on how land is used.<sup>2</sup>

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<sup>1</sup> See [‘Making Land Work’](#) in the as part of Australia’s Pacific Land Project.

<sup>2</sup>[UNHCR Background Paper ‘Land and Housing’ 2013](#)

**Secure land tenure** describes an agreement between an individual or group to land which is governed and regulated by a legal and administrative framework (including both customary and statutory systems). Security of tenure derives from the fact that the right of access to and use of the land and property is underwritten by a known set of rules, and that this right is justiciable, i.e. actionable in a legal forum. It incorporates the confidence or perception of land users that they will not be arbitrarily deprived of their right to use that land, except in accordance with known and agreed legal procedures.

## Why is women's secure land tenure a priority issue for the achievement of gender equality?

Tenure security matters because of its influence on how different people will respond to and participate in development processes. As noted in *Tenure Security and Sustainable Development*:

**Whoever holds tenure controls the outcome of production, including the benefits...**It directly determines who has the right to benefit from land-based resources and who has to protect them. Security is thus the assurance that the rights of a landholder will be respected and upheld in the event of a challenge, dispute, or risk as the competition for land and its resources ensues.<sup>3</sup> [emphasis added]

In many parts of the Pacific as in the rest of the world, **women are systematically denied access and control over land and resources, and consequently, the benefits of secure tenure.** Sometimes this is due to the existence of pluralistic legal systems, with statutory and customary systems operating to deny women's right to engage in land issues and to access/own land, especially as it concerns inheritance. Women's *de facto* access to land can also be restricted by lack of implementation of existing laws, by traditional and social practices, norms and power structures within communities and households, and by a lack of formal and informal systems to protect women against land grabbing.

**In this context of insecure tenure women can be compelled to endure physical, emotional, or economic violence because of their "weak fall position."**<sup>4</sup> Mindful of their precarious situation, women also often forego livelihood strategies that could be more profitable, safe, and sustainable because they cannot count on the long-term tenure security required to pursue these.

**To this end, women's secure access and ownership of land is a critical, non-negotiable foundation for the achievement gender equality - while also constituting a core component of women's human rights.**<sup>5</sup> It should therefore play a key role in Australia's future policy.

Ensuring women's equal access to land is also linked to broader social and economic development – with evidence demonstrating that when women enjoy secure access to land **there are better outcomes for their children, the household and the community generally.** Specifically when women experience tenure security on an equal footing with men, they can access to credit mechanisms, enjoy protections against arbitrary deprivations of property in the event of a husband or male family

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<sup>3</sup> Margret A Rugadya "Forward" in Margaret B Holland, Yuta J Massuda and Brian E Robinson (eds) *Land Tenure Security and Sustainable Development* (2022), ix. Available at: <https://link.springer.com/content/pdf/10.1007/978-3-030-81881-4.pdf>

<sup>4</sup> D Fleshner et al 'Championing Women's Tenure Security' 81-101  
<https://link.springer.com/content/pdf/10.1007/978-3-030-81881-4.pdf>

<sup>5</sup> See, for instance, the UN Convention on the Elimination of All Forms of Discrimination against Women, Article 16 (1) as well as the Committee on World Food Security [Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security \(2012\)](#).

members' death or abandonment of the family, and can have the confidence to invest in land. Access to, and equal ownership of land can therefore be considered both a *protective* mechanism in societies where women enjoy less power *de facto*, but also an opportunity to *advance* women's economic interests (and access to power) by reducing dependence on male relatives/husbands and supporting women to break out of cycles of poverty and 'inequality traps'.

The importance of access to and security of land and natural resource user rights has been recognised in Target 1.4 of the 2030 Sustainable Development Goals which aims to ensure by 2030 that:

All men and **women**, in particular the poor and the vulnerable, **have equal rights** to economic resources, as well as access to basic services, **ownership and control over land** and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance. [emphasis added]

### Advancing Women's Economic Empowerment and Household Finances

**Land and Women's Economic Empowerment:** Women's economic empowerment is essential in promoting equality between women and men and a precondition for sustainable development and pro-poor growth. Women's economic empowerment can be achieved through equal access to and control over economic resources and opportunities and the elimination of structural gender inequalities. **Women's unequal access to land and property is a key obstacle to women's economic empowerment and an area where DFAT should increase its efforts.**

In agricultural settings, inclusive, secure and non-discriminatory tenure systems support food security, sustainable farming, as well as improved gender equality – including progress on eradication gender-based violence. As noted recently in the 'Stand for Her Land' Campaign:

Worldwide, **more than 80 percent of people experiencing extreme poverty live in rural areas and rely on agriculture to earn a living**, farming small plots of land for subsistence and perhaps a modest income. **At least half are women.** Equipped with secure land rights, these women have the opportunity and peace of mind to invest in their land to improve their harvests and their lives.<sup>6</sup> [emphasis added]

The author highlights that peace of mind comes from a sense of security — that the land they depend on cannot be taken away. Long-term investments increase the productivity, value, and desirability of land. Investments – in irrigation, better seeds, and practices like agroforestry and crop rotation – boost productivity and promote sustainable farming practices, **sowing seeds for climate resilience and a food secure future, for rural women and for the world.**<sup>7</sup> In the context of climate action, tenure security allows women to participate in and benefit from payment for environmental services (PES), including access to carbon markets, which often require proof of land ownership.

Several other studies have documented in turn that increased access to credit and investment opportunities for women is often causally **linked to higher income and household expenditure** (UK Aid, 2014, p. 5). A study of joint titling in Vietnam demonstrated an increase in per capita expenditure and household income on jointly titled properties by up to 2.5 per cent. This may be attributed to the investment habits of women and how they utilised credit accessed from using the land as collateral.

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<sup>6</sup> Esther Mwaure-Muiru "[Land Tenure – a cross-cutting solution for poverty, climate change and women's rights](#)" *Skoll* October 11, 2022.

<sup>7</sup> *Ibid.*

In another study, it was shown that **household income** increased because women invested in handicraft rather than agriculture which generated greater profits (World Bank, 2008, p. 11). Other studies have demonstrated that agricultural production and food security for the household increases with women enjoying tenure security.<sup>8</sup>

**NB:** LEI has produced a desk study on the advantages and challenges of joint titling initiatives which will be publicly available by August 2023.

### Protecting Women from Arbitrary Deprivation of Property

Evidence shows that one strategy to support gender equitable land tenure, namely the joint titling of land in the context of systematic land registration programs, **can increase the legal rights of women in the face of unilateral sale by husband**. In a study in Chandigarh, women documented that they felt helpless and vulnerable to a husband making a rash decision and selling the house, leaving them homeless. These women understood that following their inclusion on the title, a husband had to seek the wife's consent before selling the entire house, protecting women against unilateral sale (Datta, 2006, p. 278).

Further an increase in **household decision making** for women is a well-documented positive side effect of joint titling. The balance of power between husband and wife determines the outcome of household decisions. Women have reported feeling greater agency in the decision-making process related to the land under joint titling systems because their signature was required to effect action. Such decisions include the transfer of land, leasing, and mortgaging, among others (Bayisenge, 2018, p. 600). Interaction with land related decision-making processes has reportedly extended to an increase in general decision making as well, balancing the scales of household power (Datta, 2006, 278). Further, joint titling has supported women's agency through knowledge acquisition. That is, women gain agency by interacting with the bureaucratic mechanisms by which land is managed, such as interactions with banks, government agencies and community groups (Datta, 2006, p. 281).

## What works to achieve gender equitable land tenure? What should Australia do?

LEI's experiences working on gender equitable land tenure systems in sub-Saharan Africa, the Mekong (Vietnam, Laos, Myanmar and Cambodia) and the Pacific has generated the lesson that there is **no one-size-fits all response to address the barriers women face in accessing land, despite many common blockages across different countries**. The below are some key entry points that DFAT should consider across its development programming:

- Partner with women's groups to better understand barriers and opportunities to support secure women's land rights and cross-fertilise this work with programmes aimed at supporting action on GBV, climate change and inclusive urban development/access to housing.
- Work with progressive customary leaders and other potential change influencers to advocate and expand women's voices in land decision-making at the customary and local level.

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<sup>8</sup> Action Aid, Securing women's rights to land and livelihoods: a key to ending hunger and fighting AIDS' [Action Aid Briefing Paper](#), (2008) p.7.

- Facilitate the participation of civil society, gender experts, and female local leaders in land related law and policy reform processes in order to ensure a critical mass of women’s representation throughout the process, through e.g. financial support to key actors, providing fora for discussion and exchange, and through dialogue on the importance of women’s participation.
- Ensure that women leaders and gender equality leaders are trained and aware of the statutory framework and statutory protections (where appropriate). This is necessary for them to have the knowledge and confidence to speak on land issues, as well for decision-makers to be equipped to apply the law correctly in furtherance of gender equality.<sup>9</sup>
- Target awareness raising in Ministries outside the Ministry of Women/Family Affairs – to ensure leadership on this issue among institutions with the mandate for change. This is especially important with agencies access to significant budget – for instance large infrastructure and investment promotion departments.
- Conduct comprehensive public outreach campaigns and education work on the community benefits of women’s access and ownership of land, following a thorough investigation of the social norms around women’s land ownership and inheritance. LEI’s recent research on joint titling indicated the necessity for joint titling of land to be accompanied by comprehensive socialization and public awareness in order that such initiatives have a tangible and positive impact on gender equality.
- Outside of land-specific initiatives, critically review climate/PES programming to ensure that they are gender-sensitive and provide equitable access to benefits for women participants. Similarly, ensure adequately analysis at each stage of the infrastructure investment process of the impacts on women’s land access, ownership and tenure security – and ensure resettlement and compensation processes are inclusive (not simply to the head of household).
- Install gender-sensitive evaluation systems and collect best practices and gender disaggregated data to track long-term impacts on gender equality, with a focus on the achievement of SDG 1.4 and SDG 5.a.2 (women’s land rights in the law) and establishing systems for monitoring progress around these indicators.

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<sup>9</sup> LEI’s research in the Mekong under the MRLG programme (*Gender Outlook* – forthcoming) demonstrates that many women feel they are not equipped to speak on the ‘technical’ language of land – especially during community consultations.