


WOMEN, FOOD, LAND: EXPLORING RULE OF LAW LINKAGES

USING LAW TO STRENGTHEN FOOD SECURITY AND LAND RIGHTS FOR WOMEN



Creating a Culture of Justice
International Development Law Organization



The International Development Law Organization (IDLO) is an intergovernmental organization devoted to empowering people and enabling governments to reform laws and strengthen institutions to promote peace, justice, sustainable development and economic opportunity.

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ACRONYMS

ADB	Asian Development Bank	UNCTAD	United Nations Conference on Trade and Development
FAO	Food and Agriculture Organization of the United Nations	UN-REDD	United Nations Programme on Reducing Emissions from Deforestation and Forest Degradation
IDLO	International Development Law Organization	UN WOMEN	United Nations Entity for Gender Equality and the Empowerment of Women
IFPRI	International Food Policy Research Institute	USAID	United States Agency for International Development
OECD	Organization for Economic Cooperation and Development	WOCAN	Women Organizing for Change in Agriculture and Natural Resources Management
OHCHR	Office of the United Nations High Commissioner for Human Rights		
SDG	Sustainable Development Goal		



EXECUTIVE SUMMARY

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Women, Food, Land: Exploring Rule of Law Linkages provides an overview of the relationship between gender equality, food security and the rule of law. This report lays out a series of recommendations aimed at strengthening the synergies between the rule of law and gender equality within sustainable development programs to ensure food security for everyone.

The causes of food insecurity are multidimensional and involve a range of legal, political, economic, social and environmental factors. The dynamics of national, regional and global trade and markets, shifting demand for land and labor, and the accessibility of natural resources have a decisive impact on food security.

Hunger and malnutrition are generally not the result of insufficient levels of food production, but are, instead, the outcome of systemic inequalities in access to adequate food. People who are food insecure are often not just hungry, they also suffer from violations of a number of other interdependent human rights, including the rights to life, health, adequate housing, work, education, social security, political participation, non-discrimination and access to justice.

Globally, women and girls make up the majority of people who are food insecure. In societies where there is a high degree of gender inequality, there is also a significantly higher proportion of undernourishment among women and girls. Evidence shows that when women are empowered through education, economic opportunities, access to justice and political participation, they are better able to claim their right to food and to contribute to ensuring food security for others at the household, community, national and international levels. The 2030 Agenda for Sustainable Development and a growing number of other international policy and legal

instruments emphasize the mutually reinforcing relationship between gender equality and the realization of women's rights to food, land, social security and work.

Secure land rights for women are a key part of the equation in realizing the right to adequate food and achieving food security, as well as gender equality. For land rights to be effective and transformative for women, they must be supported by a coordinated and coherent legal and policy framework grounded in participatory approaches, subjected to ongoing monitoring and accountability mechanisms and guaranteed through adequate and sustainable resource allocations. A wide range of stakeholders (including the private sector, community, traditional and religious authorities, civil society organizations and donors) and approaches need to be integrated within policies and programs in order to ensure that each dimension of food security is implemented in practice.

Women, Food, Land: Exploring Rule of Law Linkages examines a number of the key challenges that affect women's food security and land rights – inadequate laws and policies, implementation failures and barriers to accessing justice – and suggests ways in which rule of law programs might seek to overcome them. The main recommendations made by the International Development Law Organization (IDLO) in this report are underpinned by promising practices in using the rule of law to ensure gender equality, land rights and food security for women around the world. These recommendations, which are directed at a range of different stakeholders, include:

- *Facilitating participation by diverse groups of women in decision-making structures, supporting consultative and inclusive law-making processes and*

enabling women to participate in governance of food systems and land tenure processes at all levels.

- *Collecting relevant, disaggregated data to inform and monitor food security programs and their impact and systematically conducting participatory gender impact assessments for all policies and laws that influence women's food security.*
- *Adopting rights-based, multisector approaches to coordinate policies and laws on food security, employment, social protection, land rights, family law and agricultural development.*
- *Balancing strategic, short-term interventions to ensure the immediate access of women and girls to food and nutrition programs against longer-term strategies that aim to transform unequal power relations.*
- *Regulating the private sector and supporting the development and adoption of human rights-based business practices in food and agriculture.*
- *Improving women's access to justice through rule of law interventions and strategic engagement with informal dispute settlement mechanisms to ensure they are non-discriminatory.*

The 2030 Agenda for Sustainable Development acknowledges the mutually reinforcing relationship between food security, gender equality and the rule of law as pillars of sustainable development. Rule of law interventions can make a decisive contribution to the effective implementation of gender-sensitive policies and laws on food security and land rights, while empowering women to become equal partners in decision-making within the household, in the community and in economic, social and political institutions.



PART 1 INTRODUCTION



INTRODUCTION

Women account for 70 per cent of the world's hungry, and are disproportionately affected by malnutrition, yet they are responsible for more than half of global food production.¹

We live in a world of abundance yet ensuring global food security remains challenging, with women being disproportionately affected by hunger and malnutrition. While there has been a significant reduction in hunger throughout the world in recent decades, the demand for food is predicted to rise by 70 per cent by 2050,² and it has been estimated that climate change will increase the risk of undernourishment for 175 million people by 2080.³

The achievement of food security is not only a question of ensuring the availability of adequate food, it is primarily about the eradication of systemic barriers that lead to the unequal distribution of food and the

means for its procurement: "hunger on its own cannot be addressed without also considering wider structural constraints, including nutrition, agricultural and land use practices, and access/distribution issues".⁴ Gender-based discrimination is one of the most significant obstacles to the realization of food security for everyone.⁵

While food insecurity has many causes, policies, laws and legal systems play a crucial role in guaranteeing gender equality, food security and equal access to land and productive resources. In many countries, however, a lack of attention to the discriminatory impact of policies and formal and informal laws on women's equal rights to food and

nutrition, work, social protection, land and other productive resources, results in a failure to ensure that these human rights are respected, protected and fulfilled in practice.

This report (1) explores the linkages between food security (including the role played by decent employment opportunities and social protection in ensuring the right to food), access to land and productive natural resources, gender equality and the law; (2) identifies challenges to women's equality that affect food security; and (3) offers ways forward to promote the rule of law in order to realize greater food security for women within programming for sustainable development.

➤ LAWS AND LEGAL SYSTEMS PLAY A CRUCIAL ROLE IN GUARANTEEING GENDER EQUALITY, FOOD SECURITY AND EQUAL ACCESS TO LAND AND PRODUCTIVE RESOURCES ◀



1.1

The 2030 Agenda for Sustainable Development

The 2030 Agenda for Sustainable Development and its accompanying Sustainable Development Goals (SDGs) have been constructed with the purpose of guiding global action towards the fulfillment of urgent development objectives. The wide-ranging Agenda, made up of 17 goals, 169 targets and a multitude of related indicators, is intended to integrate and balance an array of economic and social development priorities while taking account of the need to ensure the sustainability of the earth's fragile ecosystems.

The 2030 Agenda includes goals and targets reflective of the multidimensional and interrelated nature of development challenges, providing an entry point to connect policy and achieve coherence so that Food Security and Nutrition (Goal 2) and Women's Empowerment and Equality (Goal 5) are realized through investments in social protection, employment, sustainable agriculture and secure land tenure systems underscored by the rule of law and access to justice (Goal 16).



Interconnected Sustainable Development Goals

The SDGs highlight the interconnectedness of food security, land, gender equality, and the law. Several goals and targets call for direct support in order to achieve gender equality, food security, land rights and the rule of law:⁶

Goal 2: To end hunger, achieve food security and improved nutrition and promote sustainable agriculture.

- **Target 2.3:** By 2030, double the agricultural productivity and incomes of small scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment.

Goal 5: Achieve gender equality and empower all women and girls.

- **Target 5a:** Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws.

Goal 10: Reduce inequality in and among countries.

- **Target 10.3:** Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard.

Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

- **Target 16.3:** Promote the rule of law at the national and international levels and ensure equal access to justice for all.
- **Target 16.b:** Promote and enforce non-discriminatory laws and policies for sustainable development.



Image: UN Photo_Riccardo Gangale

1.2

Women, food and land – exploring concepts and linkages

Food security and the right to food have multiple, overlapping and mutually reinforcing elements. At the heart of both concepts is the principle of non-discrimination in access to adequate food, which may be obtained through production, or purchased at markets with income derived from employment or via social security programs.

Women's equal rights to land and natural resources are central to each dimension of food security (availability, accessibility, adequacy and sustainability). Through the use of land, women engage in agricultural

production to ensure their own food security, while also making a significant contribution to agricultural productivity and sustainable development around the world.

This section examines the complex relationships between several different aspects of food security, focusing in particular on its links with gender equality and the contribution that the rule of law can make to ensuring sustainable access for women to land and other productive resources. As explained in the section that follows, women use land to produce food and to generate income. Where women have control over income, they have been found to be more likely to spend this on food and nutritional security for their households. However, gendered inequalities in employment, social protection and access to land and productive assets dampen economic growth and agricultural productivity, affecting food security at the local, national and international levels.⁷

(1) Food security and the right to adequate food

Food security was defined by the 1996 World Food Summit as existing: “when all people, at all times, have physical and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life.”⁸ The *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security* (Right to Food Guidelines) that were adopted by the Food and Agriculture Organization of the United Nations (FAO) Member States in 2004, highlight availability, access, utilization and stability over time as four core, interrelated elements of food security.⁹

The right to food is a legally binding human rights obligation recognized in many national constitutions and laws, as well as in regional and international treaties and other instruments, including the Universal Declaration of



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Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child. Under the International Covenant on Economic, Social and Cultural Rights, States Parties are required to ensure, “the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture; the accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights”.¹⁰ A human rights-based approach to the right to food includes important substantive and procedural guarantees such as non-discrimination, the right to participate in the formulation of laws and policies on food and nutrition, the obligation to prioritize the needs of the most marginalized sections of the community, as well as the creation of appropriate monitoring and accountability mechanisms to measure progress and enable claims to be made concerning violations of the right to food.¹¹

The realization of the right to food and food security requires that States and other duty bearers take targeted, coordinated, measurable and concrete steps to fulfill their human rights obligations under international law.¹² The interrelated components of food security and the right to food include the creation of social protection schemes, guaranteeing access to sustainable livelihood opportunities, decent employment, functioning markets, inclusive land use, and agricultural and rural development.¹³ Each of these dimensions of food security must be grounded in an enabling environment that includes support for human rights, sustainable development, democracy, good governance and the rule of law.¹⁴

Understanding the root cause of food insecurity is complex as there are multidimensional legal, political, economic, social and environmental factors involved. Various stresses contribute to food insecurity, including climate change-related impacts on

ecosystems which are necessary to produce food; increasing scarcity of productive land and resources such as water and forests due to environmental degradation, as well as urbanization and large-scale acquisitions of land for non-food crops; and economic pressures including commodification of food, making it harder for small-scale producers to compete on price and less likely to have sufficient income to buy food.¹⁵ The dynamics of national, regional and global trade and markets, the shifting global and national demand for land and labor, and the accessibility of natural resources have a decisive impact on food security.

An analysis of food insecurity shows that hunger and malnutrition are generally not the result of insufficient levels of food production, but are, instead, the outcome of systemic discrimination and inequalities in access to adequate food.¹⁶ This means not being able to afford the food that is available in markets, not being able to consume good-quality food due to safety concerns, or not being able to access the resources needed to produce food.¹⁷ People who are food insecure are often not just hungry, they also suffer from violations of a number of other, interdependent human rights including the rights to life, health, adequate housing, work, education, social security, political participation, non-discrimination and access to justice.¹⁸

Definitions of the right to food, food security, food systems and food sovereignty

Right to food key elements include adequacy, accessibility, availability, and acceptability as defined by the United Nations Committee on Economic, Social and Cultural Rights in its General Comment no. 12 (1999) on the right to adequate food:¹⁹

Adequacy refers to both the quantity and quality of food, in terms of food safety and nutritional value. The adequacy standard also includes elements of cultural or consumer *acceptability*.

Accessibility takes into account both economic and physical accessibility. Economic accessibility means that an individual or a household must have the means to grow, trade or buy adequate food without compromising other rights such as education or health care. Physical accessibility implies that adequate food must be accessible to everyone, including people in vulnerable situations, such as young children, older persons and persons with disabilities. Food must be accessible for both present and future generations (*sustainability*).

Availability refers to the direct provision of food through subsistence crop production or the use of other natural resources, or the ability to purchase adequate food, and this criterion entails obligations to ensure equitable distribution, processing and market systems.

Food security requires the simultaneous fulfillment of our key objectives of the right to food: (1) *Availability* of sufficient quantities of food of appropriate quality, supplied through domestic production or imports; (2) *Accessibility* of adequate food for a nutritious diet which necessitates policies and laws to ensure that incomes, expenditures, markets and prices are directed towards the achievement of food security; (3) *Utilization* of food through consumption of adequate, diversified and nutritious food that is equally distributed within the household, along with equal access to clean drinking water, sanitation and health care; and (4) *Stability* of the other three dimensions over time.²⁰

Food systems are defined by the International Panel of Experts on Sustainable Food Systems as “the web of actors, processes, and interactions involved in growing, processing, distributing, consuming, and disposing of foods, from the provision of inputs and farmer training, to product packaging and marketing, to waste recycling. A holistic food systems lens is concerned with how these processes interact with one another, and with the environmental, social, political and economic context.”²¹

Food sovereignty is an emerging concept that is defined in the 2007 Declaration of Nyéléni as, “the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems”.²² The pillars of food sovereignty include: a focus on food for people, valuing food providers, localizing control of food systems, building knowledge and skills and working with nature.

(2) Land rights and access to productive natural resources

Land rights are highly contextual and often have specific and varied meanings based on the formal or customary legal systems and the geographical areas within which they are situated. It can be difficult to generalize findings related to land rights, because different terminology is often used in research and literature. In this report, the term “land rights” is used to refer to the many different rights that women and men can have to land and natural resources such as forests, fisheries, pastures, water, biological diversity and seeds, as individuals or collectively. Where more accurate, the terms “land tenure”, “land governance” and “land tenure security” are used.

Concepts and definitions of land and resource rights²³

Land tenure is the relationship, “whether legally or customarily defined, among people, as individuals or groups, with respect to land (including other natural resources such as water and trees)...Land tenure relationships may be based on written policies and laws, as well as on unwritten customs and practices.”²⁴

Land tenure security is the certainty that a person’s rights to land will be recognized by others and protected. Security normally exists along a spectrum and can vary for different people within the same context, based on legal, social, and cultural factors. Land tenure security is difficult to measure and is largely subjective.

Land registration generally describes systems by which ownership, possession or other user rights over land can be recorded (usually with a government agency) to provide evidence of title, facilitate land transactions and to prevent unlawful disposal of land.

Land titles are a bundle of rights over land in which a legal or an equitable interest can be asserted. The rights in the bundle can be separated and held by different parties or they may be held collectively. Land titles may also refer to a formal document, such as a deed, that provides proof of ownership.

Land governance encompasses the “rules, processes and structures through which decisions are made about access to land and its use, the manner in which the decisions are implemented and enforced, and the way that competing interests in land are managed”.²⁵

Commons are “resources that the people, communities and societies recognize as being available to all, and that should be preserved and managed collectively for present and future generations”.²⁶ In some settings, agricultural land and its cultivation are held in common and the tenure rights of community members who farm specific plots are recognized and respected.

Productive resources include natural resources such as land, water, forests, fisheries, biological diversity and seeds, as well as financial capital and human resources.



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(3) Gender equality

Women are overwhelmingly discriminated against when it comes to the right to food and rights to land and productive resources.²⁷ Gender stereotypes and discrimination in feeding and nutritional practices mean that women and girls suffer from significantly higher rates of malnutrition and undernutrition than men and boys.²⁸ Global surveys reveal that although women make up a large proportion of the world's agricultural labor force, they have consistently less access to and control over land and productive resources, and in many cases, these gender gaps are significant.²⁹ For example, women landholders in Asia range from 3 percent in Bangladesh to 16 percent in Sri Lanka, with Thailand the outlier at 27 percent.³⁰ In Africa, it has been estimated that women operate less than one quarter of agricultural land holdings, even though in some countries they make up more than half of agricultural laborers.³¹

Global gender indicators, while documenting important progress in areas such as access to primary education and growth in women's labor force participation, have continued to highlight the persistence of inequalities. The gender gap for economic participation and opportunity stands at 60 per cent worldwide, which is only a 4 per cent increase over the past decade.³² Laws and administrative regulations that directly discriminate on the basis of sex exist in an overwhelming number of countries (155 out of 173) across a range of different areas, such as legal capacity to enter into contracts, open bank accounts, register businesses or apply for loans, equal remuneration for work of equal value, inheritance rights, and protection against violence.³³

Key principles related to non-discrimination, substantive gender equality and women's empowerment

Sex and gender-based discrimination, substantive equality and women's empowerment are different concepts that have to be considered together in order to advance the status of women and girls worldwide.

Discrimination against women is defined in Article 1 of the Convention on the Elimination of all Forms of Discrimination against Women as "any distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field". This definition emphasizes that discrimination may be direct or indirect, and that it is the disproportionate impact of the action on women that is crucial for determining if a given policy, law or other practice is discriminatory.

Substantive or de facto gender equality has been interpreted by the United Nations Committee on the Elimination of Discrimination against Women and in policy documents, such as the Beijing Declaration and Platform for Action, as the relevant standard of conduct and result required under international human rights law. The United Nations Committee on the Elimination of Discrimination against Women notes that, "It is not enough to guarantee women treatment that is identical to that of men. Rather, biological as well as socially and culturally constructed differences between women and men must be taken into account. Under certain circumstances, non-identical treatment of women and men will be required in order to address such differences. Pursuit of the goal of substantive equality also calls for an effective strategy aimed at overcoming under-representation of women and a redistribution of resources and power between men and women."³⁴ Temporary special measures designed to ensure substantive equality, such as quotas for the number of women employed in public service positions, do not constitute a prohibited form of discrimination under international human rights law.

Intersectional or compound discrimination arises from a failure to consider the important differences between women, who are not a homogenous group, in laws, policies and other programs. Along with gender, characteristics such as socioeconomic status, disability, age, sexual orientation and gender identity, migrant, minority or indigenous status, may give rise to distinct forms of disadvantage that must be specifically identified and overcome in order to achieve substantive gender equality.³⁵

Women's empowerment is generally regarded as consisting of several different components including: women's sense of self-worth; their right to have and determine choices; their right to have access to opportunities and resources; their right to have the power to control their own lives, within and outside the home; and their ability to influence the direction of social change nationally and internationally.³⁶

There has been increasing recognition of the centrality of gender equality and women's empowerment in the achievement of sustainable development, as a right, as a development goal, and as a solution to persistent development challenges. International human rights treaties, in particular the Convention on the Elimination of all Forms of Discrimination against Women, which is the instrument that specifically focuses on discrimination against women, recognize gender equality as a human right. The Beijing Declaration and

Platform for Action highlighted the global community's commitment to integrate gender perspectives into sustainable development policies and programs across 12 critical areas of concern.³⁷ The 2030 Agenda for Sustainable Development affirms the centrality of equality to development through a stand-alone goal on gender equality and empowerment of women and girls, as well as by specifically recognizing gender and equality within many of the other 16 goals, including Goal 16, which promotes the rule of law.

(4) Gender equality and food security

There is a mutually reinforcing relationship between gender equality and food security, which is increasingly being recognized in laws, policies and practices.³⁸ In societies where there is a high degree of gender inequality, there is also a significantly higher proportion of undernourishment among women and girls.³⁹ Conversely, where women are empowered through education, economic opportunities, access to justice and political participation, they are better able to claim their right to food and to contribute to ensuring food security for others at the household, local, national and international levels.⁴⁰

For this reason, in order to effectively tackle food insecurity, it is necessary to address gender inequality more broadly, particularly the discriminatory policies, laws and social norms that prevent women and girls from participating in society on an equal basis. At the same time, targeted interventions that examine inequalities within all elements of food systems – production, processing and consumption – are essential to ensure that everyone has sustainable access to adequate food and nutrition.

Gendered inequalities in access to land and resources constitute violations of women's human rights and also reinforce their poverty and food insecurity. Control over land and other productive assets enables women's access to a range of income-earning and livelihood opportunities as well as food security. There is an important, reflexive relationship between women's lack of economic power, in part due to an absence of control over land and other productive assets, and their generally lower social and political status.

Linking food security and gender equality through the Sustainable Development Goals

Through linked targets, the 2030 Agenda for Sustainable Development recognizes the nutritional requirements of those in vulnerable situations (Target 2.1) and calls for an end to all forms of malnutrition (Target 2.2), as well as the need for sound policies and enforceable legislation focused on the promotion of gender equality and the empowerment of women and girls at all levels (Target 5c).⁴¹

Equal land rights for women, together with other measures, can support women's empowerment and gender equality more broadly

States and other stakeholders have obligations under international and national law to ensure that women have equal access to each of the elements of food security, including land and productive resources that enable them to feed themselves in dignity either

through subsistence agriculture or via income-generation opportunities. The focus on more "instrumental" arguments to support women's equal land rights, including those advanced below, should not dilute the primary obligation, which is to guarantee access to land without any discrimination as a matter of law and as a moral imperative.

Women's rights to access land and other assets may, when supported with other, gender-sensitive programs, constitute a powerful tool for empowerment, especially when it comes to control over decisions that impact food availability, improved income-generation opportunities and nutrition.⁴² The United Nations Special Rapporteur on the Right to Food notes "[f]or rural women, access to land in conditions that ensure security of tenure is the single most important condition for economic empowerment. This is because access to most other productive resources is conditional on land ownership, and because land is often a condition for social inclusion."⁴³



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Stronger land rights for women increase agricultural productivity and environmental sustainability, impacting food availability

Women play a central and frequently undervalued role as producers in ensuring the availability of adequate food, as farmers, as unremunerated family farm workers and as agricultural wage laborers.⁴⁴ Despite the key contribution made by women to food crop production, the Organization for Economic Cooperation and Development (OECD) found that agricultural development aid focused on women was just 9 per cent in 2015.⁴⁵

Insecure rights to land and a lack of power to make decisions concerning its use negatively affect women's agricultural productivity and the availability of food.⁴⁶ In a context of insecure land rights, women are less willing and able to invest in land fertility, irrigation, crop rotation or soil conservation techniques to increase productivity.⁴⁷

Gender-based inequalities in access to land and other assets also limit the

ability of women to raise collateral for loans and to benefit from agricultural extension schemes that would provide them with inputs such as fertilizers, labor, crop storage facilities and machinery as well as preferential access to markets.⁵⁰ In addition, due to discriminatory social norms and the resulting lack of economic power, women farmers are often constrained in their choice of crop – with men tending to use more productive arable land for the cultivation of higher-value cash crops and livestock.⁵¹

Stronger land rights for women improve access to food and nutrition for other family members

Better protection for women's rights to land may also contribute to providing women with greater influence over household decision-making.⁵² Women who own land are more likely to participate in decisions related to food purchasing and consumption,⁵³ and their children are less likely to be underweight.⁵⁴ Data collected by the OECD Development Centre show that countries where women lack rights or

Women's rights or children's rights?

The protection of women's rights to food and food security are often linked in laws and policies at both the national and international levels to their role as mothers and caregivers for other family members. This emphasis on women's reproductive role deflects attention from obligations to respect, protect and fulfill the human rights of women and children as individuals. FAO notes that in order to feed themselves in dignity, "women must have equal access to economic resources, including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technology, as well as measures to respect and protect self-employment and work which provides a decent living for wage earners and their families".⁵⁵ Among other rights, children have a right to nutritious and adequate food and governments should put in place measures, including helping families and guardians, to ensure this right.

opportunities to own land have, on average, 60 per cent more malnourished children than countries where women have some or equal access to land.⁵⁶ In general, women's stronger role in household decision-making is associated with children being born with higher birth weight and with better attention to their nutritional well-being,⁵⁷ which in turn can help break the cycle of intergenerational poverty and malnutrition. FAO recognizes that when women and men are given support for enhancing household nutrition, women tend to make investments directed towards improving nutrition and future livelihood options for their children.⁵⁸

Financial implications of closing the gender gap in agricultural productivity

The 2030 Agenda for Sustainable Development reinforces the links between women, land and agricultural productivity. Targets recognize the importance of reforms to "give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws" (Target 5.a) as well as the need to "double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment" (Target 2.3).⁴⁸

Tailored approaches will have to be adopted to develop policies, programs and other measures to further these targets and "bottom-up, country-level cost assessments will need to be conducted to support financial planning for implementation".⁴⁹

(5) Rule of law and food security

The United Nations Secretary General has referred to the rule of law as “... a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards”.⁵⁹

Understanding the rule of law

The rule of law is about substantive justice as well as procedural fairness. It is regarded as both a means for realizing human rights and development as well as an outcome of sustainable development.⁶⁰ While countries have unique histories, political and economic systems, jurisprudence, cultures, values and customs, the rule of law englobes a number of common underlying principles that constitute a shared conception of justice.⁶¹

Rule of law interventions facilitate the implementation of human rights by supporting the participation of a wide range of stakeholders in legislative and policy development, promoting the adoption and implementation of transparent, consistent and effective laws, legal systems and policy frameworks, developing institutional capacities and increasing legal empowerment by improving access to justice and dispute resolution mechanisms. The rule of law promotes equality and fair treatment by ensuring equal opportunity and non-discriminatory access to services and resources critical to human development.⁶²

The implementation of human rights-based approaches to food security draws upon and is supported by core procedural and substantive features of the rule of law, such as the promotion of meaningful participation in the design and monitoring of policies and legislation, gender equality, attention to the rights of marginalized groups, accountability, access to justice and legal empowerment.⁶³ The

consistency and coherence of food security legislation and policies that have an impact on food security across different sectors – trade, investment, agriculture, health and intellectual property – may also be improved if laws and policies are grounded in participatory, rule of law approaches that contain appropriate monitoring and accountability mechanisms.

Rule of law principles of fairness, transparency and equality can play a crucial role in ensuring that land reform processes and investments in land and agriculture do not have a negative impact on women’s rights to food security and land tenure.⁶⁴ Research has further shown that business actors are more willing to invest in land and agricultural development projects in settings where there is legal certainty and transparent rules governing contracts and land tenure. The rule of law may, therefore, assist in the promotion of food security by encouraging private sector investment in agriculture and rural employment opportunities.⁶⁵



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PART 2

CHALLENGES AFFECTING WOMEN'S FOOD SECURITY AND LAND RIGHTS



CHALLENGES AFFECTING WOMEN'S FOOD SECURITY AND LAND RIGHTS



The 2030 Agenda for Sustainable Development and a growing number of other international policy and legal instruments emphasize the mutually reinforcing relationship between gender equality and the realization of women's rights to food, land, social security and work. The translation of these policies and legal guarantees into effective action to ensure women's equal rights is, however, subject to a significant number of challenges.

Many of these difficulties are connected to institutional and structural shortcomings, including an absence of gender-responsive laws and policies and the lack of a holistic and participatory approach to issues of gender equality and food security, which result in ineffective, inconsistent and uncoordinated policies and legislation across different sectors. Another problem is that insufficient resources have been allocated to the collection and analysis of reliable data and information concerning women's food security.⁶⁶ This, in turn, results in inadequate monitoring of obligations to

progressively realize equal rights to food, land and employment, and in policies and legislation that are not informed by evidence about the real situation of women's food security and land rights in different contexts.

Failure by States and other duty bearers to take steps to address common manifestations of gender-related discrimination, such as gender-based violence against women, social and cultural stereotypes and practices that reinforce the inferior status of women, as well as the unequal burden of women's unpaid care and domestic work, constitute further impediments to the full realization of women's human rights. The lack of technical and financial resources for the creation of social protection floors and a failure to effectively regulate business actors or to take gender-sensitive action to mitigate the risks and impacts of climate change and associated disasters are also factors that disproportionately affect women's food security and their access to sustainable employment, land and other productive resources.⁶⁷

2.1

Inadequate laws and policies

Legal and policy frameworks on gender equality and food security may be inadequate in a number of respects: where laws and policies directly or indirectly discriminate against women; where they are defined and

implemented without meaningful participation by diverse groups of women; when key elements of the right to food and other interdependent human rights, such as freedom of association and the right to work, are not explicitly protected within national constitutions and implementing legislation or specified as policy priorities in plans of action.

Laws that are directly or indirectly discriminatory prevent women from enjoying equal rights to food, social security, land and other resources

Laws that have an impact on women's food security include trade and investment regulations, land and property laws, as well as legal frameworks on dispute resolution and personal status. Family laws in particular, especially those governing marital property, divorce and inheritance, are often the cause of direct discrimination against women.⁶⁸ Other examples include laws that explicitly constrain a woman in her ability to enter into commercial contracts or to be recognized as having full and equal legal capacity.

Laws and policies which stipulate requirements, such as documented ownership and control of assets and other forms of collateral in order to apply for credit or to benefit from agricultural extension services and investment programs, indirectly discriminate against women. Ostensibly gender-neutral laws, when applied alongside laws that recognize males as household heads, can also operate to deprive women of their rights to freely inherit or transfer land on a basis of equality.⁶⁹

Laws and policies that are drafted without the participation of diverse groups of women

Women have the right to participate in decision-making on matters that affect them and yet they are frequently excluded from legislative and policy processes, particularly in areas that are not traditionally regarded as being of concern to them, such as trade, the environment, intellectual property, agricultural development, land use planning and investment.

A failure to engage with diverse groups of women and to involve them in defining priorities and needs, as well as assessing the impact of existing legal and policy frameworks on their rights, leads to inadequate and discriminatory policies and laws. When unchallenged, simplistic, gendered assumptions, for example, that the experience of male householders is also the experience of women in the household, or that all women have the same needs, are reflected and further entrenched in laws and policies.⁷⁰

Absence of laws and policies to protect women's rights and food security

Related to a lack of participation by women within policy processes and legislative development is the failure of these to explicitly promote and protect human rights that are of particular concern for ensuring food security and gender equality. The absence of framework laws and constitutional guarantees on the right to food and policies and legislative provisions that do not fully reflect international human rights standards on substantive gender equality are examples of these gaps.⁷¹

In addition, when laws and policies do not recognize specific human rights issues that are of concern for women's food security, they are not expressly included within the mandates of national human rights institutions and women's rights machinery. This deprives women of avenues for accountability, monitoring, access to justice and further development of gender-sensitive law and policy in connection with gender equality,

employment, food and nutrition, agriculture, trade and investment and land use planning.

2.2

Implementing laws and policies

Many of the challenges faced by women in the realization of their right to food are related to the inadequacies of legislative and policy frameworks, including those on employment, social protection and access to land and productive resources. In addition to the substantive and procedural gaps and bias already discussed, other barriers to implementation also affect women's equal rights to food security. These obstacles include an absence of technical and financial resources for the development and monitoring of

policies and laws and the failure to consider the gender dimensions of existing laws and policies relating to agriculture, trade, land and the family.

Absence of technical and financial resources

The establishment, implementation and monitoring of effective, gender-sensitive social protection systems, agrarian reform policies and labor inspection procedures, along with other institutional arrangements designed to ensure equal protection for women's food security, requires both technical knowledge and capacities – including the development of methodologies for working across a number of different disciplines – as well as adequate and sustainable financial resources. Despite the emphasis on global partnerships and cooperation for development that has been reiterated in Goal 17 of the Sustainable Development Goals, these technical and financial resources are often inadequate to guarantee effective implementation of policies, programs and legislative provisions.



Image: iStock

Failure to consider the gender dimensions of laws and policies relating to agriculture, land and the family

Many national agricultural and investment policies and laws are designed to promote the expansion of large-scale, commercial farming of industrial, non-food crops.⁷² The prioritization of industrial agriculture has been found in a number of contexts to have a disproportionate impact on the continued accessibility of land and other natural resources for women farmers, especially indigenous and peasant women farmers, who tend to be low-income and resource-poor and more likely to be engaged in subsistence and smaller-scale food production and in agricultural wage labor.⁷³

Linked to the above, a lack of legal and policy-based measures, designed to ensure that investments in agriculture and land are supported by accountability frameworks and indicators to guarantee transparency and monitor impact, may interfere with the equal rights of women to food security, employment and access to land. Failure to adequately tackle corruption or implement regulation on labor rights, land use planning and environmental protection have been shown to have a negative impact on the already precarious situation of many women working as agricultural laborers and in subsistence food crop production.⁷⁴

One of the ways in which land rights are implemented is through titling and registration programs governed by legislation requiring that a national identity card, marriage or birth certificate, as well as deeds from a land registry office or court, be provided before titles to land can be registered. These processes are often inaccessible to women, particularly rural and poor women who have limited capacity to engage with central administrative

Impact of not recognizing women's rights in local administrative bodies

In China, village collectives often grant long-term use rights to individual households by contract. Village committees are the local bodies charged with allocating compensation when land is rezoned for different use by the State, such as when agricultural land is converted to industrial land. Due to male labor out-migration, women make up the majority of China's rural farmers. Regulations governing village administration give the village committees wide discretion to determine village membership. When land is rezoned, compensation is paid on the basis of village membership. Traditionally, married-out, divorced, or widowed women are not regarded as members of their husband's household, nor are they regarded as members of their birth household, which results in these women not being considered village members and therefore not compensated for the loss of agricultural land.⁷⁵

bodies, fewer funds to pay document issuing or registration fees, and less access to social and political networks for support.⁷⁶

The ownership or control of assets such as land often forms part of eligibility criteria for access to agricultural extension programs, credit and markets.⁷⁷ Given that women generally have limited ownership and control over assets, these policies, programs and legislation are indirectly discriminatory in that they lead to the exclusion of women from opportunities to engage in larger-scale and more lucrative agricultural development initiatives.⁷⁸

Regulations concerning procedures for sale or transfer of land, which are not linked to gender-sensitive laws and policies governing the family, may enable one spouse to sell marital property, including access to communal lands or resources, without the other's consent. This is frequently to the detriment of the female spouse. Further, laws and policies often fail to address the fact that women's rights to land may be contingent on their personal status, as in the case of the death of a father or husband, or in the event that the husband takes a second wife; or due to changes in the authorities

governing woman's clans or communities. This vulnerability to change may be built into customary land tenure systems that base rights to land on patrilineage, and justify restricting women's rights on patrilocal marriage traditions (she will be provided with land by her husband's family) or on the payment of bride price or dowry.

Laws contingent on personal status place constraints on sustainable land rights for women

Rwanda's statute law governing marital property and succession is widely viewed as positive for women in that it provides equal inheritance rights for daughters and sons. Under the law, however, the inheritance rights of a surviving spouse to marital property held under a community property regime are largely contingent on her status. Her portion of the deceased husband's estate changes depending on whether she continues to care for children of the deceased, whether she remains a widow or remarries. The law places long-term constraints on women's behavior and ability to freely exercise their human rights.

2.3

Interaction between formal and informal legal systems

In almost every country in the world, a number of legal systems – statutory, religious, customary, common law, regional and international – coexist within the same jurisdiction, often resulting in overlapping rights, contradictory rules, and competing authorities.⁷⁹ This web of different normative systems is referred to as legal pluralism. Legal pluralism in itself does not necessarily create issues for women's rights to food, land and other productive assets, however, a failure to measure and address the gendered impact of different normative systems may result in unequal outcomes for women.

Customary and traditional land tenure systems and gender inequality

The achievement of equal land rights for women may be stymied by a recent trend to recognize customary systems of land tenure within formal statute law. While the “formalization” of customary forms of land tenure can be a useful tool for increasing women's access to land and productive resources, it may reinforce gender-based discrimination. Customary land tenure systems in many regions are founded upon patrilineal patterns of transmission that exclude women and girls from owning or accessing individual and clan lands. Even in areas that feature matrilineal inheritance customs, women may not be able to assert title to land as they are often reliant upon male relatives to represent them. Many national legal frameworks contain internal inconsistencies in their treatment of legal pluralism, in particular in their determination of whether statutory or customary laws should carry the greatest weight in legal decision-making.⁸⁰

Customary land tenure systems can be complex, reflecting an intricate web of rights and relationships that are quite different from private, individual property

rights developed through statutory law. If formalization programs do not recognize the gendered nuances of different tenure systems, they can exacerbate women's exclusion. This can be done, for instance, by documenting only the rights that most closely resemble private ownership, which are likely to be traditionally held by men. In this way, formalization programs may particularly disadvantage indigenous and peasant women, who can find themselves without access to collectively held forests, pastures and other traditional food and non-food resources essential to their livelihoods.⁸¹ Also, while customary systems may not be strictly equal in their treatment of men and women, they may contain protections for women, based on traditional notions of fairness, equity or justice. If such benefits are not understood as part of the customary tenure systems, then formalization or land commercialization processes may result in women losing the protections provided to them under customary law.

Non-state family laws

In many countries, religious and other non-state laws governing family relationships are recognized and applied, sometimes in parallel with civil and common law principles, and these often have gendered economic and social consequences for women that impact on

their food security.⁸² As the United Nations Committee on the Elimination of Discrimination against Women notes in its General Recommendation no. 29 (2013), “Inequality in the family underlies all other aspects of discrimination against women and is often justified in the name of ideology, tradition and culture. An examination of States Parties' reports reveals that in many States, the rights and responsibilities of married partners are governed by civil or common law principles; religious or customary laws and practices; or some combination of such laws and practices; that discriminate against women and do not comply with the principles set out in the Convention.”⁸³

Informal norms and social networks

Increasing attention is being paid to the human rights impact of informal social networks based on patronage relationships between powerful elites and their “clients”.⁸⁴ These opaque networks operate outside the ambit of state legal systems, and unless women are able to use them to reinforce their interests, are highly gendered. Women do not usually possess adequate economic, political or social power to participate in patronage networks and may face additional hurdles in accessing resources such as credit, markets, employment, training opportunities and land rights as a result of their influence.⁸⁵



Image: Renee Chartres/IDLO



Image: Albert González Farran/UNAMID

2.4

Barriers to accessing justice

Accountability mechanisms and remedies are essential to guaranteeing the equal enjoyment of human rights. Far too often, however, justice systems, formal or informal, are inaccessible, discriminatory or insensitive to women's lived experiences.⁸⁶ As the United

Nations Committee on the Elimination of Discrimination against Women notes in its General Recommendation no. 33 (2015), obstacles to women's access to justice "occur in a structural context of discrimination and inequality, due to factors such as gender stereotyping, discriminatory laws, intersecting or compounded discrimination, procedural and evidentiary requirements and practices, and a failure to systematically ensure that judicial mechanisms are physically, economically, socially and culturally accessible to all women. All of these obstacles constitute persistent violations of women's human rights."⁸⁷

Some of the most significant barriers to justice for women in connection with food security and related human rights guarantees are highlighted below.

Absence of adequate laws and mechanisms for claiming equal rights to food, land and other resources

When legal rights that are of particular importance for guaranteeing food security, such as the rights to work, land and food, are not given explicit recognition in national laws and implementing regulations and in the mandates of dispute settlement mechanisms, including national human rights institutions, it becomes extremely difficult for women to claim their entitlements. In the same vein, if anti-discrimination legislation does not cover both direct and indirect discrimination against women by public and private actors or make provision for complaints involving multiple forms of discrimination, then women's access to justice cannot be guaranteed.⁸⁸

Lack of accountability mechanisms for businesses

Although steps are being taken to develop binding rules on the human rights responsibilities of businesses, there are still significant gaps and difficulties in ensuring that they respect and protect human rights and provide adequate remedies for violations.

Gender inequality in agricultural work

FIAN Colombia described the prevalence of gender pay inequality among the Afro-descendant peasant sugarcane workers in the community of Palenque Campesino Monte Oscuro, highlighting that “Many of the tasks that women perform in the manual sugarcane production process are compensated with wages that are at a much lower level than those that men receive. Biological differences between men and women and the greater physical strength of men are usually given as reasons for this wage gap; however, the lack of adequate protection for equal working conditions and the responsibility of the state are never mentioned.”⁸⁹

Justice systems may discriminate against women

In many places, women have limited resources, mobility and agency to pursue claims related to food security, employment or land. Formal court systems may be geographically distant and financially inaccessible. Cases involving land and labor rights are often complex and thus require several appearances, the production of documents and other evidence, and lengthy periods for discussions, negotiations and judicial consideration. In some cases, corruption can also play a role in hindering women’s access to these courts as well as in getting a

speedy and favorable result. While these barriers to justice may also affect men, women suffer an added disadvantage because of discriminatory social pressures and cultural norms that limit women’s economic and time resources and restrict their mobility. The gendered division of labor typically means that women have less time to learn about and then pursue rights claims within formal legal settings.

Women may lack the capacity to claim their rights

Women often lack legal literacy, confidence and social networks to access information concerning legal processes. Legal empowerment programs tend to be short-term, project-oriented or ad hoc. There is also a lack of sustained legal or paralegal advice, assistance or support for women to navigate different justice options and procedures, whether formal or informal, to facilitate women’s rights. As a result, even the best and most progressive laws may have little impact on community perceptions and practices that deny rights claims for women.⁹⁰ For example, in Mozambique and Tanzania, it was found that decisions of formal courts often supported the statutory rights of widows and divorced women to land, but compliance with those decisions and their enforcement at the community level remained challenging.⁹¹

Social costs to women making claims

In many contexts, social pressure and stereotypes concerning women’s role as peacemakers within the family and communities discourage women from asserting their rights. For instance, men represent the family or clan’s interest in land, and women speak only through male relatives or leaders. Because of this, women are largely excluded from negotiations and dispute resolution

processes around land use and development.⁹² Women who disregard this norm are considered disrespectful, leading to their male relatives “losing face”, and can be subjected to loss of social status or violence.

Women face similar and often greater challenges when claiming their land rights against family members. Because inheritance is often the source of land rights for women, to seek justice, whether through formal or customary channels, a woman is usually speaking up against a family member and can be seen as selfish, undermining her husband’s or father’s authority, and shaming her family, which can result in social isolation and violence.⁹³

Furthermore, informal or local-level legal systems present particular challenges for women in that decision-makers may not have knowledge of human rights and they may be tangled up in gendered social networks that exclude women. Also, while decisions by local dispute resolution actors may be seen as more locally legitimate, they are often made with a view to maintaining community harmony by reinforcing existing patterns of power and inequality.

Women’s perceived role of maintaining social harmony can impact access to justice

Research in Vietnam found that grassroots mediation groups tend to resolve disputes on the basis of custom (“sentiment”) rather than using formal law (“reason”). As a result, these groups often reinforce practices that discriminate against women, especially when conflicts arise between family members and within the village, due to the traditional idea that it is women’s responsibility to maintain social harmony.⁹⁴



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PART 3

ENTRY POINTS FOR PROGRAMMING ON FOOD SECURITY AND EQUAL LAND RIGHTS

ENTRY POINTS FOR PROGRAMMING ON FOOD SECURITY AND EQUAL LAND RIGHTS

Food security is a multidimensional concept that requires a wide range of measures to support women's employment, social security, subsistence food production, nutrition and livelihoods. Secure land rights for women are a key part of the equation in realizing the right to adequate food and achieving food security as well as gender equality. For land rights to be effective and transformative for women, they must be supported by a coordinated and coherent legal and policy framework grounded in participatory approaches, subjected to ongoing monitoring and accountability mechanisms and guaranteed through adequate and sustainable resource allocations. A wide range of stakeholders (including the private sector, community, traditional and religious authorities, civil society organizations and donors) and approaches need to be integrated within policies and programs in order to ensure that each of the dimensions of food security is implemented in practice.

The 2030 Agenda for Sustainable Development recognizes the importance of the rule of law for reaching development goals and includes targets focused on non-discriminatory laws and policies (Target 16.b); effective, accountable and transparent institutions (Target 16.6); and responsive, inclusive,

participatory and representative decision-making (Target 16.7). Further, the 2030 Agenda notes the need to create enhanced global partnerships across different sectors and disciplines (Target 17.16), complemented by multi-stakeholder initiatives that mobilize and share knowledge, expertise, technology and financial resources as well as effective public, public-private and civil society partnerships (Target 17.17).⁹⁵

Rule of law interventions within each of the different dimensions of food security can make a decisive contribution to the effective implementation of gender-sensitive policies and law, while empowering women to become equal partners in decision-making. The rule of law provides predictability, clarity and legality, including due process guarantees, which can help to make land rights and other aspects of food security for women more sustainable.

Rights to own and use land are often a source of conflict and rule of law programming can contribute to the peaceful resolution of disputes, leading to greater political and socioeconomic stability.⁹⁶

This report has traced some of the multiple connections between gender equality, food security and the rule of law. It has emphasized the fact that the realization of women's equal rights to food, employment, social protection, land and productive resources are crucial development objectives. The examples below outline some good practices and lessons learned from a selection of programs designed to address specific challenges related to women's food security. Though presented in categories, it is apparent that gender equality and food security programs are most effective when they are led by women, holistic and coordinated so that they take in a number of different sectors and approaches.

The importance of policy coherence

The 2014 Declaration of Rural Women in Latin America (Brasilia Declaration) attempts to build consensus among countries in the region to promote effective and coordinated strategies for empowering rural women, furthering their autonomy and fulfilling their rights through legislation, administrative measures and budget allocations.⁹⁷ The Declaration should be read in conjunction with the regional Plan for Food Security, Nutrition and Hunger Eradication adopted by the Community of Latin American and Caribbean States for the period 2015–2025.⁹⁸

3.1

Ensure participation – an overarching principle

Women's effective participation in the creation, development and implementation of laws and policies relating to food security, social protection, employment, agriculture, land and natural resources should be a guiding principle for all interventions. Participation is a human right and a crucial dimension of gender equality as well as a tool for women's empowerment.

Stakeholders must identify and eliminate the obstacles that hinder the ability of diverse groups of women to effectively influence the direction and outcome of discussions on issues

affecting their rights. Meaningful participation by women in policy and legislative processes as well as in political, economic and other public institutions may require temporary special measures, such as quotas, accompanied by mechanisms to address legal, political, economic, cultural and social barriers to women's inclusion.

Support women's representation in decision-making at all levels

As noted in earlier sections of this report, systemic discrimination against women means that they are often excluded from participation in state and non-state institutions concerned with the production, trade and processing of food and non-food crops, as well as trade unions and other structures that provide a platform to advocate for change or to promote agendas that adequately consider women's equal rights.⁹⁹ Measures should be taken to ensure that women are supported and

provided with opportunities to effectively participate in all components of food systems – from production to processing, marketing and consumption – and in planning across different sectors for this purpose. Interventions should take a coordinated, multilevel approach and seek to reinforce women's empowerment within the "private" spheres of the household and community, as well as in public institutions and decision-making bodies.

Facilitating and encouraging the development of women's organizations, including food cooperatives, farmers' unions and non-governmental organizations, at all levels from the local to the national, regional and international, has also been shown to have an important impact on improving women's access to credit, insurance, self-employment and agricultural investment opportunities.¹⁰⁰



Image: Flickr_Bioversity

Promoting women's political participation

Banteay Srei, a community-based women's rights organization in Cambodia, has been operating for 30 years in a number of rural areas. While initially focused on providing livelihood opportunities and food security through home vegetable gardens for women with disabilities and landless women, the organization has since started actively supporting female candidates for positions within local government bodies. The promotion of strong links between elected representatives and their constituencies is encouraged through the use of inclusive, participatory methodologies that value traditional local knowledge and enable community women to voice their priorities for development planning. Banteay Srei also supports women councilors in their advocacy and lobbying activities within local government structures as well as at the district level.¹⁰¹

Promote consultative and inclusive law-making to achieve effective and legitimate change

Ensuring that law-making processes are consultative and inclusive of women's different experiences can have a significant impact on their food security

by guaranteeing their access to employment, education and training, social protection, credit, land and other resources. In other words, programs that support women's participation in the process of law or rule-making can have an impact on women's substantive economic, social, cultural and political rights.

Support women's participation in food and land governance

One important measure, described above, is to ensure that women are able to play an equal role in decision-making within formal and informal economic institutions such as farmers' unions, forestry programs and agricultural cooperatives.¹⁰²

It is increasingly common for temporary special measures, including quotas, to be enacted in order to promote women's participation in areas such as land use governance and sustainable energy production.¹⁰³ To be effective, temporary special measures should be complemented with additional programs targeting men and women, to ensure that women have the relevant tools and authority to meaningfully participate in land governance, and men learn to appreciate and value women's roles in this context. For example, in post-conflict northern Uganda, as part of a women's land rights project, specific

attention was paid to improving women's negotiation and public speaking skills, in addition to a basic understanding of their rights and how to enforce them. This training helped women identify viable means to assert their customary rights in a way that would not risk social stigma, and it was through this process that a customary, but dormant, dispute resolution role of women elders was revitalized.¹⁰⁴

Participatory and inclusive rule-drafting

A comparative study of three community rights-titling programs run by IDLO in Uganda and Liberia found that when women were involved in drafting by-laws for governing community land, women's rights to the land were improved, as was the perception of the importance of women's participation in governance by women and men. But these results were only found in projects where the rule-drafting was a participatory process, rather than imposed from the top down. A crucial complementary intervention within the program was the provision of support for capacity development to promote women's leadership and outreach efforts aimed at making men and community leaders more responsive to women's input.¹⁰⁵

3.2

Collect and share relevant data to inform, monitor and assess

Support disaggregated data collection and impact assessments

Gender and right to food impact assessments are essential tools to inform every stage of policy development in connection with food security programs.¹⁰⁶ Support for the development of national-level statistical

and disaggregated data collection to measure women's food security, including access to land and productive resources, as well as employment and social security programs, should be provided, and consideration given to the development of appropriate, human rights-based indicators to monitor the realization of the right to food.¹⁰⁷ The importance of making transparent, accessible and reliable comparative information on land transactions available to a wide range of stakeholders has increasingly been emphasized as a key component of equitable land governance schemes.¹⁰⁸ Any data collected on land holdings and tenure arrangements should be disaggregated by gender and used to

track progress in the implementation of equal land rights.

Gender impact assessments of legislative and policy measures related to food, nutrition, agriculture, land use, trade and investment should be carried out using participatory, community-based methodologies. Ideally, these human rights impact assessments should occur during the conceptualization phase of policies and laws and then at regular intervals to ensure that they are having their intended impact. The development of policies should be an iterative process that is informed by the lived experiences of a diverse range of rightholders and subjected to ongoing monitoring and adjustment.



Image: Renee Chartres/IDLO

Invest in comparative research and analysis of formal and informal legal systems and their impact on women's rights to food security and land

Assessments of gender equality and food security should also include detailed information about the interactions between informal and formal legal systems and the impact that these different systems, alone or in combination, may have on women's equal rights.

Promising rule of law programming recognizes the opportunities that exist outside the formal legal framework, including the potential for informal legal norms to be applied in ways that respect and protect women's equal rights. This can be achieved by working with community leaders. Traditional leaders in northern Namibia amended and then codified customary norms so that seizing widows' property was outlawed. The support for women's leadership and codification created a shift in traditional values and helped raise awareness of the new norms at the local level.¹⁰⁹

Principles of customary law can also contribute positively to statutory laws. In Vanuatu, women's rights groups referred to important customary concepts to gather support from customary leaders to change land laws to be more inclusive of women as right holders. As part of an effort to reform the legal framework, a significant consultation process was conducted, and women's rights advocates lobbied the entirely male-composed national council of chiefs for a change in the legal concept, from one of

"ownership" to one of group rights. This change of language in the statutory law permitted a shift in perception that enabled women to have secure rights to land as members of a landholding group. Over 30,000 stakeholders in public consultations endorsed this change, and, while more is needed to translate policy into practice, the legal framework now provides a basis to challenge women's exclusion from land-related decision-making.¹¹⁰

Rights to land do not exist in isolation, and many customary tenure rules related to women's property rights are justified or explained by other social practices, such as payments of bride price or dowry, funeral rites on ancestral land, polygamy, or a need for social cohesion and harmony. Understanding this broader, cultural context for land rights can help frame local discourse that seeks to use gender equality provisions in statutory and customary law to facilitate change for women. Sustainable change for women requires more than just working with women; it requires partnership and coordination with local leaders, men, communities and other social actors.

Share regional and global strategies on realizing women's food security

While land tenure systems and the cultures they are part of are highly context specific, there is a common theme that cuts across cultures: women are socially, economically, and politically excluded from structures that enable them to assert equal rights to food security. Support for regional and international information-sharing on concrete strategies and their results in improving food security for women should be provided.

Efforts aimed at enhancing the effectiveness of international development assistance for food security, including measures to promote partnerships between the public and private sectors for this purpose, should systematically incorporate a gender perspective in line with the integrated vision of the United Nations SDGs. The role of the Committee on World Food Security, a multi-stakeholder platform that promotes an evidence-based, coordinated and inclusive approach to policymaking on food security, should be highlighted in this regard.¹¹¹

Community dialogue facilitates land tenure reform

In Burundi, land tenure registration is one of the key government strategies to deal with the large number of land disputes across the country. A series of pilot programs aimed at resolving land rights issues have been initiated in recent years. While these programs are often credited for their contribution to tenure security and conflict resolution, there are concerns that women's rights under customary law are not being recognized within the land certification process. In response, IDLO engaged in a series of dialogues with the population in two municipalities to generate consensus around strategies to protect and reinforce women's customary land rights in the land tenure registration process. The community dialogues led to the development of gender-sensitive tools and reference materials for land titling offices to use in land tenure registration processes.

3.3

Coordinate legal, policy and budgetary measures

Policies and legislation should be effectively coordinated and made consistent across various sectors. While food and nutrition policies have traditionally been integrated into health planning, it is important for other, related sectors that have an influence over food security, such as trade, taxation, rural development, education, intellectual property and investment, to be integrated within national plans of action on gender equality and food security.

Adopt multisector, evidence-based approaches to coordinate policies and laws

It has been shown that food security and land rights programs for women are more successful in achieving their goals and in sustainably transforming gender relations when they are implemented as part of a coordinated, holistic and multidisciplinary approach.¹¹² Both legal and non-legal strategies, such as support for women's representation in agricultural workers' unions, the provision of credit, agricultural inputs, education and training, and access to social insurance schemes may be necessary to support effective interventions.

There are many examples of successful cross-sectoral programs that seek to sustainably address various aspects of food security from a gender equality

perspective. IDLO partner organization ZOA in Burundi combines assistance in the resolution of disputes, certification of land rights, access to fertilizers and seeds, communal storage facilities, and creation of savings groups within a single program.¹¹³ Other food security interventions, such as school feeding programs, have also integrated a gender component by ensuring that food is sourced from women's agricultural cooperatives and that local women are employed to prepare the lunchtime meals.¹¹⁴ These kinds of multisector approaches could be applied in other local, national and regional contexts.

International human rights instruments provide guidance for the development of national food security and gender equality policies and legislation and should be systematically referred to within these processes.

Select international legal instruments

The **Universal Declaration of Human Rights**,¹¹⁵ Article 2, establishes the principle of non-discrimination, including on the basis of sex, in the enjoyment of rights guaranteed by the Declaration, which include rights to property, food and housing.

The **International Covenant on Economic, Social and Cultural Rights**¹¹⁶ provides that all rights contained in the Covenant must be granted without any discrimination on the basis of sex and extended equally to women and men. The Covenant protects the right to just and favorable conditions of work, the right to an adequate standard of living, including the right to food and the right to be free from hunger, the right to social security and the right to health.

The **International Covenant on Civil and Political Rights**¹¹⁷ also guarantees equality between men and women and prohibits discrimination based on sex. It recognizes the right to liberty and security of person, equality before courts and tribunals, equal protection of the law, and to remedies.

The **Convention on the Elimination of all Forms of Discrimination against Women**¹¹⁸ calls on States to take appropriate measures to modify or abolish laws, regulations, customs or practices which constitute discrimination against women. Article 14 pertains to the situation of rural women and Article 16 calls on States to ensure the same rights for both spouses in respect of ownership, acquisition, management, administration, enjoyment and disposition of property.

The **FAO Right to Food Guidelines**¹¹⁹ contain numerous provisions on gender equality including Guideline 8.6 which affirms that, "States should promote women's full and equal participation in the economy and, for this purpose, introduce, where it does not exist, and implement gender-sensitive legislation providing women with the right to inherit and possess land and other property. States should also provide women with secure and equal access to, control over, and benefit from productive resources, including credit, land, water and appropriate technologies."

The **Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security**¹²⁰ are intended to contribute to the global and national efforts towards the eradication of hunger and poverty. They were officially endorsed by all Member States at the Committee on World Food Security in 2012. Among the principles of implementation that States have endorsed in these guidelines are:

- "Gender equality: Ensure the equal rights of women and men to the enjoyment of all human rights, while acknowledging differences between men and women and taking specific measures aimed at accelerating de facto equality when necessary."
- "Rule of Law: Adopting a rules-based approach through laws that are widely publicized in applicable languages, applicable to all and equally enforced and independently adjudicated, and that are consistent with their existing obligations under national and international law."



Image: Flickr_Ariel Javellana

Strategically balance short-term interventions with longer-term transformations

Participatory, rule of law programming based on extensive legal and social analysis has the best chance of identifying the most effective mechanisms to bring about change for women. For example, in many contexts, reforming laws on marital property, inheritance rights, minimum age and free and full consent in marriage may provide entry points for programs on food security through equal land rights, improved access to education, employment and income-earning opportunities and women's empowerment within the family.

The implementation of gender-equal family or inheritance laws can be supported through practical programs to ensure that women have access to documents such as birth, marriage, death, land title and taxation certificates that may be needed as evidence for rights claims. Interventions in this area may also facilitate women's access to agricultural and economic development opportunities, by promoting their integration into commodity markets, ensuring their inclusion in schemes to

provide enhanced agricultural inputs and technologies such as improved seeds, fertilizers and machinery and in taking measures to guarantee that women can access credit and equally benefit from production subsidies and tax incentives.

The achievement of gender equality is a stand-alone development goal that should be pursued as a strategic priority. In order to achieve it, programs designed to redistribute the disproportionate burden of women's caring and unpaid domestic labor should be adopted through coordinated social policies, legislative provisions and the creation of appropriate social security systems. Improvements in public services, access to technologies and infrastructure, especially in rural areas, also serve to reduce the time women spend gathering food, fuel and water for household food preparation, and transporting their produce to local markets.

In some countries, explicitly human rights-based approaches, particularly those that promote equal rights to land and productive resources through redistribution, may be met with

resistance from the government and other actors. At times, it can be more pragmatic to focus in the short term on more accepted food security interventions such as those aimed at improving the nutritional status of women and children and then, once trust has been built, to move towards the development of representative and participatory structures to empower women to make more far-reaching changes to laws and policies.¹²¹

Support implementation of law and policy reforms through localized outreach, awareness-raising and assistance

Legally supported land rights are not sufficient in themselves to ensure full realization of the right to food or achieve food security. For land rights to be effective, women must be able to use them in a way that provides them with economic and other opportunities. Even if women are aware of their land rights – or are named on a title – they may need assistance in claiming their rights. Localized legal support through paralegals or community legal assistance can enable women to use or claim rights at the relevant time.

Land administration programs show the interconnectedness of different interventions

Initial results in a systematic land titling and registration program in Laos were poor for women compared with men, despite formal and customary recognition of women's rights to land. Mid-course project assessment conducted by a local women's organization found that only men participated in information meetings on the importance of land titling and during the process of land title registration. The forms that were used to record land rights only allowed space for one name and the household head – typically male – was designated. Finally, to receive a land certificate, landholders were required to produce tax documentation as evidence and, since the head of the household normally deals with formal and written procedures, his name appears on those supporting documents.

To address these challenges, the project worked with the Laos Women's Union to train field and local staff on gender-sensitive practices, ensure that women and men attended public meetings and held separate meetings for women, and also conducted general awareness-raising campaigns to explain the importance of women's participation in the program. With these changes, the results for women almost doubled in terms of sole ownership, and more than tripled in terms of joint ownership of marital property.¹²²

3.4

Implement gender-sensitive and responsive labor, social security, agricultural and land administration systems

Each of the different components of food security, including labor laws and policies, social protection programs and agricultural and land administration systems, should be directed towards the achievement of the right to food and gender equality objectives.

Ensure laws and policies are rights-based and supportive of women's empowerment

Legal and policy measures aimed at eliminating direct and indirect discrimination against women across different sectoral areas, such as agricultural, trade and investment policies, family law, access to justice and land use planning, are an important first step in enabling change. To be effective, these new laws, policies and programs must be developed in a participatory and coordinated manner and supported by community and political leaders at the local level. Women's leadership in political, economic and social institutions should be promoted and concerted efforts made to ensure that women are equally represented in decision-making roles in areas where they have traditionally been marginalized, such as within agricultural, investment and trade union associations.

Gender-responsive laws and policies on food security and land rights must be situated in specific social contexts to ensure that legal protections cover women at all stages of their lives, and take into account differences in women's social and marital statuses. The linkages between women's empowerment in the

"private" sphere of the family and community and their representation and influence over policies and legislation in "public" economic, social and political institutions should be observed and monitored. Innovative programs should be designed to reinforce the promotion and protection of women's human rights in both the private and public spheres.

Gender dynamics should inform administrative programs at every level

Administrative procedures such as land titling are important avenues to ensure that women and men equally participate in and benefit from land administration programs. However, such programs may have little effect on women's lives if women are not aware of the value or purpose of a title, provided with support to assert their land rights or to ensure their effective implementation.¹²³

Regulate the private sector and support the adoption of gender-sensitive business practices in food and agriculture

Measures to regulate the conditions of employment for agricultural and informal sector workers should be taken with a view to ensuring that women's rights to work and to decent working conditions are adequately protected. Specific policy measures should be taken in collaboration with workers' organizations and employers to address issues of concern to women who work in the agricultural sector, including access to paid maternity leave and social insurance systems.¹²⁴

Support for greater involvement by women in market-oriented agriculture should be established through specific, gender-sensitive programs to ensure that agricultural extension projects do not discriminate against women farmers either directly – for example by specifying that fertilizers and improved seeds are to be provided to the male household head – or indirectly, by making eligibility dependent upon access to assets such as machinery, financial capital or land.¹²⁵

Gender-inclusive contract farming

Worldwide, women's participation in outgrower schemes is generally very low, mainly because of women's insecure tenure – land ownership is often a basic criterion for entering a scheme, and contracts are usually issued to the male head of household. KASCOL (Kaleya Smallholder Company Limited), an agribusiness company producing sugar cane in Zambia, has embedded an innovative "succession arrangement" into its outgrower scheme. Under the arrangement, family members can inherit a contract if the household head dies. This arrangement has enabled many women to join the scheme.¹²⁶

3.5

Improve women's access to justice

Supporting multilevel legal and policy reforms that enable women's access to justice is critical for the implementation of women's human rights and for the rule of law. Access to justice is a right in itself and it also enables women to claim their equal rights to food, social security, land and work, and to seek redress for violations of these rights.¹²⁷

Build capacity to seek and deliver justice

Access to justice programs for women may focus on building capacity for actors within the justice sector concerning the content and application of gender equality provisions and guarantees relating to the right to food and interrelated human rights, such as those connected to employment, land tenure and social security.

They can also seek to target right holders through the provision of legal aid and paralegal services, education and training on making claims, and pursuing strategic litigation. At the local and community levels, programs may include interventions to improve women's access to and participation in informal or traditional legal and justice systems.

Enhance accountability by using international human rights mechanisms

International human rights mechanisms can be used to hold States accountable for the realization of their obligations related to gender equality and the right to food under international law. This may be done through the United Nations Human Rights Council within the context of the Universal Periodic Review procedure or by complaints or reports by the United Nations Special Procedures, or via the periodic State reporting processes, individual communications or inquiry procedures established under different multilateral human rights treaties.

An example is a communication presented to the United Nations Committee on the Elimination of Discrimination against Women by two women from Tanzania. The Committee found that Tanzania's legal framework, which codifies customary laws and treats widows and widowers differently in terms of ownership, acquisition, management, administration, enjoyment and disposition of property, is discriminatory and violates the Convention on the Elimination of all Forms of Discrimination against Women. It urged Tanzania to grant the petitioners appropriate reparation and adequate compensation commensurate with the seriousness of the infringement of their rights, and recommended that all discriminatory customary laws limiting women's equal inheritance rights be repealed or amended and brought into full compliance with the Convention.¹²⁸

A further example is the pressure placed on Burundi by various human rights treaty bodies to amend the legal framework as regards successions and matrimonial regimes, which is currently

regulated under customary law that discriminates against women.¹²⁹

Engage strategically with local dispute resolution mechanisms

Focusing on local dispute resolution mechanisms can help women access customary systems in order to claim their rights.¹³⁰

For example, an IDLO-sponsored project in Namibia embarked on a process to address women's inequality by increasing the number of women traditional leaders, encouraging greater transparency within traditional dispute settlement procedures and actively supporting women's participation in them. Although shifts in cultural and social practices require some time, it was found that men's perception of women's leadership capacities underwent significant change as a result of exposure to women's leadership, and women registered greater satisfaction with traditional court proceedings in women-headed villages.¹³¹



Image: Renee Chartres/IDLO



PART 4 CONCLUSION

CONCLUSION



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The challenges to food security, land rights and gender equality are formidable. Rule of law interventions, however, provide significant contributions to effectively address these challenges. They can support the formulation and implementation of gender-sensitive

policies and laws on food security and land rights, strengthen access to justice, while empowering women to become equal and full partners in development.

As implementation of the 2030 Agenda for Sustainable Development continues, only by understanding the

interrelationships between the mutually reinforcing pillars of gender equality, food security and the rule of law, as explored in this report, can we truly make sustainable development a reality for women.

NOTES

PART 1 INTRODUCTION

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PART 2 CHALLENGES AFFECTING WOMEN'S FOOD SECURITY AND LAND RIGHTS

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- ⁶⁷ FAO, 'Closing the Gender Gap in Agriculture' (7 March 2011), available: <http://www.fao.org/news/story/en/item/52011/icode/>; "for those developing countries for which data are available, between 10 percent and 20 percent of all land holders are women, although this masks significant differences among countries even within the same region".
- ⁶⁸ OECD, *Social Institutions and Gender Index Synthesis Report* (2014), 9, stating that 55 out of 160 countries have laws that discriminate against women in matters of inheritance.
- ⁶⁹ World Bank, *Women, Business and the Law 2014: Removing Restrictions to Enhance Gender Equality* (2014). See also Hallward-Driemeier, M. and T. Hasan, *Empowering Women: Legal Rights and Economic Opportunities in Africa* (2012), World Bank Africa Development Forum Series, finding that out of 43 African jurisdictions, 22 formally recognized males as the head of the household, giving them sole discretion to represent the household and make household decisions.
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- ⁷⁶ For example, in Brazil, joint titling of marital property, though mandated by law, did not occur in a land titling program because a substantial number of rural women lacked the documentation required to provide a proof of the right, including identity cards, tax registration number, and marriage certificates; see FAO, Gender and Law: Women's Rights in Agriculture (2002), 21–78.
- ⁷⁷ See Mekhra, R. and M.H. Rojas, Women, Food Security and Agriculture in a Global Marketplace (2008), ICRW, available: <https://www.icrw.org/files/publications/A-Significant-Shift-Women-Food%20Security-and-Agriculture-in-a-Global-Marketplace.pdf>.
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- ⁸⁰ An analysis of 43 African jurisdictions found that 18 constitutions overtly recognize customary law and prohibit discrimination with a clear test, while globally 14 constitutions recognize customary law yet explicitly exempt customary law from non-discrimination provisions. And in some jurisdictions, customary law is granted statutory recognition as a source of law with no mention of how unconstitutional customary laws should be handled. These countries include Botswana, Cameroon, Chad, Equatorial Guinea, Ethiopia, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mali, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia, Zimbabwe; Hallward-Driemeier, M. and T. Hasan, Empowering Women: Legal Rights and Economic Opportunities in Africa (2012), World Bank Africa Development Forum Series.
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