

Southern Africa Training Module on Women's Land Rights in Mozambique, South Africa, Zambia and Zimbabwe

A comprehensive training module
aimed at enhancing the capacity
of civil society organisations working
to support women's land rights
in Southern Africa



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A comprehensive training module aimed
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PLAAS

Institute for Poverty, Land and Agrarian Studies



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Abbreviations and acronyms

ALPC	African Land Policy Centre
AU	African Union
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
EU	European Union
FAO	Food and Agriculture Organisation
FPIC	Free Prior and Informed Consent
MITADER	Ministry of Land, Environment & Rural Development (Mozambique)
PLAAS	Institute for Poverty, Land and Agrarian Studies
PTO	Permission to Occupy
SADC	Southern African Development Community
SDG	Sustainable Development Goals
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests
ZLA	Zambia Land Alliance

A photograph of a woman standing in a cornfield at sunset. The woman is wearing a patterned blue and white top, a yellow and black striped skirt, and a blue headscarf with a flower. She has a serious expression. The corn plants are tall and green, with some tassels visible. The sky is a mix of orange, yellow, and blue. There are large, semi-transparent orange geometric shapes (triangles and lines) overlaid on the image. The text "Setting the scene" is in white, sans-serif font in the bottom left corner.

Setting the scene

Module concepts

In order to explain the dynamics of women's land rights in Southern Africa, the module makes reference to several concepts. It is important that participants take note of these frequently used concepts.



CUSTOMARY refers to a set of rules and norms that govern community allocation, use, access, and transfer of land and other natural resources (FAO, 2002). Customary tenure systems are not static: they evolve over time in response to changes in the institutional, economic and physical environment.

GENDER EQUALITY is achieved when men and women, girls and boys have equal rights, life prospects and opportunities and the power to shape their own lives and contribute to society.

LAND INHERITANCE the practice of assuming land rights of a deceased person by those who survive. Although formal law recognises the equality of men and women in an inheritance, customary practices discriminate against women.

LEGAL PLURALISM is the existence of multiple legal, non-legal, and extra-legal institutions governing land in one geographical area. The various laws and practices which are based on the law, religion and/or customary practices are not consistently used in resource governance. The various laws, customs and rules can contradict, complement or be mutually exclusive. Legal pluralism may strengthen or undermine women's land rights.

GENDER NON-CONFORMITY is behaviour or gender expression by an individual that does not match the masculine or feminine gender norms. These individuals are marginalised in gender-biased land tenure systems.

GENDER STEREOTYPE is the way people believe a woman or man, girl or boy should behave. This is usually based on religious and/or cultural beliefs.

WOMEN'S LAND RIGHTS are secure when women enjoy the right to equality in the enjoyment of all their rights. This includes rights to access, use, inherit, control, own land. This can be achieved when states fulfil their obligations to eliminate all forms of discrimination against women.



Module overview

This training module has been developed to support initiatives by civil society organisations (CSOs) aimed at strengthening women's land rights in Southern Africa.

The timing coincides with the increasing vulnerability of women's land rights and livelihoods. The situation is dire when one focuses on customary land tenure where the majority of poor women depend on socially derived land rights to secure their livelihoods. Although women form the majority of those who work and depend on the land, their access to the resource continues to be vulnerable. The vulnerability persists in spite of global, regional and national protocols that provide for equal treatment of men and women. The vulnerability is caused by increasing demands on land through multiple processes, including among others: large-scale land-based investments,

conversion of customary tenure, resurgence of pro-market land policies and the persistence of norms and practices that discriminate against women in the allocation and control of land in customary land tenure areas. The Covid-19 pandemic that swept the world in 2020 increased pressure on women's land rights and exposed the inadequacy of the respective governments to secure women's land rights.

In response to this, the Institute for Poverty, Land and Agrarian Studies (PLAAS) and its partners initiated several responses to address the vulnerability of women's land rights. A civil society consortium comprising Oxfam

and Plateforme Regional Des Organisations Paysannes d'Afrique, Centrale (PROPAC) developed a Scorecard for monitoring the application of the African Union (AU) women's rights instruments under the consortium's European Union (EU)-funded project, Women's Land Rights for Inclusive Development and Growth in Africa. The Scorecard provides a quantifiable tool to track the performance of selected countries in implementing the provisions of four Women's Land Rights instruments namely, the Guiding Principles, The African Union Framework and Guidelines on Land in Africa, The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests

Module

overview (continued)

(VGGT) and the Protocol to the African Charter on Human and People's Rights of Women in Africa. The consortium also developed a four-day Training of Trainers (ToT) Module on the use of tools that provide evidence of women's land rights in the context of large-scale land-based investments that support the voices of women.

PLAAS secured funding from the Austrian Development Cooperation (ADC) and mobilised civil society partners in Southern Africa to initiate a project to generate empirical evidence. These outcomes are intended to lead to shifts in policies and result in the increased protection of women's land rights in Southern Africa. The project's theory of change aims at generating empirical evidence to understand the differentiated impact of the silent privatisation of customary tenure on rural women's land tenure security, land uses and livelihoods in Southern Africa.

The evidence will be used to train rural women and civil society organisations on the evolving land tenure regimes and mobilise their agency and voices to articulate demands for policy responses that defend their interest and exert pressure on governments and other duty bearers to develop policies, make declarations and enact laws that respond to rural women's interests. It is expected that this will result in shifts in policy, practices and power relations that will

give effect to transformative change that protects the land rights of rural women and their livelihoods in Southern Africa. PLAAS is working on this project with four CSO partner CSOs drawn from Southern Africa. The partners are Livaningo, a Mozambican civil society organisation, Zambia Land Alliance (ZLA) from Zambia, Nkuzi Development Association from South Africa and Platform for Youth and Community Development (PYCD) from Zimbabwe.

This Training Module supports the Strengthening Women's Land Rights in Southern Africa initiative by increasing the capacity of civil society organisations to articulate women's land rights and develop insights into the dynamics of land tenure regimes and strategies for securing women's land rights in Southern Africa.

Objectives and outcomes of the Module

The overall objective of this module is to build the capacity of civil society organisations and grassroots women in Southern Africa to articulate, understand and mediate the impact of the changing customary land tenure systems on women's land tenure and livelihoods.

Specifically, the module will address the following:

- the importance of women's land rights and the reason why women's land rights matter for women;
- the meaning of land tenure and tenure security, and how this is expressed as a bundle of land rights;
- an overview of the main land tenure systems in Southern Africa and their main comparative features, which include the legal frameworks, policy reforms happening with land, especially the gender dimensions and the extent to which the laws provide for formalisation of land rights through documentation and registration;
- the relationship between customary land tenure systems and the security of land rights for different categories of women, to illustrate how main customary land tenure systems affect the different women's land rights and livelihoods;
- the competing policy approaches towards more secure land tenure arrangements of different women and their positive and negative impacts;
- determination of the key requirements to ensure secure land administration systems that strengthen women's land rights on customary land;
- the key threats to women's land rights on customary land;
- the key features of secure women's land rights and steps women can take to secure their customary land rights.

The module's graduates will have:

- 1 improved understanding of women's customary land rights in Southern Africa;
- 2 an understanding of the main land tenure systems in Southern Africa and how they compare;
- 3 an appreciation of how different women experience land tenure security in customary land tenure areas of Southern Africa;
- 4 an increased understanding of the various policy approaches to secure women's land tenure in customary land in Southern Africa;
- 5 capacity to articulate the key requirements to ensure gender sensitive customary land administration in Southern Africa;
- 6 an increased appreciation of the threats to women's customary land rights in Southern Africa and how to mediate them.

Target audience

The module is aimed at strengthening the project on Women and Land Governance in Mozambique, Zimbabwe, Zambia and South Africa, facilitated by PLAAS and partners.

The project is focused on strengthening women's land rights in customary land tenure areas. The target audience is civil society organisations working to secure women's land rights in customary land tenure areas.



Training methodology

The structure and content of this module has been developed on the basis of the assumption that trainers have familiarised themselves with land rights literature in Southern Africa in advance of delivering the training.

Each lesson in this manual presents a new type of information. Within longer lessons, the content is divided into sub-lessons. Lessons break up the module into sub-topics. Within the lessons, the trainer will find Facilitation Steps, which provide a step-by-step approach on how to guide the lesson and discussion. Experienced trainers should adapt the approach to best suit the needs of the participants.

The trainers should use interactive teaching methods to actively involve the participants in their own learning experience and to keep them energised. This can take the form of ice-breakers, group work, presentations, demonstrations and role plays. These methods allow participants to practice the acquired skills that can be used in real work situations and increase the likelihood of retaining what is learned. Additionally, the trainer must be aware that these methods are time-consuming, thus they need to manage time effectively. At the start of each day, trainers should revisit material from the previous day.



Time management

This is a 2-day training course, delivered over 7 sessions. The duration/time allocated to each module/session is only for guidance; the trainer should be able to tailor session timing/duration to his/her training needs and objectives.

Module evaluation

There is always room to improve the training material and delivery. Participants should be invited to provide feedback on the lesson delivery in two ways.

- 1** Firstly, participants are invited to share what they have learnt at the end of every day. This can be done through a round of reflection on what participants have learnt and where they see room for improvement. To this end, the trainer(s) should invite participants to identify a shortcoming and make a suggestion on how this could be addressed to meet their needs and expectations.
- 2** Secondly, the participants should be given a course evaluation questionnaire at the end of the training course. The evaluation should focus on different aspects of the training model. The feedback from participants will inform the trainers/training institute on how to improve their delivery for subsequent courses.



MODULE

LESSON 1

Why Land Rights Matter for Women

LESSON 2

Land Governance Concepts

LESSON 3

Legal and Policy frameworks

LESSON 4

Differentiation of women's customary land tenure security

LESSON 5

Policy approaches to women's Land Rights

LESSON 6

Threats to women's land tenure

LESSON 7

Securing women's customary land tenure

Module content overview

CONTENT

- Importance of land rights for women
 - Social importance of land rights for women
 - Economic importance of land rights for women
 - Political importance of land rights for women
 - Women's land rights as human rights
-
- Introduction to tenure concepts
 - Introduction to the bundling of tenure rights
 - Land tenure insecurity
 - Overview of main land tenure systems
 - Comparative features of land tenure systems
-
- Introduction to legal and policy frameworks for governing land
 - Current legal and policy revision
 - Legal and policy provisions for land documentation
 - Legal framework for compensation
-
- Introduce differences between women in customary land tenure
 - How differentiation impacts women's land tenure security
-
- Introduce alternative policy approaches
 - Advantages and disadvantages of different policy approaches to women's land rights
-
- Identify threats to women's land rights
 - Different levels at which threats to women's customary land tenure arise
-
- Key requirements to ensure secure land administration systems that strengthen women's customary land rights
 - Steps to secure women's land rights
-



Day 1

DAY 1 : Module Delivery Timetable

TIME	CONTENT	FACILITATOR INSTRUCTION	TRAINEE ACTIVITY	RESOURCES
07:30-08:00	Arrival	<ul style="list-style-type: none"> Set up classroom Distribute modules 	Network	<ul style="list-style-type: none"> Trainee modules Pens and notebook
08:00-08:30	Registration	Ask participants to register	Register	<ul style="list-style-type: none"> Register Pen Name tags
08:30-09:00	Introductions	Introduce self	Self-introduction by participants	
09:00-09:20	Purpose of training and learning outcomes	<ul style="list-style-type: none"> Introduce course objectives Address questions 	Receive information Seek clarity	<ul style="list-style-type: none"> PowerPoint Flipchart
09:20-09:30	Ground rules	Select a participant to record ground rules	Suggest and agree on ground rules	<ul style="list-style-type: none"> Flipchart
09:30-10:30	LESSON 1: Why do Land Rights matter for women?	Lecture	Ask questions and make suggestions	<ul style="list-style-type: none"> Handout 1
10:30-11:00	Morning Tea			
11:00-12:15	LESSON 2: Introduction to concepts	<ul style="list-style-type: none"> Facilitator provides overview of the land tenure concepts Main land tenure systems Compare statutory and customary tenure 	<ul style="list-style-type: none"> Contribute thoughts on land tenure Ask questions 	<ul style="list-style-type: none"> PowerPoint Flipchart Markers

TIME	CONTENT	FACILITATOR INSTRUCTION	TRAINEE ACTIVITY	RESOURCES
12:15-12:40	Video	Introduce video clip	Watch video	<ul style="list-style-type: none"> • Whiteboard • Projector
12:40-13:00	LESSON 3: Legal and Policy Frameworks governing land	Facilitator introduces legal and policy frame-works and explains group exercises	<ul style="list-style-type: none"> • Receive information • Compare tenure systems 	<ul style="list-style-type: none"> • Flipchart • PowerPoint • 4 breakaway rooms
13:00-14:00	Lunch Break			
14:00-14:45	LESSON 3: Legal and Policy Frameworks governing land	Supervise group-work	Group-work in breakaway rooms	<ul style="list-style-type: none"> • 3 flipcharts
14:45-15:30	Group presentations	<ul style="list-style-type: none"> • Take notes • Summarise 	Participate and seek clarification	<ul style="list-style-type: none"> • Flipcharts • Markers
15:30-15:45	Afternoon Tea			
15:45-16:30	LESSON 4: Differentiation of Women's Customary Land Tenure Security	Introduce concept and how it is deployed	Receive information	<ul style="list-style-type: none"> • PowerPoint
16:30-17:15	Introduce activity	Facilitate activity in plenary	Participate in activity	<ul style="list-style-type: none"> • Flipcharts
17:15-17:30	End of day assessment	Remind participants to complete evaluation forms	Evaluate the day	<ul style="list-style-type: none"> • Sticky notes
End of Day 1				

Introductions



Welcome

Welcome to the Institute for Poverty, Land and Agrarian Studies (PLAAS)'s Civil Society Organisation Training Module on Strengthening Women's Customary Land Rights. This course is aimed at those working in civil society organisations, specifically those working with communities and those who want to strengthen their knowledge and skills in understanding and securing women's land rights in Southern Africa.

Greeting the course participants and introducing the trainers

- Introduce the trainers
- Officially welcome the participants
- If there is an invited guest, introduce him/her
- Remind participants to register if they have not already done so

Participants' self-introduction

Trainer to ensure that participants are an even number. Participants should introduce themselves to the person on their right. They should share three characteristics about themselves (5 minutes). The participants are asked to introduce their partner in plenary.

Explaining the background to the Research Project (PLAAS)

- Explain the training objectives
- State the session objectives
- Share the training course timetable

Setting ground rules

- The trainer works with module participants to set ground rules for the duration of the training
- Inform participants of the location of the convenience rooms
- State the ground rules for the use of personal telephones
- Appoint a time-keeper
- Agree on daily check-in about what is working and what is not working



LESSON 01

Why do Land Rights matter for women?



PURPOSE

- The lesson aims to teach participants that land rights matter differently to men and women.
- The importance of the land rights for women in Southern Africa will be emphasised.



DURATION

1 hour



MATERIALS

- Flip chart, cards, markers, PowerPoint
- Handout 1: International frameworks and protocols

Trainer's instructions (1 hour)

Spend the first 10 minutes of the session asking the participants why they believe that women's land rights matter. Ask them to think about specific women who hold customary land rights and share why the particular women deserve secure land rights. Use the social, economic, political and human rights arguments (45 minutes) to present why women's land rights matter (to the individual woman, her family and the society). Ask if the participants have questions or complementary information.

Women's land rights as human rights

Women's equal rights to land and property are grounded in core human rights instruments.

These include the Universal Declaration of Human Rights, the International Convention on Economic Social and Cultural Rights, the International Convention on Civil and Political Rights, the Convention for the Elimination of All forms of Discrimination Against Women (CEDAW), the United Nations Declaration on the Rights of Indigenous People, the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT), the World Conference on Women's Beijing Declaration, the African Union Framework and Guidelines, the African Union Guiding Principles on Large-Scale Land-Based Investments, the United Nations Sustainable Development Goals (SDGs), and the National

Constitutions of Zimbabwe, Zambia, Mozambique and South Africa. These protocols provide that women have the right to equality in the enjoyment of all rights, including land rights. The

protocols oblige national governments to ensure that women enjoy land acquisition, land inheritance, control and decision-making rights on the same basis as their male counterparts.

Women's land rights are human rights. Addressing inequalities and disadvantages women face in the control of land is essential to the realisation of the fundamental human right to equality and basic well-being of women. When women control land there will be more food in the household and increased income since women do most of the agricultural work. They will also be protected from eviction when they are widowed or divorced. The current system discriminates against women and violates the equality provisions of CEDAW, the gender equality framework set by the Beijing Declaration and SADC Gender Declaration.

Source: Mutangadura, 2004

Women's land rights as political rights

Land is a source of power.

Land is an asset that gives identity in a variety of settings. Land gives women power to represent themselves in disputes. Land ownership enables women to participate in political decision-making processes. When women control land they have enhanced bargaining power in the household and community. Land ownership enables women to address political historical injustices and dispossession experienced by former colonies in Southern Africa. The ownership of land gives women recognition as members of communities, which gives them legitimacy to participate in decision-making processes.

Women's land rights as social rights

Land is an important social asset for women.

From it they derive their identity and a place of belonging and citizenship. Land confers non-material values that cannot be quantified. These include spiritual, cultural and memory values. The control of land by women reduces their vulnerability to gender-based violence, as women who own land can exit abusive relationships. Land becomes a valuable social security safety net for women in their old age. Ownership of land reduces women's vulnerability to dispossession at the end of a marital union. Land is an inter-generational asset that women can pass on to their children.

Women's land rights as economic rights

Access to land and control over its use are the basis for food and income generation for women.

Land control enhances women's economic empowerment, which is essential for promoting gender equality. Land can be used for accessing credit and agricultural inputs as well as negotiating access to markets. Land provides women with access to a basic asset for negotiating access to other natural resources and agricultural assets. Land control increases women's ability to invest in land and also increases their ability to enter into agricultural contracts.



Further reading

Daley, E., Flower, C., Miggiano, L. and Pallas, S. (2013). Women's land rights and gender justice in land governance: Pillars in the promotion and protection of women's human rights in rural areas. International Land Coalition. Downloaded from <https://www.ohchr.org/Documents/HRBodies/CEDAW/RuralWomen/InternationalLandCoalition.pdf>

Food and Agriculture Organization (FAO). (2017). Exploring the Gender and Land Rights Database (GLRD). Food and Agriculture Organization of the United Nations. Downloaded from <https://www.ohchr.org/documents/issues/women/wg/womenslandright.pdf>

Food and Agriculture Organization (FAO). (2020). Sustainable Development Goals. Downloaded from <http://www.fao.org/sustainable-development-goals/indicators/5a1/en/>

Scalise, E. and Giovarelli, R. (2020). What works for women's land and property rights? What we know and what we need to know. Downloaded from <https://glt.n.net/download/what-works-for-womens-land-and-property-rights-what-we-know-and-what-we-need-to-know/?wpdmdl=15891&refresh=5f9ee036e549f1604247606>

Shahra, R. (2002). Introduction: Gender, agrarian change and land rights. *Journal of Agrarian Change*, 3(1-2): 2-32.

Tsikata, D. (2016). Gender, land tenure and agrarian production systems in sub-Saharan Africa. *Agrarian South: Journal of Political Economy*, 5(1):1-19

Handout 1: Why should women hold secure land rights in customary tenure areas?

SOCIAL	POLITICAL	HUMAN RIGHTS	ECONOMIC
<ul style="list-style-type: none"> • Belonging • Place of residence • Sacred space • Memories – maintaining inter-connectedness with ancestors 	Decision-making	<ul style="list-style-type: none"> • Universal Declaration of Human Rights (1948) • Beijing Platform for Action • National Constitution 	<ul style="list-style-type: none"> • Income • Poverty reduction
Social security	Participation in decision-making structures	African Charter on Human and People's Rights (1986)	Value chain participation
Identity	Representation in compensation	<ul style="list-style-type: none"> • VGGT • African Union Framework and Guidelines • AU Guiding Principles 	Agricultural inputs
Community membership	Participation in dispute resolution	Maputo Protocol	Access to technology and extension
Reduced dependency and gender-based violence	Self-representation	SDGs: <ul style="list-style-type: none"> • 5a1: Securing Women's Agricultural Land • 5a2: Legal Frameworks for Securing Women's Land 	Participation in land market
Household food security/affordable food	Historical justice	CEDAW	Control own labour
Succession/inheritance			Negotiating power

LESSON 02

Introduction to concepts



- Participants will be introduced to land tenure concepts and definitions.
- The lesson will teach participants the status of people's relationship with land.



1 hour 30 minutes



- Flipchart and markers
- Video link
- Handout 2: Comparing statutory and customary land tenure

Step 1: What is land tenure?

Land tenure is the relationship between people and land.

This includes the length of time someone can use the land (forever, short time, while they are living), how they can use the land, and what they can do with the land (sell, lease, etc.). This land relationship, can be formal or informal; defined customarily or by formal law; among people, as individuals or groups, with respect to land. Land tenure is an institution, that is, the rules are invented by societies to regulate behaviour. Rules of tenure define how property rights to land are to be allocated within societies. Land tenure rules define how access is granted to rights, security to use, control, and transfer land, as well as associated responsibilities and restraints. In simple

terms, land tenure systems determine who can use what resources for how long, and under what conditions (FAO, 2002). Tenure is therefore about the terms and conditions for holding land, allocation and security of land rights, managing interests on land, rules that describe who uses land and the purpose for which they are allowed to use the land. These rules can be defined through, a) a formal relationship with the state; and/or b) customary and informal relationships that people can have with traditional leaders. Land tenure has a gender impact as women and men experience tenure differently. This is because of power asymmetry between men and women.

Step 2: What is land tenure security?

Secure tenure is when people who use land have clear and long-term rights.

These people do not have to worry about eviction or arbitrary dispossession of the land security of tenure. If people are confident that they will be on the land for a long time, they can invest labour and capital. If land tenure is not defined or clear, there will be conflict as a result of different expectations. People with insecure tenure face the risk that their rights to land will be threatened by competing claims, and even lost as a result of eviction. Without security of tenure, households are significantly impaired in their ability to secure sufficient food and to enjoy sustainable rural livelihoods.

Land tenure rules define the way property rights are distributed.

LESSON 02

Property rights have been compared to a bundle of sticks where each stick represents a right owned as a “bundle of rights”. The bundle includes the rights to:

- access the land;
- use the land to grow crops, trees, make permanent improvement, harvest trees and fruits, and so on;
- transfer land or use rights, i.e., rights to sell, give, mortgage, lease, rent or bequeath land;
- exclude others from the rights discussed above, by an individual, group, or community; and
- enforce the legal, institutional and administrative provisions to guarantee rights.

Property rights are shaped by customary tradition and statutory rules. They can overlap. More than one person can hold different rights and obligations on the same piece of land.



Key concepts

Land governance

Rules, policies, processes, institutions and structures that manage the use, allocation, access, control, ownership, allocation transfer and management of land and natural resources.

Legal pluralism

The existence of multiple legal systems within one geographic area – a common feature of tenure relations in many developing countries.

Statutory systems

Formal legal systems of the nation defined by formal institutions.

Formal and informal land rights

Land tenure rights can also be described as being formal or informal.

FORMAL (statutory) property rights are those that are explicitly acknowledged by the state and that can be protected using legal means.

INFORMAL property rights are those that lack official recognition and protection. In some cases, informal property rights are deemed illegal, i.e. held in direct violation of the law. Informal land rights can include *de facto* rights obtained by long-term occupancy, to well-established customary systems of tenure.

Informal land rights are not synonymous with insecure land rights. Sometimes perceived tenure security of households and firms can be higher under informal, accountable local bodies than under a weak and corruptible formal tenure system. Without formal state recognition, informal land rights can be a challenge to enforce.

Characteristics of land tenure systems – Dominant tenure arrangements on land

PRIVATE TENURE is held by individuals, the private sector and other legal entities. This includes freehold and leasehold land tenure. Private tenure is characterised by the assignment of the most comprehensive 'bundle of rights' to a private party to use the land within the limits of the law. The rules for managing the land, as well as for inheritance, are clear and well defined.

COMMON TENURE refers to resources that are held jointly by a group of people or a community. Examples include community forests, grazing land and streams. Rules governing these resources are not obvious to outsiders but communities using the resources can articulate these rules and sanctions.

OPEN TENURE prevails when rights are not assigned to anyone. Everyone has free unrestricted access. Examples include marine lands in South Africa and Mozambique.

STATE TENURE governs national parks, forests and other land set aside for management by the state. The rules are well known and clear. The state has many rights. These include the rights to tax land and expropriate private property for public use. Rights are assigned to some authority in the public sector, such as local government entities. Governments may also authorise communities to manage resources. The two entities agree on the tenure rules.

CUSTOMARY TENURE applies where land is controlled by indigenous communities and administered in accordance with their customs. Land is managed and held under a hierarchy of tribal authorities. Customary arrangements normally consist of individually-held and commonly-held land, that members of a community can use on certain conditions. There are long-term social controls and sanctions on land use. Land beneficiaries have conditions attached, which differ between men and women. Land inheritance is subject to gender discriminatory social norms.



Activity

Participants are asked to compare customary and statutory tenure – sometimes the two are in conflict and/or inconsistent. Questions for consideration: How incorporate customary norms? How do legalise customary into statutory tenure? When do we draw on the one or the other? How do we balance the two systems?

Handout 2: Comparing statutory and customary land tenure

TENURE	STATUTORY	CUSTOMARY
Definition	<ul style="list-style-type: none">Formal legal systems determined by formal governing authorityFormal law of government	Traditional, religious or cultural structures
Characteristics	Associated with formal legal systems	Associated with informality
Strengths	<ul style="list-style-type: none">Backed by statuteConstitutionsLegislation	Provide important de facto tenure security to landholders
Weaknesses	<ul style="list-style-type: none">IndividualisticExpensiveLand laws' effectiveness depend on acceptance, awarenessEnforcement challengesNot understood by communities	<ul style="list-style-type: none">Vulnerable to land marketsVulnerable to land grabbingNot registeredMay not be consistent with statutory law

Women	Guarantees equal rights to own and manage land; however, these rights are not always enforced which leaves the poor and powerless women vulnerable	<ul style="list-style-type: none"> • Conditional land rights • More accessible land • Abundant • Social safety nets • Flexible rights • Limited rights that are subordinate to those of men
Location	<ul style="list-style-type: none"> • Market-based • Marriage • Inheritance 	<ul style="list-style-type: none"> • Women allocated through male-biased kinship and marriage • Market • Gift
Inheritance	Several laws granting male and female children equal inheritance rights.	<ul style="list-style-type: none"> • Male-biased and follows patrilineal line in patrilocal societies • Female line in matrilineal societies
Divorce	Property shared according to laid out procedure and determination; this is an expensive process that the poor and vulnerable cannot afford it	Evicted, as customary land is presumed to belong to the males in patrilocal marriages
Widowhood	Can inherit the land in accordance with the country's marriage and succession laws	<p>Land rights are vulnerable and subject to dispossession</p> <p>Have to be renegotiated</p>
Dispute resolution	<ul style="list-style-type: none"> • Presumed to treat male and females equally; however, predominately serve those women whose rights are more clearly articulated in the laws, such as women (single or married under formal law) who have clear, documented rights to private land • Not easily accessible to poor and vulnerable women. • Can be appealed 	Provides cheaper and affordable dispute resolution mechanisms for poor and vulnerable women in rural areas. The complex and discretionary nature of customary systems may disadvantage women more than men, due to gender-based biases. Local power dynamics enable some people to use/abuse the multiple land tenure arrangements and institutions of legal pluralism and customary law at the expense of other people.



Video on Xolobeni – The right to say no

This video about a community in South Africa, living on land under customary tenure can be viewed at <https://youtu.be/Q8p1VXDgLKY>. The video illustrates the intersection of customary and statutory tenure as the Xolobeni community engages with a mining corporate to defend their customary lands.

A note on a matrilineal customary system

In matrilineal families, the authority and power to make decisions rests with the mother and her relatives. Inheritance is based on matrilineal descent combined with matrilocal residence. Although men of the matriline make decisions as clan leaders, women have a high level of authority and influence. For example, when it comes to land sales, although women own the land, they must consult their maternal uncles. Inheritance of property, including land, passes through the female line. Upon a man's death in a matrilineal system, the wife and children remain undisturbed in terms of residence and land use. Should the wife die first in a case where a man has moved to his wife's village, the man is expected to return to his village as the property he was residing on reverts to his wife's family. Sons lose their access to family land when they move out to marry, while daughters are guaranteed access even in situations where they are not physically present in their original homes. Divorced sons return to their native village where they are given access to land temporarily until they remarry.

Source: Hall et al., 2017.



Further reading

Hall, M., Murombedzi, J., Nkonkomalimba, M., Sambo, P. and Sommerville, M. (2017). Zambia customary land documentation tenure assessment. Lusaka, Zambia: USAID Tenure and Global Climate Change Program.



LESSON 03

Legal and Policy Frameworks governing land



- Participants will be introduced to the legal and policy frameworks governing land.
- Participants will have an awareness of ongoing policy reforms and their impacts on women's land rights in Southern Africa.
- Participants will understand the legal and policy provision for customary land documentation and compensation in Southern Africa.



1 hour 50 minutes



- 4 Flipchart markers
- Handout 3: Main legal and policy frameworks governing land in Southern Africa

LESSON 03

Introduction

(20 minutes)

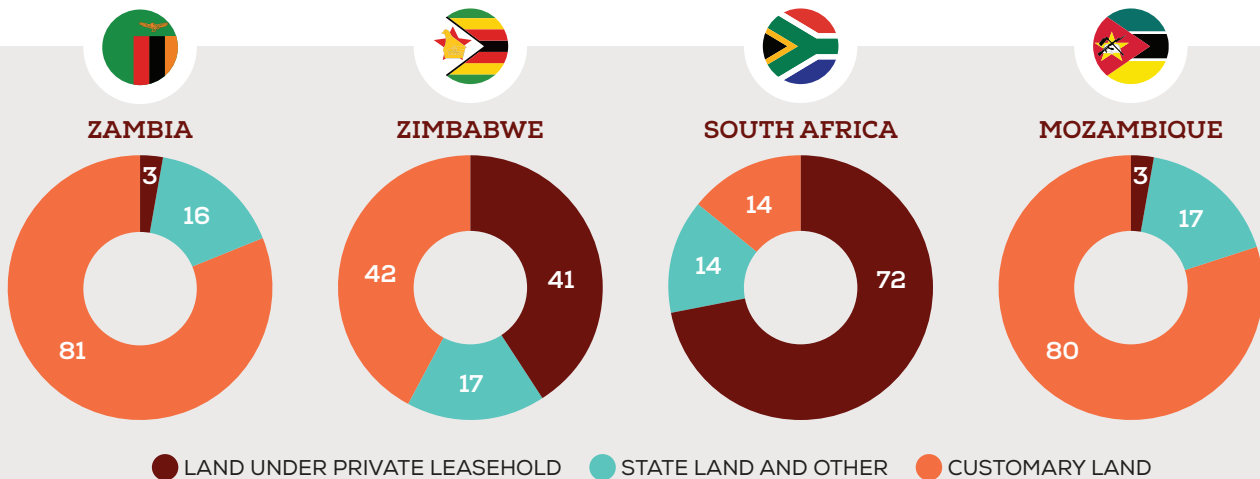
Land tenure systems in Southern Africa are an outcome of the history of the sub-continent.

The tenure systems are composed of the various laws, statutes and policies. There are different systems of land ownership, tenure, and land rights in Southern Africa.

Land tenure systems are varied and complex because they are the outcome of diverse historical, cultural and political factors. There are some common themes in Southern African land tenure.

These include:

- Colonial heritage and dispossession which confined the majority of the population to marginalised customary tenure land. As a result, the majority of the poor depend on customary mechanisms to secure land.
- Perpetual food insecurity as a result of small land parcels, limited access to credit and agricultural inputs.
- Feminisation of customary land management.



Source: PLAAS Regional Research Design and Planning Workshop, July 2020



Facilitator to highlight that tenure typology is more diverse in the respective countries. Ask participants to list the tenure types in their country, in plenary.

Legal and policy frameworks governing land

The land tenure systems are protected by an infrastructure of legal and policy frameworks. These include, laws, policies and projects.

The **national constitution** is the fundamental source of law of a country. It usually includes basic principles and binding norms on the protection and promotion of individuals' rights, the organisation, functions and competence of different branches of state power (legislative, executive, judiciary) and the nature and process of adoption of other sources of law. As such, any other legal instrument enacted within the state should not contradict it and must be interpreted in a way that is compliant with the constitutional provisions. The amendments to the constitution shall follow a special procedure, which is more articulated than the one for the adoption of ordinary laws. The national Constitutions in Zimbabwe, Zambia, Mozambique and South Africa provide the basis for ensuring women's equal access to land by prohibiting discrimination on the basis of race and gender.

National policy

This is a document proposed by a national body (usually one that has an executive power such as a Ministry or a Department) that identifies a certain plan of action with regard to a specific matter and that has gained official status, meaning that the required government procedure for finalisation has concluded. It is usually adopted by the executive authority (e.g. the competent governmental department or ministry at a national level). Contrary to a law, a policy does not have legally binding effects. It defines a course of action as well as the principles and methods necessary to achieve certain long-term objectives.



Ask participants if they have a National Land Policy in their country.

Mozambique has a Land Policy. South Africa, Zimbabwe and Zambia currently do not have National Land Policies.

Primary legislation

These include:

- 1 acts or statutes that have been formally adopted at the national level following the official parliamentary procedure for the passage of laws (in parliamentary systems)
- 2 other acts at the national level with the force of law, such as decree-laws and legislative decrees and otherwise (in parliamentary systems); and
- 3 other legal instruments that have been formally endorsed by a law-making body, for instance presidential and royal orders or presidential and royal decrees (in non-parliamentary systems or systems where law-making power lies in an additional institution to the parliament).

In all cases, primary legislation must have the force of law, and therefore be binding.

LESSON 03

Secondary legislation

These are subsidiary, delegated or subordinate legal instruments that have the force of law, are binding and shall not be in contradiction with primary legislation. They are usually passed by the executive, such as national regulations, rules, by-laws, determinations, directions, circulars, orders and implementing decrees.

Compensation

This is payment either in financial terms, or as replacement land, or structures that communities receive for the loss of their land and livelihoods as a direct result of compulsory acquisition of land. Countries in Southern Africa have various legal provisions to recognise this.

Source: FAO, 2018.



Activity

Divide participants into 4 groups according to their countries.

Each group must:

- 1 list the policies and legal instruments governing land in their country and how they impact on women's customary land rights;
- 2 identify legal and policy reforms and highlight how they impact on women's customary land rights;
- 3 identify the legal framework for registering customary land rights; and
- 4 identify the legal and policy framework for compensation for loss of customary land.



Group work starts after lunch.

Group presentation at 14:45 (15 minutes per group).

Handout 3: Main legal and policy frameworks governing land in Southern Africa

Facilitator to summarise the content of this handout.

Mozambique: Legal and policy frameworks governing land

POLICY/ LEGISLATION MAIN PROVISIONS

Constitution 1990	Establishes the principle of gender equality and prohibits discrimination on the basis of gender. Men and women have equal rights to hold property. Enshrines the principle of legal pluralism and recognises a category of lands and natural resources that satisfies collective interests, and falls under the control of local communities as collective entities.
Land Law of 1997	The state holds ownership of the land and provides that individuals, communities and entities can obtain long-term or perpetual rights to use and benefit from the land, even without formal documentation of those rights. The law allows men and women to apply for individual land rights. The law recognises women as co-title holders of community-held land. The law provides for inclusion of women among elected community representative bodies who oversee and manage land. The land law established a participatory process for identifying and recording community land boundaries. This process gives women opportunities to articulate their interests in land, learn about land rights, and assume leadership roles. It allows men and women to apply for individualised land rights. The law assigns roles to local communities in the recognition and administration of land rights. Since the land rights can be proved by oral testimony, women are not disadvantaged by lack of education or documents.
National Land Policy 1995	Safeguards the diverse land rights of the Mozambican people while promoting new investment and sustainable and equitable use of natural resources. The policy vests all land ownership in the state and prohibits the alienation of land. The policy assigns roles to local communities in the recognition and administration of land rights.
2004 Family Code	The code recognises common law and registered marriages and provides for equality in marriage and the sharing of marital assets.
1998 Rural Land Law	Provides rules for the acquisition and transfer of land use rights.
Decree No.1/2003	Established new provisions for the National Land Registry and Real Estate Cadastre procedures for the registration of inherited land-use rights and secure rights to customary rights of way.
Rural Land and Regulation Technical Annex	The regulation provides a simple and flexible methodology for identifying and recording these rights, which can be applied to the 'group right' of a local community, or to individual 'good faith' or customary occupants. ¹

¹ See: https://images.agri-profocus.nl/upload/post/Moz_Policy_Paper1587375947.pdf

LESSON 03

Zimbabwe: Legal and policy frameworks governing land

LEGISLATION AND POLICIES

KEY FEATURES

Constitution 2013	The Constitution provides for equal land access for men and women. All state and governmental institutions and agencies are mandated to take practical measures to ensure that women have access to land and other resources on the same basis as men. All laws, customs, traditions and cultural practices that infringe the rights of women are void to the extent of the infringement.
Statutory Instrument (S.I) 53/2014	The S.I provide for the rights of spouses and children in relation to resettlement land. This is applied inconsistently.
Communal Lands Act 1982	The law recognises customary rights as permissive occupancy and use only. The law vests ownership of customary land in the President who holds strong legal powers to reallocate any part of these lands at will via local district councils. Women hold limited and dependent rights to land in communal lands that are administered according to customary norms.
Traditional Leadership Act 1998 amended in 2001	Provides for the appointment of chiefs, headmen and village heads to preside over the governance of customary land. The traditional leaders also have power to control common land, allocate customary land and use of natural resources. The traditional leaders allocate land according to customary norms that discriminate against women.
Gazetted Land Consequential Act Provisions No 8 of 2006	The Act makes it an offence to hold, use or occupy gazetted land without legal authority. This makes a former owner who resides on gazetted land and offender and liable for prosecution.
The Fast Track Land Reform Programme of 2000 (FTLRP)	The programme characterised a departure from the Zimbabwe Government's policy of Constitution-based reforms. The government programme to redistribute land lists women as a category of beneficiaries and provides for a 20 percent quota of women beneficiaries. In reality, however, the number of women beneficiaries was below 20 percent.
The Administration of Estates Act of 1907	The Act was amended to repeal all inheritance laws unfavourable to widows in civil and registered customary marriages, but only for deaths that occurred after 1 November 1997. The repealed Act also accorded widows equal rights as widowers. This entitles the widows to a portion of the deceased spouse's estate. The same Act prescribes that male and female children are treated equally for purposes of inheritance.
Zimbabwe Land Commission	The Land Commission is also mandated to give recommendations to government with regards to the elimination of all forms of unfair discrimination, particularly gender discrimination in access to land.

South Africa: Legal and policy frameworks governing land

LEGISLATION AND POLICIES

KEY FEATURES

Constitution 1996	Gender equality is a basic principle, stating that the Republic of South Africa is founded on four values, one of which is "non-racialism and non-sexism". The Constitution provides for the right of access to land and deals with equitable access to land, restitution and security of tenure. The Constitution provides the basis for according legal recognition to customary and informal land rights of people living on customary land.
1994 Land Rights Act as amended by the 2004 Restitution of Land Rights Amendment Act	The Act aimed at restoring the property rights of persons and communities dispossessed of property as a result of apartheid. The Act established the Commission on Restitution of Land Rights Claims Court for Purposes of receiving and adjudicating restitution claims. The Act does not explicitly mention women as a group deserving special protection.
Extension of Security of Tenure Act (ESTA) of 1997	ESTA provides measures to facilitate long-term security of land tenure. The act is gender neutral and non-discriminatory.
SPLUMA (Spatial Planning and Land Use Management Act 16 of 2013)	A new framework for governing planning permission and approvals, set parameters for new planning developments.
Interim Protection of Informal Land Rights ACT (IPILRA)	To ensure temporary legal protection for people without formally recognised land rights while government developed more comprehensive legislation to protect and regulate customary tenure.
Communal Property Associations Act 1996	Section 9 protects the interests of women through non-discriminatory provisions and inclusive decision-making processes in communal property ownership and use of communal land.
Communal Land Tenure Policy 2014	Proposed to transfer the outer boundaries of customary land to traditional councils. Traditional councils to manage and control development of any communal property areas including areas designated for grazing, forests and rivers. The individual families holding land rights on customary land would be granted institutional use rights. There is no provision for holding the traditional council accountable.
Communal Land Bill 2016	To create legislation that regulates customary land. Provides that a community by a resolution supported by at least 60% of the households in a community choose to have its customary land managed and controlled by either a traditional council, a Communal Property Association, or the Ingonyama Trust.

LESSON 03

LEGISLATION AND POLICIES

KEY FEATURES

The Promotion of Equality and Prevention of Discrimination, 2000 (Act No. 4 of 2000)

Sections 6 and 8(e): Prohibit systems that prevent women from inheriting family property and policies or conduct that unfairly limit access of women to land rights, finances and other resources.

1998 National Commission on Gender Equality

It is responsible for advocating and overseeing the advancement of gender equality in the public and private sectors (13).

White Paper on Land Policy and drafting of a Land Reform Gender Policy 1997

This White Paper promotes gender equity by removing legal restrictions on women's access to land, and by providing for gender-sensitive participatory methodologies, financial assistance for women, registration of redistributed land in women's names and priority for women applicants for grants.

Land Reform Programme

Its three components, land restitution, land redistribution and tenure security, include gender equity as a fundamental principle.

The Recognition of Customary Marriages Act of 1998 (Act No. 120 of 1998)

This Act recognises and grants both spouses equal status and equal capacity to acquire assets and to dispose of them, to enter into contracts and to litigate. According to the Presidential Advisory Panel there is still no customary law that provides women with the right to independently own land.

The Promotion of Equality and Prevention of Unfair Discrimination Act of 2000

This Act prohibits systems that prevent women from inheriting family property and policies or conduct that unfairly limit women's access to land rights, finance, and other resources.

While rural women may currently be more disadvantaged than the South African law anticipates, it is largely because of the Constitutional framework that women are able to increasingly assert and defend their land rights. Access to this type of information and understanding of their rights is their biggest asset (Land Portal).

See: <https://landportal.org/blog-post/2020/03/southafrica-genderdata>

Zambia: Legal and policy framework for governing land

POLICY / LEGISLATION	PROVISIONS
Constitution 1991	The Constitution prohibits laws that discriminate based on gender, but specifically excludes personal and customary law from this prohibition. Part III, the Bill of Rights offers enforceable and guaranteed protection of rights, and upholds the right not to be discriminated against. The Zambian Constitution explicitly excludes customary law from its prohibition on discriminatory practices.
Land Act 1995	Provides that the people of Zambia can only have user rights to land through a leasehold tenure of 99 years. Allows the state to convert customary tenure to a 99-year leasehold tenure if an application is made and approved by a chief. Recognition of customary norms allows discrimination in customary land allocation. Gives the President power to alienate land, including customary land.
Gender Equity and Equality Act 2016	Prescribes an allocation of 30 percent of land to women and the rest to be competed for on an equal basis.
National Gender Policy of 2015	Affirms women's access to land by ensuring the attainment of gender equality in the development process by redressing existing gender imbalances.
The Lands and Deeds Registry Act	The Lands and Deeds Registry Act, CAP 185 provides for the registration of all land and all incidental matters relating to title and other miscellaneous deeds.
National Resettlement Policy in 2015	The policy has guidelines for internally displaced people.
The Local Courts Act	Local courts in Zambia have jurisdiction to preside over customary land or property disputes, provided that proceedings constitute a civil wrong (a person's act that wrongfully causes harm to another and attracts an action for damages and compensation).
The Registration and Development of Villages Act of 1971 (commonly referred to as the Village Act)	The Registration and Development of Villages Act is deeply relevant to customary land and customary land management. For villages to be formally recognised, they must register in accordance with the Act. The Act defines a village as a settlement in a rural area in which there is a headperson recognised as such by all or a majority of the villagers and their chief under their customary law. The Act does not provide information on the boundaries of villages, nor does it identify a maximum or minimum size of a village.
The Lands Tribunal Act, 2010	Provides for the continued existence of the Lands Tribunal and provides, inter alia, for the powers and functions of the Tribunal. The government will review the law on land dispute management in order to establish a land court across the judiciary as well as to support local level mediation of land disputes.

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POLICY / LEGISLATION	PROVISIONS
Customary Law	Because of the limited reach of Zambia’s formal laws, customary land is governed by traditional leaders. There are 73 recognised tribes in Zambia, governed by 240 chiefs. Land is held by the community; individuals and families have use rights to specific plots and some areas are managed as common property.
Chief’s Act – Chapter 287	The Chiefs Act provides chiefs with the power to administer customary law to the extent that such law is not contrary to the Constitution or any written law and is not repugnant to justice or morality. Individual chiefs have considerable leeway in establishing general practices around land within their chieftdom, and those practices can then be considered customary law so long as they do not contradict existing written law.

Land policies under revision in Southern Africa

COUNTRY	LAND POLICIES
South Africa	<p>Constitution: Amendment of Section 25 of the Constitution to facilitate expropriation without compensation. This included the revision of the Expropriation Act of 1975 to align it with the 1996 Constitution. The proposed Bill will list the conditions under which property can be appropriated without compensation. These include but are not limited to the expropriation of land to promote inclusivity and access to natural resources.</p> <p>Upgrading of Land Tenure Rights Amendment Bill of 2020: Aims to amend the Act because it is unconstitutional. To allow upgrading of certain rights into ownership. As it stands, it violates women’s constitutional rights when tenure rights are converted to ownership.</p>
Zimbabwe	<p>Zimbabwe is undergoing a Land Policy review process aimed at producing a gender-sensitive land policy. The policy aims to address gender, tenure and administration deficiencies in land governance.</p> <p>Land Audit to assess, among others, gender disparities in land beneficiaries.</p>
Zambia	Zambia’s Constitution was under review from 2014 to 2016. The draft Constitution that guided the programme design provided for equitable access to and ownership of land by women. In addition, it provided for the continuation of the existing dual tenure systems and called for legislation to revise existing land laws; prohibit land speculation; address imbalances in land alienation; provide for periodic land audits; provide a means for securing customary tenure; provide equitable access to state land; enable settlement of landless people; and, establish minimum and maximum holdings of arable land. The approved Constitution ultimately simplified the language in the land section, in part due to significant disagreement between chiefs and government over language on the vestment of land in the office of the president. ²

2 See: https://land-links.org/wp-content/uploads/2018/02/USAID_LAND_TENURE_TGCC_ASSESSMENT_ZAMBIA_CUSTOMARY_LAND_DOCUMENTATION.pdf

COUNTRY	LAND POLICIES
	<p>Draft Land Policy The development of a Land Policy in Zambia was stalled prior to 2014 because of the lack of a new Constitution. A draft policy was developed. The Land Policy is expected to address issues that include the conversion of customary tenure to statutory tenure; processes of land administration and management; legal protection of customary tenure; management of common pool resources, such as forests, grazing areas and wetlands; security of customary and statutory tenure; land disputes; gender inequalities; and large-scale land acquisition.</p> <p>The Customary Land Administration Bill that would protect customary land rights, is pending</p>
Mozambique	<p>The Land Policy is under review. According to the Government of Mozambique, the National Land Policy Review is the result of significant economic and social changes that have taken place since the enactment of the current land law in 1997. These include government's plans to put in place austerity measures in the medium-term in pursuit of fiscal consolidation and debt reduction, population growth, climate change, biodiversity off-setting, the emergence of mega-projects, rapid urbanisation, a growing demand for land for housing and commercial investment, and the need to ameliorate the country's land governance practices.³ CSOs are contesting this review.</p> <p>The Law of Succession was revised in 2019 to recognise a widow's right to inherit land.</p>
Mozambique (continued)	<p>The Land Law and the institutional framework for governing land is under review to allow for the transferability of DUATs.⁴</p> <p>The SPEED+ Programme funded by USAID, has been drafting new regulations for community consultation and community representation and updating the National Land Policy and expert advice on the Land Law revision process. In addition, the country is considering options and proposals to strengthen the legal and regulatory framework for rural communities to contribute to and benefit from natural resource management.⁵</p>

3 See: <https://www.plaas.org.za/rural-women-demand-a-seat-at-the-table/>

4 See: <https://land-links.org/country-profile/mozambique/#1528831743941-041255bf-6778>

5 See: https://images.agri-profocus.nl/upload/post/Moz_Policy_Paper1587375947.pdf

LESSON 03

Provision for compensation for customary land

South Africa	<p>Section 25 (1)(b) states that expropriations are subject to compensation.</p> <p>Communities must be consulted before land is transferred. Section 2(1) of IPILRA provides that an individual may not be deprived of his or her informal rights to land unless he/she consents to such deprivation (or the government expropriates the land and pays adequate compensation). The Act provides minimal protection against deprivation of informal land rights. It provides no legal certainty about the rights it seeks to protect and has only been used in a few cases.</p>
Zambia	<p>Zambia currently does not have consolidated legislation or policies that regulate compensation and resettlement for displaced communities. This leaves affected communities to negotiate and receive adequate compensation. A Resettlement Policy was adopted in 2016.⁶ Zambians are barely aware of those policies, nor do local officials enforce them.⁷</p>
Mozambique	<p>Under the 1997 Land Law, if an investor applies for land held under a community DUAT, the law requires the investor to consult with the community, and secure their agreement to cede their rights to the investor. In exchange for ceding their land rights, communities can negotiate for terms and benefits. The government must also confirm that the consultation occurred before approving an investor's application.⁸</p> <p>The land delimitation process provides opportunities for women to engage in preparation for a land use plan. Women as co-title holders participate in design, negotiations and implementation.</p>
Zimbabwe	<p>Although the Communal Land Act provides that dispossessed people are entitled to alternative land and an agreement to compensation shall be reached, there is no mechanism to guide the agreement. This leaves communities living on customary land vulnerable.</p>

6 See: https://land-links.org/wp-content/uploads/2018/02/USAID_LAND_TENURE_TGCC_ASSESSMENT_ZAMBIA_CUSTOMARY_LAND_DOCUMENTATION.pdf

7 See: <https://www.hrw.org/news/2017/10/20/we-slept-out-open-air-wild-animals>

8 See: <http://www.focusonland.com/countries/mozambiques-innovative-land-law/>

Provision for customary land documentation in Southern Africa

COUNTRY	PROVISION
South Africa	There is no legal provision for the documentation of customary lands in South Africa. The Native Trust and Land Act of 1936 allowed a magistrate to grant rural Africans applying for land a "Permit to Occupy" (PTO) as proof that a piece of land had been granted to the holder of the document. The PTO system was operated fully independently and parallel to the deeds and cadastral land administration system on which the registration system for the rest of the country was based and remains in place today. Traditional authorities (tribal or community leaders) issued PTOs to occupants on public land. Although the PTO system was declared unconstitutional during the mid-1990s and PTO land is not recognised by banks as collateral, PTO certificates are still awarded in some areas upon the discretion of the traditional authorities, and still confer recognition to informal rights over the land. ⁹
Zambia	The Registration and Development of Villages Act provides for the registration of villages and their inhabitants. Land may be registered under a customary leasehold title (Section 8) for individual parcels for houses or cultivation only. There is no clear provision for commons to be registrable as collective property, and they are vulnerable to alienation on the recommendation or demand of the state or through chiefly permits, which do not require community consensus. The Zambia Land Alliance (ZLA) works in more than 8 districts that are involved in the promotion of the registration of customary lands. The ZLA is working with chiefs and civil society organisations (CSOs) in Zambia to create Traditional Land Holding Certificates. These record land rights at either the individual or household level. Certifications clarify rights, verify claims through boundary demarcation, and end with the issuance of a certificate. The certificates allow a woman's name to be listed as the land's "primary" rights holder. The certificate is designed to reduce property grabbing and the eviction of widows from land after her husband's death. Establishing a system that registers these certificates and makes rights public would mean that women have a better chance of being protected. ¹⁰
Mozambique	A Technical Annex ¹¹ to the Rural Land Law Regulations 15 provides a simple and flexible methodology for identifying and recording these rights, which can be applied to the 'group right' of a local community, or to individual 'good faith' or customary occupants. ¹²
Zimbabwe	There is no legal provision for the documentation of customary tenure land without converting it to another tenure.

9 See: <https://www.icrw.org/wp-content/uploads/2016/10/Gender-Land-Asset-Survey-South-Africa.pdf>

10 See: <https://theconversation.com/the-projects-that-are-helping-zambian-women-get-better-access-to-land-100178>

11 See: Technical Annex for the Demarcation of Land Use and Benefit Areas [Boletim da República No. 11 - Series I - 17th March 2000].

12 See: https://images.agri-profoc.us.nl/upload/post/Moz_Policy_Paper1587375947.pdf

LESSON 03



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LESSON 04

Differentiation of Women's Customary Land Tenure Security



PURPOSE

The participants will learn how to analyse women's land tenure differences in customary areas and how these differences influence women's land tenure status.



DURATION

1 hour 30 minutes



MATERIALS

4 flip chart boards, cards, markers

Introduction to the lesson

Introduce the concept of different categories of women and the criteria used to differentiate the women. **Women are not a homogenous category of people. There are differences between the women themselves. These differences can be discerned in different ways which will inform how women acquire customary land and how the women experience land tenure security in a customary land tenure area.**

Trainer's Instructions

Step 1: Facilitate a plenary discussion.

Step 2: Ask participants to highlight the factors that differentiate women's and men's customary land tenure status. Also ask participants to identify factors that differentiate women in customary land tenure areas. Participants write these factors on cards and hand them to the facilitator.

Step 3: Highlight that although gender is often used as a defining factor for highlighting differences in tenure status, it is not the only criterion that can be used to understand the differences in land tenure status of people who live in customary land tenure areas. The facilitator can use the cards generated by participants to explain the different factors that can be used to analyse women in customary tenure areas, e.g. illustrate how women's customary land tenure status evolves as they change their life cycle stages.

Women are not a homogenous group. Class, lifecycle stage, marital status, marriage order, type of marriage, economic power and wealth, sex of household head and household composition, relations with other people and stage of household in development cycle are all sources of variation which influence access to land and institutions that govern access.

Source: Paradza, 2010.

LESSON 04

Trainer’s
Instructions
(continued)

Participants share other categories missing from the range of factors influencing the differences in land tenure status of people living under customary land tenure systems.

Use the following questions to facilitate the discussion:

- What differences among women are considered when they are allocated customary land?
- When a male head of household passes away, how are the land rights of his sisters, wives, daughters, and mother affected in your customary land area?
- Why do some women hold smaller pieces of land than others in customary land tenure areas? What are the factors that help a woman to secure the inheritance of land after she has been widowed?

Practical work

Participants work in pairs (30 minutes)

Age	Sexual orientation	Type of land
Health status	Literacy	Inheritance practices
Gender of children	Children’s age	Registered marriage
Number of children	Polygamous marriage	Co-habiting
Matrilineal setting	Patriarchy	Born into the community
Married into the community	Relationship to decision-makers class	
Land market	Living with HIV and AIDs	Traditional beliefs
Elderly woman	Level of education	Disputing party
Marriage type	Marital status	Relationship to land owner
Educated	Childless	Ethnicity

The pairs ABC are asked to identify a combination of factors/ statuses that illustrate:

- A** The reason a woman’s customary land could be taken from her/reduced/reallocated
- B** The explanation of how some women have larger pieces of land than others
- C** Why some widows continue to use customary land after the decease of their husbands

Report back:

Each pair reports according to their theme – A, B, C. Pairs only add what has not already been shared.

Conclude the discussion, emphasising the differences among women in customary land tenure experiences that have emerged from the discussions.

How did the documentation of customary lands in Mozambique produce winners and losers?

The results of a local customary land documentation of existing family or individual land use rights in Mozambique increased women's land tenure security. The LEGEND Zambézia project was implemented in an area characterised by matrilineal and matrilocal practices, features of large population groups in northern Mozambique, through which women can be expected to have somewhat greater control over land than in patrilineal and patrilocal contexts. More women than men registered land rights. Widows and female divorcees also registered significantly more land than their male counterparts. There was a surprisingly low level of co-titling by husbands and wives. Although some women co-registered land with their daughters to ensure inheritance right, and some sisters co-titled land, relatively few married couples did so. This might be explained by matrilocal marriage practice, where the man relocates to the family land of the woman. Women in matrilocal settlements may be reluctant to register land rights jointly with men if there is any risk they may not continue together in future, leaving the woman's family land exposed to counterclaims from the men.



Source: Norfolk et al., 2020.



Day 2

Trainer Summary

Although women are heterogeneous and although gender is a social construct, it is also important to know that women are not homogenous.

Women in customary land tenure areas have different land tenure security according to their class, age, marital status, how they joined the family and their relationship to the men who hold power. The women-to-women differences intersect to inform the extent to which, for example, a widow can lose or continue to hold marital land. A woman's access to and control over customary land requires that participants be able to identify the different factors and processes that inform the land tenure security of different categories of women in a customary land setting in Southern Africa.



Further reading

Green, E. and Norberg, M. (2018). Traditional landholding certificates in Zambia: Preventing or reinforcing commodification and inequality? *Journal of Southern African Studies*, 44(4): 613-628, DOI: [10.1080/03057070.2018.1461490](https://doi.org/10.1080/03057070.2018.1461490)

Jacobs, K., Namy, S., Kes, A., Bob, U. and Moodley, V. (2011). Gender differences in asset rights in KwaZulu- Natal, South Africa. International Centre for Research on Women. Downloaded from <https://www.icrw.org/wp-content/uploads/2016/10/Gender-Land-Asset-Survey-South-Africa.pdf> on 28 September 2020.



DAY 2 : Module Delivery Timetable

TIME	CONTENT	FACILITATOR ACTIVITY	TRAINEE ACTIVITY	RESOURCES
08:30-08:45	Lesson 5: Policy approaches to Women's Customary Land Rights in Southern Africa	Introduce policy approaches	<ul style="list-style-type: none"> Respond to question Receive information 	<ul style="list-style-type: none"> Flipchart Markers
08:45-09:15	Comparing competing policy approaches	<ul style="list-style-type: none"> Facilitator introduces activity Appoint two participants to record debate on flipcharts 	Engage in debate	Flipcharts
09:15-10:00	Case studies	Facilitate	<ul style="list-style-type: none"> Present Engage case studies 	<ul style="list-style-type: none"> Flipchart Hand out case studies
10:00-10:30	Morning tea			
10:30-12:15	Lesson 6: Threats to Women's Land Tenure in Southern Africa	Present the threats	Receive information	<ul style="list-style-type: none"> PowerPoint Flipchart
12:20-12:40	Video	Introduce video	Watch video	<ul style="list-style-type: none"> Video Flipchart
12:40-13:00	Plenary discussion on threats to women's customary land rights	Facilitate discussion	Participate in discussion	<ul style="list-style-type: none"> Flipchart
13:00-14:00	Lunch			

TIME	CONTENT	FACILITATOR ACTIVITY	TRAINEE ACTIVITY	RESOURCES
14:00-14:10	Key requirements to ensure gender-sensitive land administration	Introduce lesson	Receive information	<ul style="list-style-type: none"> • PowerPoint • Handout • Flipchart
14:10-15:30	Lesson 7: Securing Women's Customary Land Rights	Introduce lesson	Share their own experiences	<ul style="list-style-type: none"> • Flipchart • Handout
15:00-16:00	Afternoon tea			
16:00-16:30	Evaluation	Hand out evaluation forms	Complete evaluation forms	<ul style="list-style-type: none"> • Evaluation forms • Pens
End of Programme				

LESSON 05

Policy approaches to Women's Customary Land Rights in Southern Africa



- Participants will learn the dominant policy approaches aimed at securing women's land rights under customary tenure.
- Participants will learn the positive and negative impacts of the approaches.
- Participants will analyse their own country experiences in using the alternative policy approaches to securing women's customary land rights.



1 hour 30 minutes



- PowerPoint
- Handout 4: Advantages and disadvantages of formalisation for women under customary land tenure

Step 1

Trainer's Instructions

Facilitate a lecture on the reasons why customary land tenure is changing. Although customary tenure lands provide land for the majority of the poor in Southern Africa, the resource is fast depleting. This is because of increased demand for land, mining, climate change, tenure conversion, tourism, land accumulation through large-scale land-based investments and urbanisation. The depletion of customary land rights undermines women's customary land tenure and undermines already vulnerable livelihoods.

The depletion of customary land is taking shape in five ways:

- 1 The conversion of customary land rights to formally documented and registered rights.
- 2 Introduction of tools and structures to make it easier to conduct formal transactions on customary land.
- 3 Government removing barriers to the entry of outsiders into customary lands.
- 4 Revision of rules governing customary lands to ensure that the state has more power to make decisions over customary lands.
- 5 Flanking and supporting mechanisms where civil society organisations either offer a platform for consultations or assist citizens to register their lands.

Source: Chimhowu, 2019.

Example of government removing barriers to entry of outsiders into customary lands in Mozambique:

On 16 July 2020, the President of the Republic of Mozambique, launched the public hearing phase of the National Land Policy Review, which will culminate in the amendment of the 1997 Land Law (Law No.19/97), and other laws and regulations that govern land management in the country. While Mozambique has been widely praised for having a “progressive” land tenure framework, the National Land Policy Review has been initiated to address what has been described as rigid policies and laws that have hindered land-based investments, particularly agro-investment and make land more transactable. Scholar-activist, Boaventura Monjane, argues that the National Land Policy is aimed at reducing the power of communities over land and gives the state ultimate powers to decide what happens with the land. Communities will no longer have the capacity to exercise agency.

Source: Ntatau et al., 2020.

Customary land tenure is vulnerable because it is relatively abundant in Zimbabwe, Zambia and Mozambique, it is unsecured and not documented. The new pressures have increased the tensions among those who rely on customary land. Women are most vulnerable as they hold the weakest land rights and lack power to defend these rights. The issue of how best to secure customary land tenure has sparked a fierce debate. The efforts to secure customary land tenure against exploitation revolve around two policy debates. The two alternative positions are presenting alternative views on how to secure customary land tenure. The main policy approaches have, on the one side, those advocating for the formalisation of land rights, and those opposed to the formalisation, on the other side. This section focuses on the policy debates.

Step 2



Activity

Introduce the two alternatives for securing women's land rights. The one side argues for the formalisation of customary land and the other against this.

Divide participants into 2 groups:

- Group I supports a customary land tenure regime.
- Group II advocates for the formalisation of customary lands and registration of land rights.

In their two groups – using references from their own contexts, participants put forward the advantages and disadvantages of their assigned policy response.

What is land formalisation?

Land formalisation is the practice by which state land managers document, legalise, register, title, and assign property rights in land through bureaucratic means. According to Hall et al. (2011:28), it is “the recognition and inscription by the state of rights and conditions of access within specific boundaries”. The formalisation of customary land rights involves the conversion of customary land rights to statutory rights. The process includes the identification of land interests, adjudication and registering them. The process results in the conversion of customary rights to own, access, or trade land and resources in a written legal or regulatory canon that is accepted by the State.

Trainer's instruction:

In plenary, participants from Zambia and Zimbabwe elaborate on the two case studies and reflect on the policy debate:

- What are the policy regulations?
- Is there compensation?
- What is the impact on women?
- What measures have been put in place to secure women's land rights?
- How are CSOs responding to this initiative?

Allow questions and engagements from the floor.

Land registration in Zambia

The Social Tenure Domain Model (STDM) was piloted in Chamuka Chiefdom, Chisamba district in 2016. The STDM tool is a pro-poor, gender responsive, participatory and affordable land information system for capturing person/s to land relationships cognizant of the continuum of land rights. The STDM tool and process complement the community enumeration process which allows grassroots communities to have a more substantial role in the administration of customary land in a respectful manner, with their traditional authorities, that include the

chief, palace committees and the village headpersons. The STDM supports all forms of land rights and claims, formal, intermediate and non-formal land tenure forms.

Source: Kumwenda et al., 2018.

Large-scale land-based investment on customary land in Zimbabwe

The Chisumbanje Ethanol Project is a public-private partnership that started in 2009, when the Agriculture and Rural Development Authority (ARDA) signed a 20-year joint-venture agreement with two private Zimbabwean companies to lease over 50,000 ha

of land. The objective was to establish 40,000 ha of sugarcane plantations with the potential to develop an additional 10,000 ha, as well as revive the irrigation infrastructure within eight years. The community claims that the government only controls one-tenth (5,112 ha) of the area, and that the company is grabbing the community land through encroaching outside the ARDA (state) boundaries. An estimated 3,000 households have been displaced. While in the past the community was a self-reliant community which produced cotton and maize, the land dispossession reduced the community to an impoverished state.

Source: Capri. 2016.



Further reading

Hull, S. and Whittal, J. (2018). Addressing shortcomings of land tenure reform in customary land rights. Downloaded from <https://www.ee.co.za/article/addressing-shortcomings-land-tenure-reform-customary-land-rights.html> on 29 September 2020.

Handout 4: Advantages and disadvantages of formalisation for women under customary land tenure

Evaluation of formalisation on women's land tenure in customary areas

Advantages

- Improved land governance with increased capacity to regulate land rights
- Increased government capacity to monitor unsustainable resource exploitation
- Potential to reduce poverty, which affects women the most
- Potential to reduce conflict, which hurts women more
- Improved compliance with international human rights protocols and women's human rights
- Protection of women and those with weak land rights from dispossession through, e.g. land inheritance
- Titling and registration can help free women from the patriarchal biases

- Economic empowerment of women, by providing land in their own names
- Legal empowerment of the poor, that enables them to defend their property rights
- Registered land rights that can be recognised and defended in a court of law
- Independent land rights

Limitations

- Exposure of customary land to grabbing by government and international institutions
- Undermining of community and social safety nets by allowing non- members to move into the community
- Undermining of decentralised local land management processes and structures that are more responsive to the

needs of women

- Privatisation of common tenure resources like grazing, water and forest which women rely on to fulfil their productive responsibilities
- Generation of counter-claims and conflict which work against women
- Elimination of the subsistence role of land
- Erasure of customary and collective land management regimes, that are an important social safety net
- Increased inequality between those with formal title and those without title
- Elimination of overlapping claims to land
- Reinterpretation of identities may increase tension in the community



- Induced displacement of poor women who cannot pay for the registration and certification
- Loss of underutilised land that women negotiate through various arrangements
- Pushing of informal / unregistered activities into illegality, making land more expensive
- Criminalisation of the poor and those who cannot afford to certify
- Corruption and bribe-seeking by officials
- Over-exploitation of resources as local management institutions is disrupted and marginalised
- Loss of land by secondary right holders, such as migrants or women in informal or polygamous unions.

Advantages and disadvantages of customary land tenure for women

ADVANTAGES

- Access to community land resources like forests
- Allocated land on kinship basis
- Flexible land rights
- Birth right for social security if divorced or evicted
- Informal land market
- Usufruct rights for widows
- Kinship support with reproductive assets
- Identity and belonging
- Opportunity to borrow land
- Fall back and social security
- Overlapping claims on land accommodated

DISADVANTAGES

- Women have dependent land rights
- Ambiguous and uncertain land rights
- Informal land market may undermine rights
- Under customary law, women are treated as minors and therefore cannot be allocated land, inherit it or make decisions about its management and use
- Land rights are vulnerable to loss, upon end of marriage
- Male bias in decision-making structures
- Widows treated inconsistently
- Limited land use rights; no control over production and management decisions
- Vulnerable to extortion by traditional leaders and male authority
- May be marginalised from decision-making



LESSON 06

Threats to Women's Land Tenure in Southern Africa



PURPOSE

- The lesson will train participants to identify the threats to women's land tenure in customary areas and how these are manifested.
- CSO participants will share strategies of how they are responding to these threats in the areas where they work.



DURATION

1 hour 30 minutes



MATERIALS

Flipchart , markers



Watch video

(20 minutes)

The impact of traditional authority on rural women's land tenure in South Africa: <https://www.youtube.com/watch?v=Bd1cA70qQho>

Participants should discuss and reflect on the video.

Trainer's Instruction

Facilitate a discussion about the threats to women's customary land tenure.

Discussion Guide

The threats to women's land tenure undermine women's tenure security. There are institutions and processes that interfere with women's land tenure security or their capacity to enjoy their bundle of rights.

Gender roles and norms

The roles and norms governing women's and men's behaviour, opportunities, and perspectives, form the social context. Examples include the marginalisation of women in the control of land and inheritance. The gender norms are also perpetuated by women who have internalised these norms that marginalise women from control of land in customary areas.

confiscated the land of a widow who was trying to dispose of her land after her husband passed away.* The tribal authority claimed that it was because the land's permission to occupy (PTO) was registered in the deceased husband's name.

**Personal interview, staff member at Nkuzi Development Association, 23 November 2020.*

Resistance by those in power and the community in general

Some traditional courts do not allow women to represent themselves in the traditional courts, or where they do attend, they will not be given a voice. In the Muleji area in Limpopo in South Africa where a land market is tolerated, the tribal authority

Women's lower social and political status in indigenous communities

Women's lower status in traditional communities has a negative impact on their involvement in decision-making and ability to claim their rights to use or "own" land. As a result, they may not effectively participate in public meetings and/or structures put in place to secure their customary land rights.

LESSON 06

Project based interventions in strengthening customary land rights for women

These interventions lack sustainability. As a result, some projects end before the results are secured and/or the communities fail to sustain the momentum introduced by the project.

Women's limited capacity to make change happen

This can be because of lack of confidence, low literacy levels, leadership, or men's resistance.

Formal law

The use of formal law to secure women's customary land rights can have a negative impact of undermining those rights. Formal law can be overruled by customary law in the case of a conflict. If laws are poorly written or broad, they will have loopholes that can lead to the exploitation of women; for example, when laws do not clearly state that all household members are considered members of a community. Formal laws that are introduced to

govern customary tenure land can also be ignored if they are not backed by implementation mechanisms and/or sanctions for non-compliance. For example, in South Africa, the Traditional and Khoi-San Leadership Act 3 of 2019, which paves the way for the establishment of a traditional sub-council to support gender-sensitive customary land management, prescribes that "at least a third of the members of the traditional sub-council must be women", but has had minimal impact as it lacks an implementation strategy and there are no consequences for the tribal councils who fail to implement the required quota.

Marginalisation from governance

When interventions to secure customary land do not pay attention to the inclusive involvement and participation of women in common resource governance structures, the predominantly male dominated structures will continue to govern collectively-held land. Women's interests will be ignored and overlooked and their rights to common resources may

be weakened or lost. Women are marginalised from land governance structures because traditionally they are not involved in governance; women do not consider the issues discussed relevant to their lives and priorities; they lack experience or knowledge of the issues or because their opinions are not valued equally with those of men; or women are present but lack the skills, confidence, and experience of speaking in governing forums and are unaware of the rules and procedures of governing bodies. Governing bodies are also often unaware of the reasons for and benefit of including women's interests in their decision-making, and women may also be unwilling to attend or uninterested in participating in governing bodies. Moreover, community-level policies, rules, by-laws, and statutes commonly fail to challenge gender inequalities and to take the different needs and interests of women and men into account, and community-level institutions and national-level institutions that oversee them are not accountable on gender equality and women's rights.

Women's limited information on customary resource management and decision-making

Women attend fewer public gatherings than men. This is because they are busy and/or do not believe that it is their place to attend and participate in these meetings. If they lack information, women are less likely to effectively participate in the decision-making around customary land management. As a result, they lack information on processes and proposals to change land governance practices and may be more likely to lose their land.

Poor project design

When gender differences are overlooked in the design and implementation of projects aimed at securing customary land tenure, women's land rights will be weakened. Projects that do not take into account differences between men and women and among women potentially run a risk of entrenching the vulnerabilities of women's customary land rights. The failure to prepare and/or implement a gender strategy in the project, lack of meaningful gender integration, inflexible projects that fail to respond to a specific context and projects that do not monitor the effect of their intervention on women, may undermine women's customary land rights.

Lack of gender-disaggregated information

This can lead to projects or efforts that either limit or reduce women's land tenure security. Not understanding women's and men's rights as separate from the community's rights, risks disempowering women, who, while often socially and legally vulnerable, are economically active members of the community.



Activity

Divide participants into 4 groups according to their countries.

Each group discusses how the threats manifest in their country and the strategies their CSO is using to mediate these threats.

Groups report to plenary (10 minutes each).

Allow time for questions and engagements from the floor.



LESSON 07

Securing Women's Customary Land Rights



PURPOSE

- Participants will learn the features of secure women's land rights on customary land.
- Participants will learn the key requirements to ensure efficient land administration to secure women's customary land rights.
- Participants will learn the steps that women can take to secure their own land tenure on customary land.



DURATION

1 hour 30 minutes



MATERIALS

- Flipchart, video, markers
- Handout 5: What works for Women's Land and Property Rights? What we know and what we need to know?

Step 1: Features of secure customary land rights for women

A woman's land rights are secure if:

- they are legitimate;
- they are not affected by changes in her social status;
- they are granted for an extended period of time;
- they are enforceable; and
- she can exercise the rights to land without having to secure permission or approval from a male authority.

Source: Hannay and Scalise, 2014.

Step 2: Key requirements to ensure secure land administration systems that strengthen women's customary land rights.

Clear legal and regulatory framework

A clear framework:

- encourages gender-sensitive laws and regulations;
- looks to implementation regulations for further reform;
- ensures that land laws supporting women's rights are not undermined by other laws, such as family and inheritance laws;
- considers the cultural context of a country, which can affect the implementation of laws that otherwise appear gender-sensitive;
- supports awareness of legal rights among women, local customary institutions, and formal legal institutions;
- identifies and builds on existing customary practices and social norms that positively affect women and help create space for necessary changes. Understanding positive practices requires collecting information about how women and men use and control land, how community decisions are made and what role women play in community governance, how wealth is distributed within the household through inheritance and dowry or bride price;
- understands local customs and social norms to have a realistic view of what the project will need to address – what they are, why they exist, what benefit they provide, whether there is a desire for change by either men or women, what is the potential benefit or harm of change and to whom – and build on positive customs.

Identifying and addressing the necessary preconditions for women's empowerment

For women to be empowered within their communities, certain enabling conditions must be in place to give women access, voice, and agency in community power structures. Globally, there is a gender gap in women's access to power, inclusion in decision-making, and leadership at all levels, including in rural councils. In some mining-affected communities in South Africa, women are only allowed to be on the traditional decision-making council if they support the status quo. In Mkopane, Limpopo Province of South Africa, women are not included in the council but they are allowed to attend meetings.

Government capacity

- Build the capacity of government officials through gender training and other tools.
- Ensure that officials understand the laws that

protect women's land rights and have tools to ensure proper implementation.

Community level involvement

- Engage local leaders and other community-level actors.
- The strongest resistance to women's land rights can often be found at the community level, but focusing on that level can help bring about real change.

Project design, implementation, and monitoring

To reach the desired project outcomes, a gender-sensitive focus must be integrated throughout the project life. To this end:

- Include the knowledge and concerns of local women in designing projects so they are tailored to women's needs.

- Undertake gender analysis and gender-differentiated data collection in social assessment. Projects should identify all property rights holders and/or resource users within households and communities, and account for women's lower status, differences in accessing education and services, and the communities' lineage and marriage practices.
- Train beneficiaries and project staff on gender and women's land rights. Separate trainings for men and women can yield more female involvement, and training must address the cultural norms that create opposition to women's land rights.
- Conduct baseline studies to capture the gender issues before project interventions. Projects should collect and analyse gender-disaggregated data throughout.



Activity

Exercise in CSOs sharing the work they are doing to secure women's land rights.

Handout 5: What works for Women's Land and Property Rights? What we know and what we need to know?

See: <https://gltn.net/download/what-works-for-womens-land-and-property-rights-what-we-know-and-what-we-need-to-know/?wpdmmdl=15891&refresh=5f9ee66cc281f1604249196>



Video: A New Hope (6 minutes)

https://www.youtube.com/watch?v=_rv9FdijTJU

How communities in Mozambique are mapping and documenting their customary lands



Further reading

Caron, C. (2018b). The projects that are helping Zambian women get better access to land. Downloaded from <https://theconversation.com/the-projects-that-are-helping-zambian-women-get-better-access-to-land-100178> on 11 October 2020.



What steps can women take to secure their land rights?



PURPOSE

Participants will learn strategies that women are using to secure their customary land tenure in Southern Africa



DURATION

1 hour



MATERIALS

Flipchart

Ways in which women can secure their land rights

The women in the communities can secure their own land tenure in the following ways:

Norms and culture

- Interrogate change
- Change the way they view their relationship with land
- Understand their land rights and belief systems

Assertiveness

- Confront unfair practices by traditional authorities
- Voice their concerns
- Utilise land they hold to generate income
- Assume leadership positions
- Resist unfair practices
- Hold leadership accountable

Organising and mobilising

- Mobilise and organise – network information and experiences
- Collaborate with existing structures to consolidate their voices
- Lobby

Capacity building

- Attain legal literacy to defend their land rights
- Develop literacy to understand documents
- Acquire tools to build capacity

Take advantage of opportunities

- Attend traditional land governance institutions and demand attention
- Participate in decision-making processes
- Secure and register land rights
- Use land productively
- Become traditional leaders/ join leadership and be represented in decision-making

Information

- Share information through formal and informal networks
- Attend community meetings
- Build regional and international coalitions
- Demand inclusion

Land

- Use tools for monitoring registrations
- Secure land as a group and register
- Produce on the land

Grassroots women confront unfair practices by traditional leaders

The Ingonyama Trust Board (ITB) and traditional leaders are forcing women residents on land under its control to sign leases through male proxies, in effect removing their right to own land. The unlawful practice, which is widespread throughout KwaZulu-Natal, was brought to the public's attention in an application in the High Court in Pietermaritzburg, by several organisations and rural residents who want the court to halt the board's lease programme. The chairperson of the Rural Women's Movement, Sizani Ngubane, a veteran rural development and gender activist, said in her affidavit that the board was "undermining the security of tenure" of residents by unlawfully "extorting" money from them through the lease programme. The rights of women were further undermined by the fact that some amakhosi and the board demanded that the lease be signed by a man. The unlawful practice, which is widespread throughout KwaZulu-Natal, was highlighted in 2018 in an application in the High Court in Pietermaritzburg by several organisations and rural residents who want the court to halt the board's lease programme.

Source: Harper, 2018.



**Further
reading**

Ntauazi, C., Noyes, J. and Joala, R. (2020). Rural women demand a seat at the table in Mozambique's National Land Policy Review. Downloaded from <https://www.plaas.org.za/rural-women-demand-a-seat-at-the-table/> on 15 October 2020.

A woman with dark skin and braided hair is crouching in a lush green field. She is wearing a wide-brimmed straw hat, a white sleeveless shirt, and dark green overalls. She holds a long, light-colored wooden staff horizontally across her lap. The background is filled with large, vibrant green leaves and some small yellow flowers. The lighting is natural, suggesting daylight.

Evaluation

Handout 6: Evaluation Forms

References and further reading

Capri, (2016). Impact of biofuel induced land corruption on women: The case of Chisumbanje Ethanol Project, Zimbabwe. Downloaded from <https://capri.cgiar.org/2016/07/28/impact-of-biofuel-induced-land-corruption-on-women-the-case-of-chisumbanje-ethanol-project> on 17 October 2020

Caron, C. (2018a). Pursuing gender transformative change in customary tenure systems: Civil society work in Zambia. *Development in Practice*, 28(7): 872-883. DOI: 10.1080/09614524.2018.1480896

Caron, C. (2018b). The projects that are helping Zambian women get better access to land. Downloaded from <https://theconversation.com/the-projects-that-are-helping-zambian-women-get-better-access-to-land-100178> on 23 October 2020.

Catholic Commission for Justice and Peace. (2014). Land displacement, involuntary resettlement and compensation practice in the mining sector. A comparative analysis of legal and policy frameworks in Southern Africa. Downloaded from <http://www.ecmmw.org/new/wp-content/uploads/2014/12/Report-on-Land-Displacement-Involuntary-Resettlement-and-Compensation-Practices.pdf> on 17 October 2020.

Chambati, W. and Mazwi, F. (2020). Towards a national gender-sensitive land policy in Zimbabwe: Issues for consideration. Downloaded from <http://nangozim.org/publication/towards-national-gender-sensitive-land-policy-zimbabwe-issues-consideration> on 24 October 2020.

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Cousins, B. (1993). Debating communal tenure in Zimbabwe. *Journal of Contemporary African Studies*, 12(1): 29-39. <https://doi.org/10.1080/02589009308729546>

Cousins, B. (2009). Potentials and pitfalls of "communal" land tenure reform: Experience in Africa and implications for South Africa. *Proceedings of the World Bank Conference on land governance in support of the MDGs*. Washington DC, USA, 9-10 March.

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Notes



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