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Land Rights for Women and Vulnerable Populations

Presenter: Jennifer Duncan

**Property Rights and Resource Governance
Issues and Best Practices**

Washington, DC

October 2012

Objectives

- Explain *why* secure land rights for women are so important to the well-being of all of the members of the household
- Introduce programmatic approaches for strengthening women's rights to land and other resources
- Introduce programmatic approaches for strengthening the land rights of vulnerable populations
- Convey why it is important to consider land rights for women and land rights for vulnerable groups separately

Why distinguish the land rights of women from the land rights of vulnerable populations?

- Strengthening land rights of a vulnerable population may not improve the land rights of women within that population, without specific focus on intra-household distribution of rights
- Land rights and governance systems of vulnerable populations may discriminate against women
- Strengthening such systems may make things worse for women



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Securing land rights for women: to what end

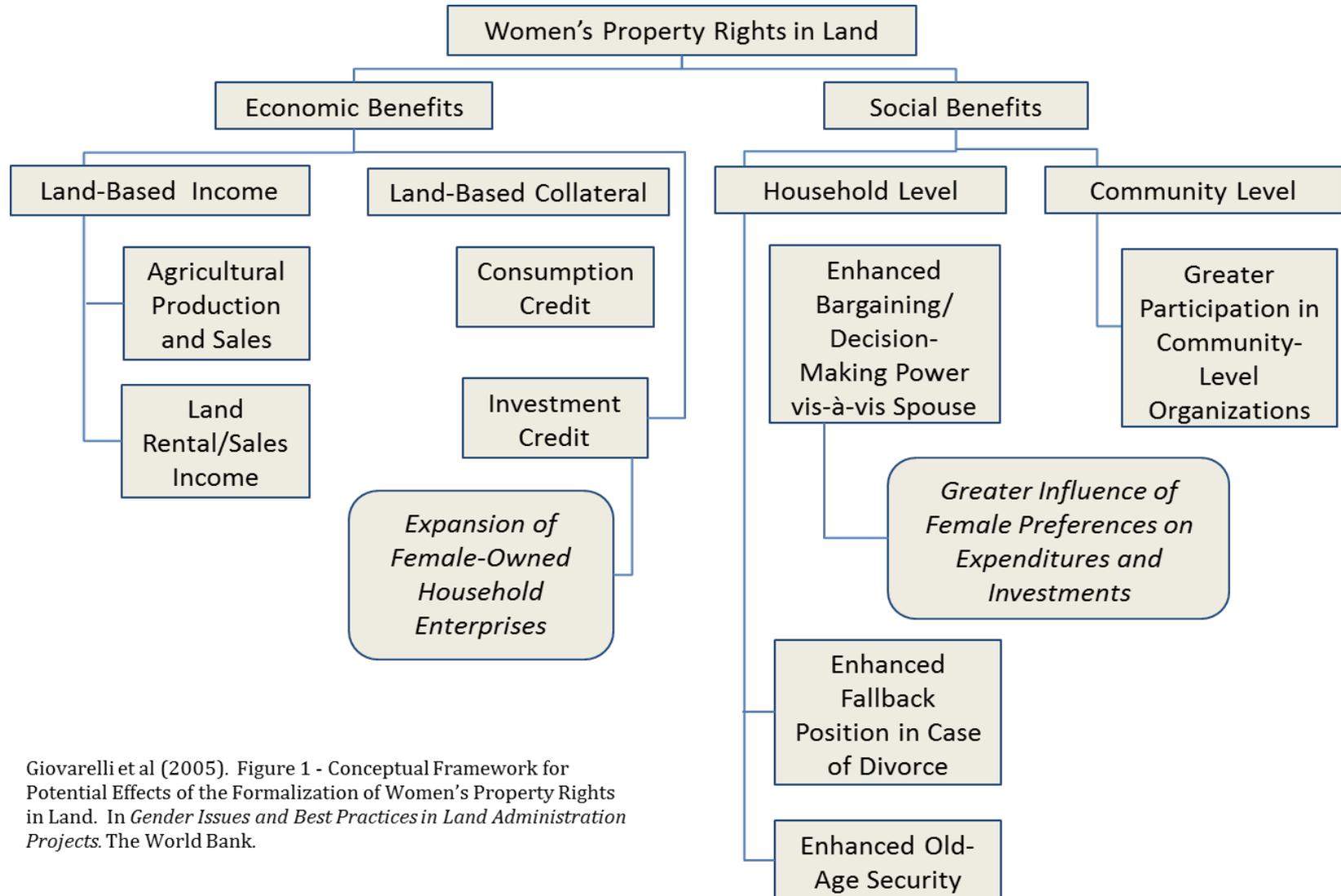
Secure land rights correlate positively with increased agricultural productivity and income

- However, increased agricultural activity/income may *not* decrease household poverty or improve family nutrition because it matters *who within the household* has secure land rights

When women have secure land rights...

- The amount of assets a woman has at time of marriage corresponds with the subsequent share of household expenditures spent on food, education, health care, and children's clothing
- Increased tenure security for widows correlates positively with lower levels of HIV/AIDS transmission
- Increased tenure security for women correlates positively with reduced levels of marital violence
- Women are more likely than men to spend income from family resources (including land) on children's nutrition and education

Women's land rights framework



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

Insecure land rights for women are created by:

- Cultural or legal prohibitions to acquiring land via markets, inheritance, transfer, or gift (individually or jointly)
- Gender differences in customs governing marriage, death, inheritance, and marital residence
- Gender differences in how different types of land rights are allocated, held, recognized, and managed
- Discriminatory (and usually poorly drafted) policies, laws, and regulations
- Failures in implementation of laws
- Lack of awareness, information, and enforcement
- Gender differences in social roles, structures, access



Photo credit : Debbie Espinosa, Landesa

Efforts to enhance women's land rights (1)

Laws and policies—

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

Efforts to enhance women's land rights (2)

Land administration—

- ***Guatemala and India:*** State-sponsored land programs require that land documents be in the name of both spouses or in the name of the female only
- ***India:*** Ownership rights for women encouraged by incentives at state and local government levels, including reduced stamp duty rate for land registered jointly or in the name of the woman alone (DPGR 2006)
- ***Ethiopia:*** Photographs of spouses are required on joint title deeds (USAID 2008)

Approaches to consider in programming (1)

- Understand the entire universe of laws that govern land and how they intersect and impact women's land rights (land laws, family laws, commercial laws, matrimonial laws, inheritance laws, and other laws)
- Support integration of constitutional and legislative reforms supporting women's land rights into customary land governance institutions (Kenya JUSTICE project)
- Identify all property rights holders within households, and all rights other than ownership
- Understand what women and men want and believe is feasible



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Approaches to consider in programming (2)

- Support rights awareness for men, women, and local leaders/influential people
- Make rights real by providing legal recourse when rights are violated (courts, ADR, customary institutions, paralegals)
- Monitor impact of land-related reforms on men and women; make mid-course adjustments if they are adverse to women
- Provide incentives and motivation to project personnel, local authorities and stakeholders for gender integration



Photo credit : Debbie Espinosa, Landesa

Land rights of vulnerable populations: defining vulnerability

- Definitions are situation- and location- specific, and reflect diverse cultural, social, political, and economic conditions
- Group populations may be large or small, depending upon the definition of the group
- Historic vulnerability: indigenous groups, pastoralists
- Newer contexts for vulnerability:
 - Land rush
 - Mining
 - Urbanization
 - Climate change
 - Natural resource development

Land rights vulnerability and governance

- Land rights vulnerability often spawned by exclusive political and governance systems over land
- Long-term solutions therefore require political will to increase access and participation by Vulnerable groups
- Vulnerable groups must have representation and be afforded accountability, transparency, and equity
- Good land governance requires:
 - Participation in law-making
 - Rule of law
 - Access to justice and adequate enforcement



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Best practices case study: community land rights approaches

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

Approaches to consider in programming:

- Thorough LTPR assessment for vulnerable populations: must be a threshold for any development project, including large-scale agricultural investments
- Community self-governance
- Benefits sharing agreements when the land resource is to be leased out (but need enforcement mechanisms)
- Access to justice and enforcement of existing legal protections of land and natural resource rights of vulnerable groups
- Building political and social access to and participation in land and NRM governance by vulnerable populations
- Support for self-governance approaches and demand-driven solutions