



INTERNATIONAL  
LAND  
COALITION

Synthesis of contributions by members, partners and individual experts  
in the International Land Coalition's network  
to the e-consultation facilitated by GI-ESCR and IWRAW-AP

## **Women's land rights and gender justice in land governance: pillars in the promotion and protection of women's human rights in rural areas**

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This document does not constitute an official position of the ILC, nor of its members or donors. Rather, the views expressed herein should be attributed to the individual authors and contributors.<sup>5</sup>

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## **Abstract**

Across the developing world, rural women suffer widespread gender-based discrimination in laws, customs and practices cause severe inequalities in their ability to access, control, own and use land and limit their participation in decision-making at all levels of land governance.

This synthesis of submissions resulting from a consultation, to which 19 members, partners and individual experts from the International Land Coalition's network responded, highlights the centrality of women's land rights and of gender justice for achieving the aims of CEDAW and to promote and protect women's human rights in general.

Contributors to the consultation emphasised the need to achieve de facto equality, the diversity of rural women and tenure, as well as the importance of women's participation in land governance. Participants also place great expectations on the forthcoming *General Recommendation on the Rights of Rural Women* as a critical tool to advance women's land rights and address the complex challenges and opportunities facing rural women, including by giving new momentum to international and national policy agendas.

The synthesis closes with specific recommendations to the CEDAW Committee to reaffirm women's land rights as a fundamental human rights issue for rural women.

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## Introduction

Across the developing world, rural women are among the most disadvantaged people. Widespread gender-based discrimination in laws, customs and practices cause severe inequalities in their ability to access and control land and other natural resources, and limit their participation in decision-making in land governance, from the household to local and national institutions.

Women's land rights and gender justice in land governance are fundamental pillars in the promotion and protection of women's human rights in rural areas. Not only are they human rights themselves, being closely linked to women's status, legal capacity and inheritance and property rights, their position in family law and marriage, and their participation in public life. They also provide access to the most important physical asset in agrarian societies, land, in contexts where women provide a significant share of agricultural labour. Women's land rights are a key determinant of women's empowerment in rural areas and have profound implications on women's ability to enjoy *in practice* civil and political rights, social and economic rights, as well as to escape poverty and social exclusion.

This document highlights the centrality of women's land rights and gender justice in land governance for achieving the aims of the **Convention on the Elimination of all Forms of Discrimination against Women** (hereinafter CEDAW). In addition, it aims to strengthen the profile of women's land rights and gender-sensitive and gender-equitable land governance in the forthcoming *General Recommendation on the Rights of Rural Women*.

The *General Recommendation* is an opportunity to unpack the concept of "rural women" and explore the relationship between CEDAW and women's land rights in a more systematic manner, with special reference to the gap between *de jure* and *de facto* equality, especially in areas where customary and statutory norms around land conflict with those on marriage and family relations to the detriment of women.

To write this submission, the Secretariat of the **International Land Coalition (ILC)**,<sup>6</sup> took advantage of a process started by its partners, the **Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)** and **International Women's Rights Action Watch – Asia Pacific (IWRAW-AP)**,<sup>7</sup> consulting its members and partners on the role of women's land rights in the promotion and protection of rural women's human rights. A total of 19 contributions were made by ILC members as well as organisations and individuals in ILC's wider network (all contributions - received in English, Spanish and French- and a contact list of contributors are available from the ILC Secretariat).

This document also builds on existing literature, the consensus on women's land rights achieved globally through the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*, endorsed by the Committee on World Food Security in May 2012, and in Africa through the African Union's *Framework and Guidelines on Land Policy in Africa*, as well as on ILC's work on CEDAW, assessing progress towards achieving the aims of the Convention in Art. 14, 15 and 16 (ILC, 2010) and relevant ILC activities.<sup>8</sup>

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<sup>6</sup> ILC is a global action network established to promote secure and equitable access to and control over land. , ILC's membership of 116 civil society intergovernmental organisations is served by a Secretariat currently hosted by IFAD in Rome (Italy), with nodes in Latin America (hosted by CEPES, Peru), Africa (hosted by RISD, Rwanda) and Asia (hosted by ANGOC, the Philippines). For more see [www.landcoalition.org](http://www.landcoalition.org)

<sup>7</sup> See the annex for the questionnaire for the GI-ESCR and IWRAW-AP consultation.

<sup>8</sup> Including an on-line discussion on "How can women's land rights be secured?" (ILC et al., 2012) held in January 2012

This document briefly summarises the main topics raised in the consultation, with selected quotes from contributors illustrating each of the points made. On the basis of contributions and ILC's previous work on the subject, this document closes with recommendations for the CEDAW Committee to ensure that rural women's land rights are addressed in its forthcoming *General Recommendations on the Rights of Rural Women*.

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for a joint FAO-IFAD-ILC side-event at the Commission on the Status of Women (CSW), a workshop on "Gender and women's land rights" organised by the ILC, CINEP/PPP and ILSA in Colombia in November 2012, and the Mera Declaration of the Global Gathering of Women Pastoralists, which took place in India in 2010 (attached in the Appendix).

## Synthesis of contributions

### 1. Facts and figures on gender inequalities in access to land

The evidence on gender inequalities in access to land is “overwhelming. Women (...)s are consistently less likely to own or operate land; they are less likely to have access to rented land, and the land they do have access to is often of poorer quality and in smaller plots” (FAO 2011: 23)<sup>9</sup>. When women hold land, they do not necessarily control what they produce or the resources they need to farm – (Deere et al 2011: 47<sup>10</sup>). Women also face widespread discrimination in inheritance rights, and when they access land through markets and redistributive reforms they are less likely than men to get land because of discrimination in land markets, differences in incomes and access to credit, and social discrimination (World Bank, 2012: 155). This is at odds with the increasingly central role played by women in the agricultural labour force, estimated at 43% (*Ibid*) to 60-80% (UNIFEM, *undated*; Foresight, 2011).

#### Contributions

*“The majority of women access land to cultivate it, yet they do not control production, access to property and inheritance rights over this land.”*(Peru, Flora Tristán: 2)

*“In [nomadic pastoral] communities we are working [with] only around 20% of land use certification and registration is under women’s name (land under the housing in winter pasture camp). But in all other seasonal pasture land (spring, autumn, and summer) at the common property regime – [without] any registration or certification at all [...] it is mostly husband’s business”* (Mongolia, Jasil: 1).

*“Women own 4% of land in the North-East and just over 10% [in South Nigeria] [...] 60-70% of the rural work force is women but men are five times more likely to own land (Gender in Nigeria Report, 2011)”* (Nigeria, Women Environmental Program: 2).

### 2. De facto equality, diversity and participation

**2.1. Laws are a first important step, but they are not enough.** CEDAW requires States Parties to pursue both *de jure* and *de facto* equality (Art. 2, 3, 4 and 5). Contributors express concerns over legal discrimination and, *above all*, the lack of implementation where progressive statutory laws already exist, especially in rural and remote areas, or among minority and indigenous groups. To address these challenges States Parties should not limit themselves to amending legislative frameworks, but should proactively engage in promoting social change through positive discrimination, including by targeting resources and developing specific policies that promote and protect women’s land rights and gender justice in land governance. **States Parties must pursue both *de jure* and *de facto* equality.**

#### Contributions

*“The promises and good intentions of the Constitution of Kenya are yet to be realized in practice because what counts as equality is substantive equality. The realization of these good intentions requires programmatic implementation efforts and vigilance on the part of the citizenry”* (Kenya, Kenya Land Alliance: 6)

*“In Cambodia, despite the inclusion of the strategic protection of women’s equal rights in land ownership in*

<sup>9</sup> According to FAO (2011), women represent fewer than 5 % of all agricultural landholders in North Africa and West Asia; less than 15% in sub-Saharan Africa, South-Asia, and South-East Asia (e.g. Mali 3.1%; Uganda 16.3%; Indonesia 8.8%; India 10.9%; Nepal 8.1%); and less than 25% in Latin America (e.g. Guatemala 7.8%; Peru 20.4%).

<sup>10</sup> e.g. Nicaragua, where 16.9% of land owners are women, but just 8.8% are household decision-makers.

*“the Land Law (2001), women are more likely than men to be landless or have significantly smaller plots”* (**Cambodia**, Star Kampuchea: 1)

**2.2. Laws and policies should capture diversity among rural women and the ways they use land and natural resources.** Rural women are not a homogeneous group and differences in class, age and marital status hugely influence access to land, as does living with HIV/AIDS or being internally displaced. This is coupled with diverse ways in which rural women access, control, own, use and conceive of their relationship to land and natural resources. Land rights are not relevant only to women farmers, but also to women pastoralists, indigenous and fisher women, holders of overlapping and periodic rights, and users of common pool resources. Some rural women are also human rights defenders who peacefully promote their communities’ land and environmental rights. All rural women should be empowered to decide on their own relationship to land, according to their needs and aspirations.

#### **Contributions**

*“There is also wide diversity among women – based on caste, class and location, tradition, etc. The role of land for the livelihood security of these divergent women’s groups is also different. [...] Dalit and underprivileged Janajati women, physically and mentally challenged women, women of minority groups, women engaged in works attracting social stigma need to be emphasised in land reform programs”* (**Nepal**, CSRC: 2)

*“The legal status of women’s land rights is drawn from the Constitution [...] of 2003, [...] the Inheritance Law [was] promulgated in 1999 and later on the Land Law in 2005. However, these laws protect only women who are formally married”* (**Rwanda**, Group of CSOs: 1)

**2.3. States Parties must promote rural women’s participation in land governance as full citizens.** Beyond land rights, having a land title usually means having a physical address and thus access to birth certificates, identity cards, and voting documents, all of which are indispensable to exercise civil and political rights t (Niasse, 2012). The question of women’s rights to land is one of citizenship. Rural women should be empowered to participate meaningfully in decisions over land governance and territorial development (CEDAW Art. 7, 8 and 14; c.f. ILC, 2011). Decisions on how land is used, controlled or owned should include women as equal participants in decision-making with men at all levels from households and communities to land administration institutions and ministries.

#### **Contributions**

*“In Bangladesh and Pakistan, usually women are expected to avoid spaces where men congregate, especially the marketplace. The territorial gendering of space affects the women’s participation in activities outside the home”* (**Asia**, ALRD: 4)

*“[...] low participation of women and girls in decision-making [...] only 2% of leadership in local governance”* (**Albania**, NACFPA: 1)

*“[...] Without gender aware officials on bodies dealing with land allocation, inheritance and any dispute dealing with land, a male bias among these officials tends to be experienced by women [...] [Women currently represent just] 20% of female staff of district land offices”* (**Kenya**, Kenya Land Alliance: 10)

### 3. The current status of land rights: laws, policies and regulations<sup>11</sup>

**3.1. Statutory law, policies and regulations** continue to be **gender-blind**, and **sometimes discriminatory**, in many countries, policies and regulations, especially relating to women's status, women's legal capacity, women's inheritance and property rights, family life and equality within marriage. Laws around marriage, divorce, widowhood, inheritance, and family relations undermine rural women's enjoyment of human rights, especially their right to access, own, acquire, control, administer or otherwise use land. Severe concerns are expressed about State Parties with reservations on Art. 2, 15 and 16 of CEDAW and who do not recognise in their legal frameworks women's right to make decisions for themselves, to inherit, own and manage property, and to access justice. In particular, "within the family, the lack of legal capacity renders women dependant on males and subject to male authority with little bargaining power and no resource outside the family" (Freeman, 2009: 9; c.f. CEDAW, 1994).

#### Contributions

"[...] there is a need to harmonize the enforcement of the Land Law and Forestry Law, and the Law on Protected Areas to effectively guarantee and protect the land rights of the poor and indigenous peoples, majority of which are women. The Protected Areas (PA) Law is silent on gender and women's equal rights" (**Cambodia**, Star Kampuchea: 2)

"The legal status does not safeguard the rights of women to access, control, and use, own or inherit land, this is because the [1978 Land Use Act] [...] is embedded in the Constitution of Nigeria and any attempt to rectify its inadequacies requires a constitutional amendment" (**Nigeria**, WEP: 2)

"[...] Stereotype that further women's exclusion are still strong, especially in rural areas, this does not help the promotion of rural women's rights to access and control land in Madagascar. On the contrary, women have use rights to land according to local practice. The question of succession is regulated in the family code and is not directly addressed in land tenure reform" (**Madagascar**, FVTM and Platform SIF : 2)

"[The] State must introduce a gender-equitable Uniform Family Code that would apply to everyone irrespective of religion, ethnicity, caste and marital status [...]. To do this full ratification of CEDAW must be a precondition. [...] For instance Bangladesh has reservation on Art. 2 and Art. 16.1" (**Bangladesh**, ALRD: 2)

**3.2.** While customary institutions play an important role in land governance, concerns are expressed about **discriminatory customs**, especially in contexts of legal pluralism when customary or religious law is formally recognised by the State and compliance with CEDAW not ensured. There is an urgent need to harmonise statutory, customary and religious law – especially regarding family law and property rights - with provisions of the Convention, reaffirming the primacy of CEDAW and eliminating practices which are based on the idea of inferiority of women (Art. 5).

#### Contributions

*The Constitution [...] rules that every single Mozambican citizen has equal rights to a land, man and women, without any gender discrimination, however, the secure land tenure rights in rural areas, due to strong consuetudinary or customary laws, women still do not plenty enjoy those rights" (**Mozambique**, CFJJ: 1)*

*"In most Togolese customs, women are excluded from sharing in rural land while a high proportion of women are exercising in agriculture (56.4% of the active population)" (**Togo**, WILDAF: 1)*

*"In much of East Africa, women do not customarily own land, and while formal law may nominally protect that right, formal law also often recognizes customary law. Custom can thus be used to keep women from asserting rights to own or inherit land, regardless of provisions in formal law" (**East Africa**, Landesa: 1)*

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<sup>11</sup> Contributions in this section were made in response to Question 1 of the GI-ESCR/IWRAW-AP consultation.

## 4. Reasons for women's lack of land rights<sup>12</sup>

**4.1.** The root cause of discrimination against women in access to land and other natural resources is a pervasive **patriarchy**, expressed in stereotypes, attitudes, perceptions and norms, which creates legal, political and economic limitations to the advancement of women. Patriarchy and deep-rooted gender stereotypes are widespread and operate at all levels, from family to local community, from administration to broader governance, from public institutions to civil society and rural organisations.

### Contributions

*"Due to socio-cultural constructs in the patriarchal mind-set prevalent in Asian societies, women's land right is still an issue on the margin of the mainstream development agenda. Consequently, policy and laws are not gender-sensitive and failed to take differentiated impact on women and men into consideration"* (**Asia**, ALRD: 2)

*"One [of the root causes] is the patriarchal society with heavy impact on how women really exercise their rights"* (**Mozambique**, CFJJ: 2)

**4.2.** Rural women are often limited to traditional gender roles of food production and child rearing, and accept customs and attitudes that discriminate against them because they have been educated to do so as well as because of social pressures. The practice and perception of women's position in the household, family and community affects the extent to which women can exercise their land rights. In addition to discrimination in both statutory and customary law, access to land in rural and remote areas is often governed in practice by local leaders who reproduce and reinforce gender discrimination. States should be proactive in adopting laws and policies to eliminate discrimination against women and attempt to modify or abolish discriminatory "customs and practices" (CEDAW Art. 2).

### Contributions

*"In rural China, women are equal under formal law. However, because rural land is owned by collectives which give 30 year use rights to individuals, women (who usually relocate to their husbands' native villages upon marriage) often effectively do not have rights to land"* (**China**, Landesa: 1)

*"In the Indian context, marriage plays a crucial role in the socio-economic status of women. A woman's life is almost always divided into pre-marriage and post-marriage status. [...] The problem arises when a woman becomes a widow. [...] There is no question of re-marriage or owning the husband's property. Back to her home she is treated merely as a burden and not a co-owner of the property."* (**India**, SWADHINA: 1)

*"Where the law has been inclusive of women rights to own land, social attitudes have prohibited such ownership. [...] Traditions gain acceptability; even women themselves who are placed in disadvantaged position by traditional practices end up accepting the violation of their rights and lose the will to demand for their rights"* (**Kenya**, Kenya Land Alliance: 6 and 8)

*"In recent interviews (July 2012) within the Red River Delta, a number of married women said that a large inhibition on their asserting rights was simply the social norm that wives "preserve family harmony" through not disagreeing or causing arguments"* (**Vietnam**, Jacobs: 2)

**4.3.** Rural women **are not empowered** to claim and defend their land rights. They usually lack knowledge of their rights, as do others in the community. Women often have little functional literacy because of less access to education; and lack capacities, documents and opportunities to participate in land governance, all reproduce and reinforce gender inequalities in access to land.

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<sup>12</sup> Contributions in this section were made in response to Question 2 of the GI-ESCR/IWRAW-AP consultation

Where they exist, women's organisations' lack capacities and resources to meaningfully influence and participate in land governance.

### Contributions

*"The Land Registration Act, 2012 has endorsed joint tenancy among spouses in pursuit of securing women rights to land and property. [...] Ignorance and low literacy levels are powerful machines that slowdown efforts geared towards uprooting retrogressive cultural practices"* (Kenya, Kenya Land Alliance: 4 and 8)

*"Since Nepal has been dominated by a patriarchal system and although there was a government announcement on women's access to land, there still needs to be a cultural campaign at the rural level as there are no awareness programmes on this policy"* (Nepal, CSRC: 1)

*"The lack of knowledge of laws protecting women is insufficient due to a lack of dissemination and popularisation of such texts"* (Madagascar, FVTM and Platform SIF: 2)

**4.4. There is no enabling environment and little political will to promote women's land rights, make land institutions gender-responsive, and develop practical, low-cost, and culturally acceptable tools.** In addition to revising discriminatory laws and policies, States Parties should promote gender justice within institutions and increase women's representation and participation at all levels. Positive discrimination and gender quotas may help build women's leadership in rural areas. States Parties should ensure that a women's land rights agenda is jointly supported by various ministries, including those on women/gender, family, land, rural development, and finance. State parties should mainstream gender-budgeting across all activities and provide gender sensitisation to officials as well as within communities to bolster political will. Long, costly and complex procedures to access land and justice should be simplified and practical solutions, like providing adequate space for two names in land registration forms, identified.

### Contributions

*"Even where law is clear, implementing regulations may have not been passed that reflect the rights or the laws may not support women's rights holistically (across land, inheritance, and family laws, for example). For example, even where law mandates joint ownership by spouses, forms for registering land might fail to include a second line to record both spouses (Benshop, 2004). In some cases, governments have no committed resources to properly implement"* (Global, Landesa: 1)

*"The non-consideration of the gender dimension in the implementation of the current reform and the lack of recognition of the barriers to promoting women's land rights by many of the important actors in the reform (...). The insufficiency of local services and the lack of communication about their existence, their role (in decentralised land administration)" »* (Madagascar, FVTM and Platform SIF: 1)

*"Land is a highly political resource and needs highest level of commitment of the respective Governments to ensure land justice. [...] In most cases it is administrative practices and biases that curtail women's equal property rights... [...] Under the Philippines agrarian reform programme, over half of the land certificates issued still does not include the name of wife, despite a department order to include the name of both spouses"* (Asia, ALRD: 4-5)

## 5. Consequences suffered by women due to violation of their rights<sup>13</sup>

**5.1. Women with no or insecure land rights have less bargaining power** within the household, less ability to access other resources, control their lives and their destiny, and participate in decision-making. In many communities, having no land implies a **lower social status**. A lack of land rights not only reduces women's autonomy and voice, but also affects their self-esteem and their well-being. Women with no or insecure land rights are less equipped to participate in public life and

<sup>13</sup> Contributions in this section were made in response to Question 3 of the GI-ESCR/IWRAW-AP consultation

land governance, which prevents them from enjoying full civil and political rights.

### Contributions

*“Women in India are treated almost like a property” (India, SWADHINA: 4)*

*“Marginalisation within households and communities apart from some acknowledgment of the role of motherhood [...]; depression, feelings of worthlessness through lack of social status and acknowledgement of contribution” (Global, Jacobs: 2)*

*“From an early age, girl children grow up with a profound lack of hope and let themselves be educated into a psychological and social dependence on men” (Burundi, APDH : 6)*

*“Low voice and representation of women in decision-making forum at different levels. [...] Inadequate opportunities to women to participate in decision-making within the household, communities, politics and policies.” (Nepal, Abhiyan Nepal: 2)*

*“In many cases, in research and in policy-making, women’s knowledge and abilities are “simply” forgotten or neglected” (Mongolia, Jasil: 2)*

**5.2.** In addition to structural and cultural violence, women with no or insecure land rights are more likely to suffer from acts of **gender-based violence**, including social stigma and isolation, rape and killings. In some countries, widows are forcefully evicted by in-laws. Gender-based violence is particularly widespread in contexts of displacement and among IDPs (ILC, 2011; 2012)

### Contributions

*“In most societies and across social groups [...] women may be subject to household/domestic and intimate violence [...]. Rural women asserting their rights may be seen to have broken an invisible “contract” concerning appropriate feminine behaviour” (Global, Jacobs: 1)*

*“Conflicts over land can result in high levels of violence against women such as physical assault, rape and murder. Forced dowries, divorces and evictions can lead to further destitution and marginalization.” (Asia/Bangladesh, ALRD: 4)*

**5.3.** Women with no or insecure land rights are more vulnerable to poverty, ill-health, food shortages, and to constrained opportunities to develop their livelihoods, i.e. their **social and economic rights are at risk**, particularly with regard to **health, food and housing rights**. This is even more the case for widows, divorced and separated women, disabled women, and those living with HIV/AIDs, as it is in contexts of property grabbing, either by in-laws and communities, or on a larger-scale, such as through large-scale land acquisitions which disproportionately affect women.

### Contributions

*“When women are unable to exercise their rights to own, use or access land, they, and often their children, are left vulnerable to homelessness, loss of livelihoods, malnutrition, disease, and death. [...] Where women lack land rights and ownership rights, they are also less likely to be reimbursed or resettled if they lose their land due to conflict, climate change, or government takings” (Global, Landesa: 2)*

*“Girls from landless or semi-landless households have almost no opportunity to complete their primary school education.” (Nepal, CSRC: 3)*

*“For widows and elderly, owning land also improves the quality of support from kin, and studies show that, without property, children don’t look after their parents well.” (Asia/Bangladesh, ALRD: 3)*

*“Tenure insecurity has resulted in the inability of women to engage in perennial crops (they usually grow food crops), to make sustainable investments. In short, women are prevented from enjoying the sustainable exploitation of land’ (Togo, Wildaf: 2)*

*"A more serious recent setback is a surge of violent land disputes and conflicts due to government-bestowed commercial and agri-business leasing of tracts of land [...]. An Amnesty International report (2011) on land evictions in Cambodia found out that forced evictions [...] are particularly hard on women because of the breakdown of community support networks and the separation of families" (Cambodia, Star Kampuchea: 3)*

*"[...] Due to huge demand on land by foreign investors, land is being sold by their husbands in the rural areas, without a consent of the women and these situation leads children to quit school due to the lack of income to support their studies" (Mozambique, CFJJ: 1)*

## 6. Promoting and protecting rural women's land rights: good practices<sup>14</sup>

**6.1. Guaranteeing rights:** in countries where discriminatory and gender-blind laws and policies persist, including customary laws, there is a need to revise them **to guarantee women's land rights** and **full compliance with CEDAW**. Where favourable legal provisions and policies do exist, implementation may still be sporadic if there is no enabling environment. However, there are examples of laws, policies and development programs involving the State that have had a positive impact, or projects from civil society organisations that can be replicated or up-scaled.

Notably, countries should ensure that land laws supporting women's rights are not undermined by other laws, such as family and inheritance laws. Further, consideration should be given to institutional back-up measures that make it easier for rural women to assert their land claims and rights – while there is a social risk for women to do so, the right economic incentives to ensure the whole family benefits can increase the legitimacy of women's land rights in their communities.

### Examples of good practice

Country	Good practices	Reference
Nepal	Government policy gives a tax rebate for women who register a land title, as well as a lower fee for registering joint ownership for women who register a land title, leading to a surge in women and couples registering land. Community sharing of resources under ownership of women's groups	Abhiyan Nepal, CSRC
Bangladesh	Laws and policies that guarantee joint ownership, like the Khas Land Distribution Policy in Bangladesh. Local NGOs/CSOs initiatives where women's savings and loans are mobilised to lease out lands in their name for agricultural production. 13 000 women have been elected at the local government lowest level, where one third seats are kept for women. These women played a critical role in local arbitration processes and land dispute resolutions, as well as in helping women get title deeds under the government distribution program.	ALRD
Bangladesh and India	Registration of marriage and divorce can be a very important tool in securing women's land rights. Organisations like SWADHINA promote marriage registration camps at the village level, to guarantee women's equal rights to husband's land and property. Compulsory registration of marriages authorizes women to claim for the property and investments of their husbands on widowhood.	ALRD, SWADHINA
India	A set quota of 30% seats reserved for women at all levels of local government has helped to increase women's representation in decision-making. While not without its challenges, such quotas have contributed to positive change by strengthening women's leadership and giving them the possibility to influence agendas and decisions locally.	ILC (2012) SWADHINA

<sup>14</sup> Contributions in this section were made in response to Question 4 of the GI-ESCR/IWRAW-AP consultation as well as to an ILC on-line discussion held in January 2012 (ILC 2012).

Mongolia	A recent proposed Article to the 'Draft Land Law': "allocation of seasonal pasture to herders' communities and herders groups shall be realised by co-management contracts and it must be agreed with the women group or women's representatives, as co-signatory on the contract". This is related to provision 15.2 of CEDAW [...]	JASIL
Colombia and Nicaragua	Land banks to support women to purchase and/or pay land registration fees, as in Colombia (Ley 731 of 2002) and Nicaragua (Ley 717), can mitigate widening gender inequalities in access to land (but need adequate resources to be meaningful).	ILC (2012)
Tanzania	The 1999 Village Land Act protects "the right of every woman to acquire, hold, use, and deal with land, to the same extent and subject to the same restrictions as the right of any man".	LANDESA
Kenya	The 2010 Constitution directly addresses women's land rights and establishes that "gender discrimination in law, customs and practices related to land and property in land" must be eliminated. The Land Registration Act 2012 endorses joint titling to protect matrimonial property during and in termination of marriage.	LANDESA, KLA
Rwanda	The 1999 Inheritance Law grants equal inheritance rights to sons and daughters, and protects the property rights of legally married women, through a clause requiring spousal consent for any land sales, leading to improved tenure security for married women and less gender bias in inheritance. In addition, the 2003 Constitution ensure that at least 30% of seats in decision-making organs are for women and the 2005 Land Law requires women/girls to be consulted and to give their written consent or refusal to any transaction of matrimonial or family property. Both men and women are obliged to collect their land certificate together.	Daley et al (2010) Group of CSOs

**6.2. Understanding rights:** there is an urgent need to increase women's awareness of their rights to inherit land, own land and participate in land governance – through awareness campaigns, media work and land rights education programmes or modules – but to also target traditional authorities and involve men in general. Awareness campaigns should be in all applicable languages, including local languages, and in formats accessible to all, including illiterate grassroots women. These campaigns need mobile services for remote communities and mobile indigenous peoples. States Parties should provide gender-disaggregated information on access to land, impact of land-related processes and land governance.

#### Examples of good practice

*"The biggest hurdle of land rights policy implementation is lack of awareness at the grassroots-level. [...] amalgamate local culture and ethos into the awareness-building methods [...] [by producing] posters in dazzling hues but which did not appear expensive, arrang[ing] video-shows in local tribal dialect, cultural shows upholding the status of women. [...] In keeping with local tribal custom SWADHINA also introduced "Earth Festivals" which were three long-day festivities . (SWADHINA, India: 4)*

In Mozambique, FAO, the Ministry of Justice, and the Juridical and Judicial Training Centre (CFJI) provided paralegal training courses for women. Paralegals sensitised communities on the benefits of gender equality and provided women with information on how to claim their land rights (ILC, 2012)

*"Sensitising women about their land rights can be done through various means: films, posters, stories on the radio. (...) Training women in leadership to make them leaders on the topic to serve as information providers in their communities" (Madagascar, FVTM and Platform SIF: 2)*

**6.3. Claiming rights:** Rural women and their organisations need support, especially capacity building and resources, to allow them to document their practices and challenges, access justice systems, and monitoring compliance with CEDAW and national laws, but, most of all, to mobilise

women to advocate for change at all levels Rural women's organisations also need space on national civil society platforms addressing land rights to ensure better representation of women.

#### Examples of good practice

Country	Good practices	Reference
Albania	The National Federation of Communal Forests and Pasture took the initiative of creating a special women's section within it and [...] transmitted the objective of 30% of women in decision-making in the Federations to support sustainable management of communal forests	NACFPA
Burundi	IFAD provided support to rural women claiming their land rights, through legal clinics, active at the provincial level, raising awareness on women's land rights and establishing family development committees which also run literacy classes. To help spread awareness, competitions were held in villages where locals could win prizes by showing their legal prowess.	ILC (2012),
Kenya	GROOTS supported community-based watchdog groups to protect women's land rights, providing alternative dispute resolution, legal aid, access to justice systems; and mediating and following up on inheritance rights cases. The strongest resistance to women's land rights is often found at community level, but focusing on that level can help bring about real change. For example, a project advocated for women's property rights through respected tribal elders in Kenya, helping widows living with HIV/AIDS who had been evicted to regain control over land and family property	ILC (2012) LANDESA
Nepal	CSRC campaigned and successfully mobilised grassroots women to advocate for policy change at state level, and helped facilitate 500 women to receive joint land certificates.	CSRC
Mongolia	JASIL facilitated the organization of 54 herders' communities in 4 different ecosystems, most of them with self-organized women's groups.	JASIL
India	SWADHINA promoted functional education and taught rural women to sign their names. It also promoted grass-root level women's groups at each of the villages. Members of the women's groups were provided socio-legal leadership trainings to capacitate them. These groups are also being encouraged to apply for joint-ownership of commons land to promote group income-generation. In India, the Ekal Nari Shakti Sangathan, a network of single women (never married, abandoned, divorced, separated, and widowed) demanded separate official registration, separate ration cards, and two acres of surplus government land on a 30 year lease from the state. In Himachal Pradesh, the first two demands were accepted in 2009, enabling the women to access pensions.	SWADHINA ILC (2012)
Bangladesh	Women's organizations and legal aid non-government organizations (NGOs) have proposed a Uniform Family Code demanding equal inheritance rights for women (Pereira, 2000; Halim, 2003)	ALRD

## Conclusion

At a time when increasing global and local competition over land and natural resources has exacerbated land conflicts in many countries, and rural women are disproportionately affected by such conflicts, it is crucial to place women and women's land rights at the heart of national development agenda, bearing in mind the three key points emerging from our consultation:

- the importance of **pursuing de facto equality**,
- the **diversity of rural women and their tenure rights**, and
- the centrality of **women's participation for gender justice in land governance**.

As emerges above, the evidence on gender inequalities in land rights is clear, both in terms of the numbers presented by international organisations such as FAO and World Bank and the cases presented by contributors to ILC's consultation, which highlight the reality on the ground. It is clear that a crucial first step to improve women's land rights is to thoroughly assess the gendered impact of policies, plans, and programs well in advance and take the results into account.

Contributors to ILC's consultation highlight the importance of CEDAW, and the work done by the CEDAW Committee, in the promotion and protection of rural women's rights, and as a guide for governments and civil society in working towards the full realisation of gender equality in rural areas. They also place great expectations on the forthcoming *General Recommendation on the Rights of Rural Women* as a critical tool to advance women's rights in rural areas, to address the complex challenges and opportunities facing rural women, and to give momentum to these issues in international and national policy agendas.

## **Recommendations**

Based on the contributions received, we request the CEDAW Committee to urge States Parties to:

1. reaffirm women's land rights as a fundamental and priority human rights issue for rural women and girls and proactively address patriarchal and discriminatory attitudes and practices;
2. take into account the multidimensional nature of discrimination against rural women and girls and recognise the centrality of land rights for the realisation of their human rights and livelihoods. State Parties should ensure the equal land rights of women and men and take all necessary measures to pursue both *de jure* and *de facto* equality. States should ensure that women and girls have equal tenure rights and access to land and other natural resources independent of their civil and marital status;
3. repeal or amend existing laws and regulations that discriminate against rural women in their access to and control over land. States must prohibit all forms of discrimination related to tenure rights, including those resulting from change of marital status, lack of legal capacity, and lack of access to economic resources. In particular, States should ensure equal tenure rights for women and men, including the right to inherit and bequeath these rights, and should harmonize family codes with CEDAW and the General Recommendation 21 on Equality of Marriage and Family Relations.
4. consider the particular obstacles faced by women and girls with regard to tenure rights and take measures to ensure that legal and policy frameworks provide adequate protection for women and that laws that recognize women's tenure rights are enforced and implemented. States should ensure that women can legally enter into contracts concerning tenure rights on basis of equality with men and provide legal services and other assistance to enable women to defend their tenure interests.
5. protect and promote the land rights of any group of women, including those holding periodic, overlapping and flexible tenure rights or using common pool resources. Measures should be taken to ensure the primacy of CEDAW in communities under customary tenure. In this regard, State Parties are encouraged to absorb the *Universal Declaration on the Rights of Indigenous Peoples*. Innovative solutions should be explored, including co-management of common-pool resources by women's groups and collective rights for managing previously unused or fallow lands.
6. take positive action, including legal empowerment and positive discrimination, to promote equitable tenure rights and access to land and rural women's participation and leadership in land governance on equal footing. States Parties should provide rural women with identity documents, to access institutions, and participate in debates. In addition, they should use transparent, participatory ways, using procedures that are clear, accessible and understandable to all. Information in applicable languages should be provided to all potential participants, including through gender-sensitive messages.
7. to increase awareness on women's land rights, and provide rural women with information on their rights and how to access legal services as well as basic legal assistance. States Parties should train judiciary, as well as legal aid and paralegals, on the rights to land of rural women and sensitise public authorities, traditional leaders and grassroots communities on women's land rights issues. Public officials responsible for inheritance claims should be targeted.

Awareness campaigns should highlight the importance of women's participation in land governance, and explain the rationale for, and benefits of, achieving gender equality in land access. Legal and functional literacy programs, formal education, and the introduction in the school curricula of gender and land rights issues, can be useful tools, as well as involving men in campaigning. Engaging with media to raise visibility on women's land rights issues can be critical.

8. support capacity building of grassroots and civil society organisations for continuous CEDAW monitoring. State Parties should also promote submission of State Parties reports, and engage in constructive dialogue over reservations, by involving traditional and religious leaders to eliminate objections. States Parties should support civil society organisations in promoting women's land rights, and provide adequate space for their development. Engaging with NGOs, CSOs and farmers organisations means also to change their organisational culture and embrace gender-sensitive practices (e.g. to ensure NGO staff and members register land jointly with their spouses themselves)
9. to invest political and financial resources to ensure effective implementation of laws and policies and promote women's land rights through state-led redistributive reforms or land banks / micro-credit schemes for purchasing land, and identify practical, low-cost and culturally acceptable tools for advancing women's land rights, including joint titling and registration of marriages, as well as support grassroots approaches such as watchdog groups that monitor violations of women's land rights and work towards solving conflict through reconciliation;
10. respect and protect the civil and political rights of women human rights defenders and observe their human rights obligations when dealing with women and associations acting in defence of land and natural resources. Women human rights defenders suffer particularly from gender-specific violations including social stigma, property grabbing, and rape, especially when their actions challenge gender stereotypes about women's role in households, communities and societies at large;
11. protect women against land-related gender-based violence more generally, including forcible eviction of widows from their homes.

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## **Annex I: Questionnaire for ILC members based on GI-ESCR and IWRAW-AP consultation**

### **Questionnaire to ILC members and partners on priority issues and challenges for rural women in the context of women's land and property rights**

#### **Contributing to the IG-ESCR and IWRAW – AP thematic briefing with the CEDAW Committee**

The norms enshrined within the Convention for the Elimination of All the Forms of Discrimination against Women (CEDAW) are at the heart of ILC's work on Women's Land Rights. CEDAW is a key tool for advancing women's rights at local and national level, both through monitoring its implementation and using it as a platform for advocating women's rights.

The Convention is the only international treaty specifically focused on preventing discrimination against women and explicitly dealing with rural women and their rights (Art. 14). CEDAW not only covers civil and political rights, but also draws attention to the economic, social and cultural dimension of discrimination.

In the last three decades, the CEDAW Committee has produced 28 General Recommendations, in order to highlight specific issues and to expand the interpretation of State obligations. Since there are no quantitative indicators in the Convention and state parties often define articles very narrowly, General Recommendations are an important tool in interpreting the Convention's application at national level.

The CEDAW Committee is in the process of developing a General Recommendation on the Rights of Rural Women, which is expected to include a relevant section on women's land rights.

GI-ESCR and IWRAW-AP are collecting inputs on rural women's land and property rights, through an open consultation, to make them available to the CEDAW Committee.

We would like to invite ILC members and partners to participate in this consultation.

#### **How to submit your inputs**

- You can submit a full paper (2,500-5,000 words, instructions attached in .PDF) to GI-ESCR and IWRAW-AP in English.
- Alternatively, you can send your contribution to ILC (in English, French, Spanish). Taking advantage of the e-consultation opened by GI-ESCR and IWRAW-AP, ILC members and partners have the opportunity to collectively think about the status of women's land rights, causes and consequences of discrimination, good practices and specific recommendations to advance them and promote gender-responsive land governance
- The ILC Secretariat will submit contributions received to GI-ESCR and IWRAW-AP, as an addendum, together with a synthesis report.

#### **Instructions**

Please, read the text of the [Convention](#) (especially Art. 14, 15 and 16).

Answer one or more of the questions below.

Be as concise as possible, but feel free to discuss any aspect of them.

Please send your responses to [I.miggiano@landcoalition.org](mailto:I.miggiano@landcoalition.org) by 10<sup>th</sup> December 2012.

#### **Questions**

**Q1.** What is the legal status of land rights for rural women in your region or country/ies in which you work? In your opinion do these laws/policies safeguard the rights of women to access, control, use, own and inherit land?

**Q2.** What are some of the reasons/ root causes for why the rural women do not enjoy their land rights in your region or country/ies in which you work?

**Q3.** What are the consequences for women when these rights are violated? How are women impacted?

**Q4.** What are some good practices around the promotion and protection of the land rights of rural women?

**Q5.** What specific recommendations do you have for the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) to best ensure that the land rights of rural women are integrated into its forthcoming General Recommendation on the Rights of Rural Women?

**Resources:**

CEDAW: <http://www2.ohchr.org/english/law/cedaw.htm>

CEDAW Committee: <http://www2.ohchr.org/english/bodies/cedaw/index.htm>

Rural women, land and CEDAW: <http://www.landcoalition.org/global-initiatives/womens-land-rights/rural-women-land-and-cedaw>

If you want to know more about your State's compliance with CEDAW please read the ILC publication:

<http://www.landcoalition.org/publications/update-2010-rural-women-land-and-cedaw>