GENDER AND COLLECTIVELY HELD LAND:
GOOD PRACTICES AND LESSONS LEARNED FROM
SIX GLOBAL CASE STUDIES

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Abstract

This paper synthesizes findings from six case studies – from China, Ghana, India, the Kyrgyz Republic, Namibia, and Peru – that assess interventions to strengthen collective tenure and ensure that both women and men benefit from improved land tenure security. The purpose of the case studies was to understand how formalizing or securing rights to collectively held lands can affect women and men differently and how projects and interventions can best address gender differences. In every case the focus is on practice with the goal of informing the implementation of other similar interventions.

The report recommends that projects take steps to ensure that women’s rights are recognized and strengthened before and during any process to strengthen collective tenure. Many of these steps and lessons are not specific to collective tenure arrangements, but also apply to interventions addressing individual and household tenure. At its core, the report asks practitioners not to think only in terms of the collective as a unit, but also to pay attention to the men and women that make up the collective and recognize that gender differences will affect the success of the intervention for women and men.

Key Words: Gender, Communal Land, Collective Land
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I. INTRODUCTION

Global awareness and interest in two land tenure issues are increasing: addressing gender in land tenure reforms and in particular promoting and protecting land rights for women, and improving tenure security of collectively held land, which is as much as 65% of the world’s land (Alden Wily, 2011.)

However, broad efforts to improve tenure security of collective lands, generally through documenting and registering the rights of indigenous peoples or local communities, are still new. Early lessons from these reforms suggest that formalizing or strengthening rights to property for the community can lead to a concentration of rights and benefits to some community members over others, which can threaten the welfare of those who are excluded. Community Land and Resource Tenure Recognition: Review of Country Experiences. Washington, DC: USAID Tenure and Global Climate Change Program (Jhaveri et.al, 2016). Women are very often among those who are excluded.

This report seeks to answer the question: where collective tenure arrangements are either being formalized or supported for the sake of the community’s rights to land, what steps are required to strengthen the rights of women as well as men within those communities? This report strives to both broaden and deepen our understanding of how formalization and management of collective land tenure can affect women and men differently, with an aim to applying this knowledge in very practical ways to efforts moving forward. In the rush to provide secure land tenure for communities there is a risk that women’s rights will not be documented or secured, and that this will weaken their rights to the collective land. Because women are often mobile when their marital status changes (e.g., moving from their parents’ to their husbands’ home) the issue of whether or not women are members of the community itself can be called into question during the process of formalization. Social norms can also limit women’s ability to participate in management of or decision making concerning collective land. In the context of reforms, unless particular attention is given to their interests, women may be marginalized or disregarded because of entrenched gender norms and roles.

To answer the key question of this report, six collective tenure interventions from around the world that made an effort to strengthen women’s rights in the context of strengthening community rights were assessed. These interventions presented diverse issues and had different approaches, resources, and funding mechanisms. The six case studies include projects in China, Ghana, India, the Kyrgyz Republic, Namibia, and Peru. The case studies are illustrative; they are intended to show practical, real-world examples that will help guide practitioners who are facing similar challenges to those identified.
A brief summary of the projects is provided in the following table.

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Following this introduction, section II provides key definitions and concepts, which are critical to laying the foundation to a shared understanding of the issues and approaches. Section III provides the global context and an overview of issues from literature on women and collective lands. Section IV describes the methodology, and section V analyzes the priority issues for women associated with collectively held land.

II. KEY DEFINITIONS

Four central terms are used throughout this report: community, collective tenure, common property, and customary tenure. Although these terms are sometimes used interchangeably in the extant literature on collective tenure, they should be distinguished from one another to ensure a nuanced understanding of the findings and recommendations.
Community

The general term used in this paper to refer to all collective groups, including indigenous peoples, local communities, pasture users’ groups, collective farms, tribes, etc. However, the specific group that uses resources and receives rights needs to be identified in the context of each project or intervention.

Collective tenure

Collective tenure is the broadest term used in this paper. Under collective tenure, the community holds the rights to manage and control use of the land. In most cases, the community either owns the land or the state owns the land but devolves the power to manage and derive benefit from the land to the communities (Bruce, 1998).

Land held under collective tenure can be distributed to and used by households or used and governed by the collective as a whole (see “common property” below). Land held under collective tenure may be designated for different categories of use; for instance, some land under collective tenure may be designated for household use while other land may be designated as common grazing land.

Membership in the community is the key feature of establishing a right to collectively held land, and membership can be defined by custom or law or both. In the case of women, it is often a relationship with a member of the community that establishes their rights to land held under collective tenure.

Common property

Common property is land or property held under collective tenure to which all members of the community have a legally or customarily guaranteed use right, provided they can establish membership in the community. Common property is included in the broad term “collective tenure” but is only one of several use patterns covered by collective tenure.
Customary tenure

Customary tenure can be defined as “a set of rules and norms that govern community allocation, use, access, and transfer of land and other natural resources (Freundenberger, M. 2013). Customary tenure systems are usually the legitimate tenure system in the contexts where they apply and can be unique to the localities in which they operate. Customary tenure systems are part of the culture of those who are governed by them, and the systems reflect the social values and norms of that culture. For these reasons they tend to differentiate between the rights of members and those considered to be outsiders. The systems exist on the basis of trust that those governed by them have in those who govern (Freundenberger, M. 2013). Customary tenure systems may or may not be collective tenure systems.
Customary tenure systems can be based in a customary legal system or a formal legal system, or both. Formal legal systems were generally developed during a colonial period and consist of laws that are developed, enforced, and administered by state institutions (FAO, 2002). Often formal and customary legal systems are intertwined and are far from being clearly delimited, which is referred to as legal pluralism (Cotula, et al, 2006). Customary tenure may or may not be recognized in formal law.

III. GLOBAL CONTEXT

Collective tenure systems are locally legitimate and very common around the world. Some estimates indicate that collective tenure systems extend to over 8.54 billion hectares, an estimated 65% of the global land area, involving perhaps 1.5 billion people. Some 18% of the world’s land is formally recognized as either owned by or designated for indigenous peoples and communities (Landmark). However, studies estimate that while a significant portion of the world’s land is held under collective tenure, large areas of that land are not formally or legally recognized.

In most rural communities, land is a critical asset for women and men, and land held in collective tenure can be particularly important for women, who are often less likely to be employed in income-generating labor; thus their livelihoods depend on land rights (Cotula, 2007). Women can benefit substantially from secure rights to land and property: their status in communities and in the household can increase, their income can increase, and they and their families are less likely to be underweight or malnourished. In each of the countries studied as part of this report, there are constitutional commitments to gender equality, non-discrimination, and equality before the law.

The threshold question that must be answered when assessing a collective tenure arrangement is: Who is a member of the affected community? This is important because if a woman is not considered a member of the community, then her rights will depend on her relationship to a member (her husband or father, typically), and can be thought of as indirect, whereas a male member of the group has direct rights.
This has significant implications because under this scenario a male member of the group will have rights for his lifetime while a woman non-member may not. For instance, a woman’s right to use collectively held land might be lost if her marriage ended in the death of her spouse without children being born. Thus rules of membership are particularly critical for women, and because customs and rules of marriage, death, and family are often gendered and reflect a desire to protect men’s inheritance rights, especially in patrilineal societies, women are often deemed outsiders.

Gender and Different Categories of Land Held in Collective Tenure

This section provides a brief overview of the three types of land found in the six case studies and considers them in light of our main question: where collective tenure arrangements are either being formalized or supported for the sake of the community’s rights to land, what steps are required to strengthen the rights of women as well as men within those communities?

Forestland

While forestland can be individualized, natural forests are more often held as common property (RRI, 2014). Issues for women on collectively held forests center around questions of how membership in the community governing the forest is determined, and who from among the community has the right to participate in decision making about the forest. Women who move to the forest at the time of marriage, for example, may have access to the forestland and the right to use it for specific purposes, but that right may depend on their marital relationship and may end when that relationship ends. Governance issues for women on forestland usually fall into the categories of: meaningful participation in decision making, having an equal voice in consultative processes, being empowered with agency to act on decisions, and having the time, interest, and capacity to participate in decision making in the face of other competing demands of time. Equal participation for women in community-based decision making is often difficult to
achieve, so where legislation devolves management and control of forests to local communities, women may not be free to participate without an external intervention (World Bank. 2009).

Pastureland / Rangeland

Pastureland is land that is suitable for raising livestock. Pastoralists may have individual title to some or all of the land they use. More often, pastoralists graze animals on common property that is held by their community. However, because grazing often requires seasonal movement, sometimes over large areas of land, many pastoralists have seasonal or temporary use rights to lands that are collectively held by other communities. In this case their rights are generally secondary to the rights of the community whose land they use. Thus, pastoralism can create complex tenure patterns. For instance, pastoralists may claim group grazing rights on another group’s agricultural land for a specific season, or two separate pastoral groups may share rights to watering holes (Thornton et. al, 2002). These webs of tenure rights have often been eroded over time because of pressures on the land (Behnke and Freudenberger, 2013).

Because pastoralists often depend on movement from one place to another in different seasons, community boundaries as well as land boundaries can be fluid, and thus women’s membership in the community may not be as much of an issue. Members of one pastoral community may join members of another for a specific season. In agro-pastoral communities, some family members may move, while others remain behind on the family's arable land. However, the China case study in this report contradicted this pattern. There, because pastureland is still held by the village collective, the collective decides who is a member of the community.

As with forests and other communally used land, governance issues for women usually fall into the categories of meaningful participation in decision making, having an equal voice in consultative processes, being empowered with agency to act on decisions, and having the time, interest, and capacity to participate in decision making in the face of other competing demands of time. In addition, women’s
use of the pastures may not necessarily be considered a “right” or may be considered a “secondary right” and are therefore not documented when community land rights are formalized.

Arable Land

Arable land generally refers to agricultural cropland. Collectively held arable land is most often allocated by customary authorities to be used and managed individually or by households. Some arable land may be used communally, though this is not common.

Because collectively held arable land is usually allocated to households, many of the gender issues that arise in this context are similar to those that apply to privately held arable land. This similarity is not always recognized in law, thus creating a legal gap—family laws may exclude land held in collective tenure. In the Ghana study in this report, for example, rules of inheritance in formal law do not apply to stool (customary) lands. A further layer of complexity comes from the fact that very often these collectively held arable lands are governed by rules of customary tenure, which may or may not be recognized in formal law. On the other hand, while some legal systems might recognize customary tenure as a legitimate form of tenure, women’s rights within those customary tenure systems are not clearly understood, and are often not protected as equal to those of men. This uncertainty about women’s rights in some customary landholding systems can contribute to exclusion of women (Peters, 2004).

IV. METHODOLOGY

The primary research question of this paper requires a pragmatic focus in the case studies: what steps are required to strengthen the land and property rights of women as well as men within collective tenure communities? What was done? Why? Did the intervention work? What can be learned from the experience?
To help identify appropriate projects to review, the editors and drafters of the case studies sought broad input from a range of practitioners, organizations, and agencies from around the world. The initial criteria were that the intervention was applied to collective lands, that it aimed to increase the land tenure security of the community, and in particular that it sought to address gender as part of the intervention. Projects also had to be willing to be part of the study and needed to have undertaken some or most of the planned project activities. Identifying projects that met these criteria proved to be more difficult than anticipated. This was partly because as a relatively new area of attention, few projects met the threshold criteria, and partly because many projects were at a stage that was too early to tell whether the interventions were meeting their objectives.

Final case studies were selected by the authors, in coordination with the editors, based on desk research and interviews with project implementers.

While not all findings are generalizable, in selecting the cases, we considered the entire portfolio of cases and did our best to include a range of projects that covered a diverse set of: types of land, locations (region of the world), types of implementer, and types of funder (government, INGO, NGO, international donor).

Each case study was drafted by a different author or authors, in coordination with a national expert and the team that implemented the project. Desk research was conducted first and covered project documents as well as a legal and contextual framework analysis. The desk research was followed by a field-based assessment of the intervention, conducted over 10-14 days. The case studies were drafted in consultation with local experts, and the findings were brought for validation to key stakeholders. The findings were reviewed by at least one national expert and one international peer reviewer.
V. MAIN FINDINGS AND RECOMMENDATIONS

The findings in this report suggest that there are at least seven queries that any intervention focused on securing community rights must ask in order to design a project that will strengthen women’s land rights as part of that effort.

They are:

(1) Because women are socially and culturally considered unequal to men, does the intervention recognize and address the need for social change?

(2) How does the intervention address the need to increase women’s empowerment?

(3) What legal rights exist related to women’s rights within the collective tenure context? What customary rights to land exist for women?

(4) What does it take for women to meaningfully participate in governance of common property?

(5) Which elements of project design require specific attention to ensure women receive full benefit from the intervention?

(6) What is required for women and men to have the same level of knowledge and training regarding collective tenure rights?

(7) What role should data collection and use play in collective tenure interventions to best ensure that women’s rights are monitored and evaluated?

For each of these questions in the collective tenure context, the paper considers:

- What risks and opportunities does this issue present for women’s land rights?
• How can those risks be identified in any given intervention?

• What actions can limit these risks?

Based on the findings from the case studies and the authors’ broader experience with women’s land rights, the issues identified in this section are focused on what happened in practice in order to allow others facing similar challenges to learn from these case studies.

This section is organized into the steps recommended that any project take before formalizing or supporting collective tenure arrangements to ensure that women’s rights are recognized, formalized, and supported. The order of these actions will depend on the specifics of the project.

1. Understand the Existing Customary System and Address the Probable Need for Social Change

Land tenure systems are part of the cultural, social, political, and historical makeup of a community and are at the core of a rural society. Because land and other natural resources are central to social and cultural identity and economic wealth, tenure arrangements in a society develop in a manner that entrenches the power relations between and among individuals and social groups. Tenure thus has enormous political implications, and tenure issues are liable to be politicized (Daley and Park, 2011). Working to improve land tenure security for women, especially in communities whose identity is linked to the land, requires both working with and within these existing power structures, while also being keenly aware of the potential social and cultural change that land tenure reforms entail.

Risks to Women’s Land Tenure Security

Gender roles and norms governing women’s and men’s behavior, opportunities, and perspectives are also part of a socio-cultural context. Women’s decision-making rights to land are often not socially legitimate in the eyes of the community, even if some customary rights are recognized. Therefore, social
change that focuses on the recognition and acceptance of women’s control of and ownership rights to land is a necessary step towards establishing legitimacy.

Projects that seek to support or formalize collective tenure must proceed with an awareness that both gender and land tenure are products of their contexts and that seeking to address gender issues will require some level of social change.

Promising Approaches

Case studies in India and Peru provide examples of projects where social change occurred during the course of the project, guaranteeing women stronger rights to land. In both of those projects, the implementing organizations had a long history of working on social change in the community. In a third case, the Traditional Authority in one community in Namibia already had a governance structure that included women.

Implementing Organizations Engaged with the Community

When implementing organizations have a long, deep, and consistent engagement with the community they are more likely to be able to influence or initiate the social change that is needed to achieve stronger land rights for women.

The case study from India illustrates this. In that case, a local NGO was funded to assist forest communities in exercising their rights under the Forest Rights Act 2006 (FRA) as part of a larger effort by Oxfam India to increase forest dwellers’ access to and control over natural resources in three states. A core mission of the NGO, Naya Sawera Vikas Kendra (NSVK), is strengthening the rights of communities. The project objectives were to help individual households within the community acquire titles to forest land that they had been cultivating and to set up an administrative structure to manage forest land held as common property and used communally. Strengthening women’s land rights involved
ensuring that women’s names were documented on titles to household rights as well as ensuring that women participated in governance of the common property.

In India, customary practices generally grant women fewer rights to land within the household than those granted to men, and women are not involved in community level decisions (Hanstad, 2004). While the formal law protects women’s rights to land, in practice when land rights are formalized, women are rarely named on titles, and inheritance is generally patrilineal (Hanstad, 2004). Moreover, the women interviewed for the case study recognized their relatively limited power vis-à-vis men, stating that women in their communities have less economic power, less access to government schemes, and much lower rates of literacy than men. Interviewed officials stated that in the state of Jharkhand, where NSVK works, there is only 2% female literacy in tribal areas where most forest dwellers live. For these reasons, women are less likely to participate in public life, including community meetings.

Before the project started, NSVK had already been working in the targeted villages and had established issue-based committees run by social workers employed by NSVK at the local level. The social workers were selected from among young, literate volunteers who were already working in the organization and receiving a small honorarium. They served as a bridge between the community and outsiders, including other NSVK staff and the government. The social workers were trained on relevant issues in monthly meetings. They were trained on the Forest Rights Act (FRA) and on how to prepare individual and collective forest rights claims, as provided by the law.

The NSVK model involves deep involvement in each village over a long period of time (5-6 years). NSVK leaders believe that it usually takes about two years to establish enough trust with the community to begin the process of changing customs, especially those related to women’s rights. It is not customary in Jharkhand for women to be equal participants in male spaces, such as community meetings. NSVK worked with already-established village groups to increase their awareness of both the FRA and
the importance of women’s involvement in governance. Ongoing discussions with both women and men on the importance of women’s participation and on the economic and social benefits of their inclusion were identified as key to changing community norms and attitudes towards women’s participation.

The case study from Peru provides a good example of how an approach that integrates the knowledge and reputation of local actors with the experience of regional actors can create the space for social change. In Peru, the project, “Indigenous Quechua and Aymara Peasant Women’s Access to Land Governance in their Communities,” is being implemented by Servicios Educativos Rurales (SER) as part of SER’s ongoing efforts to promote the exercise of human rights through democratic participation and rural development. The project aims to increase women’s use and control of common land and resources, increase rural women’s involvement in land tenure governance in their communities, and support rural women’s access to productive resources.

The concept for the project was developed by SER in collaboration with both a national organization of Andean and Amazonian indigenous women that advocates for indigenous women’s individual and collective rights and with grassroots women’s organizations at the local level. The project design emerged from these organizations’ areas of expertise, which ranged from the hyper-local all the way to regional and national experience. In addition, leaders from earlier national campaigns to promote grassroots empowerment movements are the key personnel in the SER project, and community trust is built upon their reputation. The project’s regional coordinators are also from the regions in which they are working.

Even though the implementing organizations were familiar with the local communities and context, among the first components of the project was a comprehensive analysis of women’s land rights in the target area, which had not previously been done. The report analyzed the experiences of indigenous
peasant women regarding land use, access to land, economic participation, and participation in land decisions within their communities.

One barrier identified in the analysis was the deeply rooted patriarchal traditions in the target communities, and the potential risk of rejection of the project by male leaders who believed that the project wanted “to take men’s land.” Though the initial aim of the project was to work only with women, the project team adjusted its approach to mitigate the risk of rejection by male leaders and actively worked with men as well as women. This revised approach had a significant impact on the ultimate, greatly expanded scope of the project and helped the project gain the necessary support for the social changes it sought. Six communities successfully modified their statutes to guarantee women’s rights of participation and decision making, and on average women make up 33% of leaders in communities participating in the project.

*Building on Positive Customary Practices*

While social change is generally required for women to have secure and equitable land rights, for the changes to be sustainable, it is critical to build on existing customary practices and social norms that positively affect women and help create space for necessary changes.

For example, in a context where women are already in a leadership position for unrelated matters, it may be easier to make a case for women’s inclusion in land governance bodies. In Namibia, for example, the decision-making structure of the Shambyu Traditional Authority is inclusive, with women well represented at all levels. At the time of the case study, the highest office of *hompa* (title of a traditional leader) was held by a woman, and women made up a majority of the Chief Council. Additionally, approximately 50% of the village headmen were women. Historically, both men and women have served in the capacity of *hompa*. On the Community Land Boards, which are statutory structures that are intended to support the work of traditional authorities for land-related matters, women were also
strongly represented. Women in the community reported that they were able to access and present their own interests to the relevant traditional authority representatives.

However, more may be needed to ensure that the positive customary practice of including women in leadership positions strengthens the standing of women who come before these bodies to request land. In the Namibia case, women’s representation in leadership itself was not sufficient to change deeply held customs related to women’s rights to land. Upon receiving the request for land, the headman or headwoman inquires about intended use and ability to use the land requested. Women’s limited productive and financial resources can deter them from requesting land and may negatively affect the probability of their securing an affirmative response. Also, women and men who are not native to the community experience more challenges securing customary rights to land, as the level of scrutiny and permission required for applicants from outside the specific community is higher. Women are more likely than men to fall into this category due to patrilocal residence patterns.

Identify and Address 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 (United Nations Women Watch, 2012).

Risks to Women’s Land Tenure Security

Women generally have less social and political status in a community than men do, and their low status can impact their involvement in decision making and ability to claim their rights to use or “own” land. As with social change, raising women’s status can take a long time, and projects and interventions are generally short-term.
The risk of only informing men of their rights and of only including men in decision making about common land is that women’s needs will not be recognized or considered. Only in one instance in the six case studies did women, by custom, participate in governance (Shambyu community in Namibia).

However, not all women experience exclusion to the same degree. Some women in the community may have better access, more information, or a greater say than others, based on such attributes as marital status, age, relative wealth, education level, or social relationships in the community.

Social constraints on women can also create conditions in which a project relies too heavily on women themselves to make change happen without also providing support or capacity development. Women often lack the confidence, knowledge, and skills to meaningfully participate in public settings or mobilize for change in the face of norms that encourage women to remain in or near their homes.

Promising Approaches

Several of the projects in our case studies had a goal of further empowering women so that they would be able to effectively participate in collective land management.

*Working with Women’s Groups*

Women who are already organized in groups usually have some experience of identifying their needs and making decisions. This empowerment can build women’s confidence to participate in local governance. In the India case, the implementing organization built on the success of self-help groups devoted to savings and income-generating activities and on women’s issue groups that the organization had established for women. These groups had the respect of the communities, and many groups had been established for five or six years. Groups of women in targeted villages had already self-organized to patrol the forest. The NSVK model of holding frequent meetings of these women’s groups helped the women learn how to participate in community meetings related to land.
The Ghana project also drew upon established women’s groups. The project, which sought to help smallholder farmers secure their rights to collectively held lands during the formalization process, had a quota for women’s involvement in sensitization meetings. The project implementer met that quota by targeting women who were already part of women’s groups. This allowed the women to be immediately trained to participate in community meetings without first having to build their confidence and understanding of the value of their voice.

Women’s groups can also be organized for the specific purpose of raising a land rights-related concern. In China, over ten married-out women had not been allocated any grassland, and they were not eligible to receive any subsidies under the government program that paid subsidies to discourage use and promote conservation of the grasslands. Dissatisfied with this outcome and realizing that requests from individual women would be too weak to be noticed by the local authorities, the women formed a group to ask for equal treatment with other herders under the program. Women in the self-organized group shared information, provided mutual support, and took collective action to defend their rights to the subsidies and rewards. This collective action put political pressure on the government to take their problems seriously and to avoid escalation of the issue. Women’s awareness of their rights and their ability and willingness to organize themselves to actively claim their rights was critical in their success in gaining grassland subsidies.

*Focusing on Women’s Empowerment by Working with the Whole Community*

Working with men in the community can help create the enabling environment for women’s empowerment. In the India case, it took between one and two years of engagement before the women’s groups were accepted by men, and this happened before the forest rights project began. Men were targeted to be taught about the importance of women’s empowerment and have since become truly
supportive of women’s rights. In part, this is because they had time to see the benefits of empowering women, both economically and socially.

Likewise, in Peru, the goal of the SER project was to empower women to better participate in community governance of land. As originally designed, the project set out to target and work primarily with women to increase their participation in General Assemblies, promote women leaders, and strengthen community governance structures to safeguard women’s rights of participation and voice. Early on the project found that women required community permission to participate in the project. Ensuring the receptiveness of local leaders to the project and, ultimately, to the ideas and values that the project promoted was centrally important to ensuring the success of the project and women’s involvement.

2. Identify What Formal Legal Rights Women Hold within the Collective Tenure Context and What Legal Changes Are Necessary to Improve Women’s Land Tenure Security

In the six case studies, all communities operated simultaneously within formal law and customary law systems.

Risks to Women’s Land Tenure Security

While much collectively held land is under a customary system of rules, formal laws can impact how such land is distributed, used, and managed. Formal laws can create the space for positive adaptation of customary tenure systems to the extent that they depart from universally or nationally recognized rights or public interest. For women’s legal rights on customary land, a two-pronged strategy is required both to provide equal rights and to grant women preferential treatment to counter historical and social discrimination against women. For instance, in Namibia, even though the law provides for equal rights to marital property, women generally move to the husband's home after marriage, and husbands traditionally
apply for customary rights for the marital residence and farmland from the traditional authorities before
the marriage, with the result that it is men who are likely to be named on land certificates. This is difficult
to remedy without affirmative measures to secure women’s rights to land during marriage.

The legal risks to women’s land tenure security on collectively held land include: laws that allow
customary law to trump formal law in the case of a conflict of laws, laws that are poorly written or are too
broad and inadvertently allow for customary rules that exclude women to prevail, and laws that do not
protect women’s rights to collective land, even when that land is allocated to, and used and managed by
individual households.

Promising Approaches

In simple terms, the key risk in a collective land tenure setting is that customary laws that do not
support women’s secure rights to land they use will undermine formal laws that do provide such support.
While this is also a consideration with individually held land, there are some issues that are unique to the
collective land tenure context, such as rules regarding membership rights and the question of whether
marital property laws apply.

Understanding Legal Pluralism

The constitutions of countries included in these case studies all contain significant gender non-
discrimination protections. However, the constitutions differ in how they handle situations where
customary law contradicts these protections.

A positive approach comes from Namibia, which expressly recognizes customary law but only if
it aligns with the Constitution and other formal law. The Communal Land Rights Act (CLRA) recognizes
and consolidates the legal authority of Traditional Authorities to administer communal land while also
reinforcing gender responsive customary laws and incorporating additional gender-responsive safeguards,
including allowing women to have independent customary land rights, explicitly protecting widows, not requiring that spouses be formally married, and recognizing joint titling.

In contrast, Ghanaian formal law does not override customary law to nearly the same degree, allowing customary law to trump formal law regarding inheritance rights. While the Constitution guarantees that all persons are equal before the law and cannot be discriminated against based on sex (Article 17 (1) (2), its intestate succession law specifically exempts stool or skin land (types of customary land) from its purview. Since stool land makes up around 80% of Ghana’s area, this exemption means that women are largely excluded from the opportunity to inherit land rights in most of Ghana.

Understanding the Implications of Membership

Rights to community land are based on membership in the community, and the way that membership is defined in law or the way that the law manages who defines membership can have gendered implications.

Under current Chinese law, for example, membership in a collective is not defined or standardized among villages, leaving the question to the determination of each village committee. In rural China, families overwhelmingly follow the tradition of patrilocal residence. Traditionally, once they marry, women are no longer seen as members of their birth village and are often viewed as outsiders in their new village. No matter where she resides or where she was born, a woman’s “membership” is not set; depending on how each village defines membership she may be a member of both villages or neither. Women who are deprived of village membership are excluded from the allocation of collective land and from the benefits that accrue to those who are included, such as when compensation or subsidies are paid to the collective land rights holders.
For example, when land-related subsidies (for non-use of grasslands) are distributed to the village collective on a per hectare basis and then divided among members, it benefits the village collective to define membership narrowly so that each member will receive a greater portion of the overall subsidy. However, the village-level collective, covered in the case study decided to provide subsidies on a per person basis, in which case it was more lucrative to the village collective to define membership broadly, including all members of the families as members of the collective and thereby including women. The result was that women who married into the village were counted and received a government subsidy for a portion of the land. In other collectives that were eligible for these same subsidies, women who married into the collective were not considered members and did not receive any part of the subsidy, even if they had lived in the community most of their lives and even if they lost the benefit of the use of the grassland.

In the Kyrgyz Republic, membership is defined by formal law according to residency and thereby includes all women who live in the area, no matter their marital status. By recognizing that all residents of a community are members of a Pasture Users Union, the law is positive for women.

*Understanding Implications of Household Headship*

While collective tenure is distinct from individual-based tenure systems, some lessons can be learned from early land titling projects of privately held lands. Just as privately held land titling efforts disenfranchise women when the household is viewed as a unit, collectively held land titling efforts disenfranchise women when the community is viewed as a unit.

The case study from Peru illustrates how rules and perceptions about the household head can impact women’s ability to benefit fully from collectively held lands. Peruvian law conveys rights of ownership over community land to peasant and native communities and assigns responsibility for regulating access to and use of land and other resources to community members. The law recognizes these communities as autonomous institutions, and thereby grants legal personality to rural communities.
From its status as a legal entity, its members derive their right to use land and to self-govern concerning matters of communal labor, economic administration, and land use.

Both the law and the regulations espouse a basic principle of equality in terms of rights and obligations of community members. The law defines community members as those born in the community, the children of community members, and persons integrated into the community. Membership thus includes women as well as men.

However, membership in the community does not grant the right to vote and participate in community decisions; to vote and participate in decisions one must be a qualified community member. The general practice is one person per household, generally the male head of household, may hold the status, though the law does not require such a restriction. Thus, although the formal laws affirm principles of gender equality and are gender neutral, there is no explicit requirement that internal governance includes women, and protections for women’s rights are not mandated.

Protecting Marital and Inheritance Rights on Collective Land

Where land is held, used, and managed collectively, formal laws dealing with intra-household matters, such as laws related to marital property or inheritance, do not apply. Marital property laws and inheritance laws apply only to land that is used by the household, because the household, not the community, has daily use of and control over the land. For arable land that is held collectively but allocated for use to individuals and their households, a strong case can be made that formal intra-household laws related to marital property and inheritance should apply.

In the India case study, individual households were using some areas of land – designated by law as protected or reserved forests – as household farms. The Forest Rights Act provided that where land that was designated forestland was under cultivation by a household for a certain period of time, marital
property laws would apply and joint titling would be required. In this way, the law allowed for the forestland rights documentation process to reflect the realities on the ground and provided positive protections for women.

4. Ascertaining What Will Be Required for Women to Meaningfully Participate in Governance of Collective Property

Governance is a key issue which distinguishes collective property from individual property. Governance is decision making by stakeholders, including both ordinary citizens and those holding formal and informal positions (Brody, 2009). However, community governance and collective property governance do not necessarily involve women.

Risks to Women’s Land Tenure Security

Customary practice and socially defined gender roles usually dictate that collectively held land is governed through traditional decision-making systems and structures, which are most often male-dominated. When women are not meaningfully involved in governance, their interests are often ignored, and their rights to the land and resources can be weakened or lost. Meaningful participation goes beyond mere presence at a meeting; it must include the space and knowledge to speak safely, the opportunity to have their voices heard and also respected equally with others, and the confidence to speak their own thoughts that are free from social or familial influence or pressure. The timing, place, and style of conducting meetings can also exclude women, who might not have the same availability or engagement style as men.

In all six case studies, the leaders, managers, decision makers, and adjudicators in the community were predominantly male. For most of the interventions, the implementers wanted to ensure that women were included in land management and governance. However, mandating women’s inclusion is never
sufficient, because for women to play a role in the governance structure, they have to have the social status that allows them to be heard and the confidence to speak on their own behalf. Quotas for women can create space for change but are not sufficient alone to ensure

Promising Approaches

Women’s rights to use and benefit from collective property will not be secure if women do not participate in its governance.

Providing Training

Quotas for women’s participation in decision making and governance of land rights are often the only way that women’s interests are protected in laws that govern collective tenure, yet quotas alone are not sufficient. For a quota to help ensure meaningful participation of women in decisions that affect their interests, systems should be in place to ensure that women know and understand the governance processes, their rights, and the value of their participation.

Training can help create such a shared consensus. In four of the case studies (Ghana, Peru, the Kyrgyz Republic, and India) training related to governance was a key feature of the design of the intervention, although the substance of the trainings varied by project.

The case study from Peru shows innovative training approaches to establish the importance of good governance. The SER project focused on empowering women to increase their participation in General Assemblies and also on strengthening community governance structures so that they were able to safeguard women’s rights of participation and voice. To this end, when working with the community to update the Community Statutes, among the steps taken was to engage the whole community in understanding the value of men and women to the community and the differences in their perspectives. SER developed community plays that were based on themes of “imagine a world of only men” and
“imagine a world of only women.” These helped the whole community understand the importance of inclusiveness in governance and decision making, and helped create the foundation for longer term support for an improved role for women.

At a minimum, governance training should cover what is required by law to recognize the rights of women within collective tenure systems. Beyond that, there is much that can be gained by training governing bodies on how to ensure good governance. If the principles of good governance are upheld by those governing and if procedures are in place to ensure they are implemented, then this can lay the groundwork for better results for women.

5. **Determine How Best to Ensure That Women Receive the Information They Need to Realize Their Rights to Collective Land and Resources**

While being informed is a basic requirement for benefitting from any intervention, community social norms play a role in whether or not women have full and complete access to information.

Risks to Women’s Land Tenure Security

In most cultures, men represent families publicly. Officials and others expect that men will share what they learn with their spouses. In practical terms, women collect and receive far less and different information than men do, often because they have limited time and are responsible for the home and children.

Thus, unless an intervention explicitly targets women for receiving information, it is likely that women will not be informed. This is especially important for interventions that involve collective land and resource rights, because women who lack information and understanding may lose their rights to land when land rights are documented; moreover, they will not be able to follow established rules if they are not aware of those rules. Gender sensitivity should thus be at the core of information outreach efforts.
Engaging Men

Engaging men in efforts to better inform women may require identifying male resistance and providing gender sensitivity training as a first step. For instance, in the Ghana project, potential resistance to the project was avoided by focusing messaging on securing future rights for children rather than for wives.

There are costs in time and resources to truly engaging men in a project that is focused on women, and these costs must be built into projects from the beginning. In Peru, engaging men had a significant impact on the ultimate scope of the project. During outreach and sensitization, many communities demanded that all community members – men, women, board members, leaders, and youth – receive the trainings. SER saw this as a critical need to ensure that communities accepted the project and to support broader awareness and acceptance of women’s rights within communities. This adjustment was made in all communities, with significant implications for the project budget and implementation plan.

Engaging Women

To effectively engage women, there are some accommodations that should be made, such as allowing them to bring children to meetings, ensuring that meetings are held close to their homes, and holding meetings at times of day that are convenient to women. In Ghana, due to project resource constraints, some trainings were held in the Northern Region capital of Tamale rather than in each location separately. Women were less able than men to travel long distances or to stay away from their families for several days because of social constraints and family responsibilities and therefore were less likely to attend those trainings.
Working through existing social groups helps to ensure that women are not doubly burdened by project activities. In Ghana, the project reached a large number of women by holding sensitization meetings with existing women’s groups in local languages. In India, training and discussions were facilitated through the pre-established issue committees and run by the local social worker. Likewise, in the Kyrgyz Republic, working through the pre-established health committees became the best way to share information and engage women in pasture management which they had otherwise not been interested in participating in.

6. Pay Attention to Gender Differences in Every Aspect of Project Design and Staffing to Ensure Women Receive Full Benefit From the Intervention

Designing a project which fully takes into account the social, legal, and customary variables that affect men and women differently is critical to successfully reaching women as well as men.

Risks to Women’s Land Tenure Security

The risk of not considering gender differences in designing and implementing projects or laws is that women’s land rights will be weakened rather than strengthened. Starting with the pre-project assessment of the community, the design must consider the situation of women as distinct from that of men. Projects must also consider the experience of different “categories” of women, such as women of different age groups, social status, marital status, and education levels.

The reasons for the lack of meaningful gender integration in land reform interventions include:

- Women beneficiaries are not included or given a voice in project design.

- The design of the project does not include gender from the beginning, and instead relies on experts to retrofit it in at a later date.
• The design of the project is fixed at the beginning and cannot be adjusted based on lessons learned throughout the project.

• Project designs do not incorporate monitoring of their effect on women.

• Design does not account for the fact that the project implementation team might need specialized training to understand the value of women’s land rights.

• The design allows for a gender expert on staff but does not recognize that such experts may need training and may be subject to being sidelined as a subordinate team member.

• The design does not begin with an understanding of which women in the community are most vulnerable or how to reach them.

• The design does not take into account the nuances surrounding women’s land rights, especially as relates to women’s marital status.

In several of the projects reviewed (China, Namibia, Ghana, and India) government interventions did not consider women when community land management was first considered. In Namibia, when the state began documenting community rights, no specific rules were devised to ensure that women as well as men had their land rights documented. This was in part for political reasons and in part an issue of public relations. There had been significant sensitivities around the issue of documenting rights to community land, so tactically it seemed better to focus on the community first and women’s rights within the community at a later stage. This had the practical effect of excluding systematic consideration of gender issues in the early design, despite a positive legal framework.
Promising Approaches

In all six case studies, the key to successfully strengthening women’s land rights in the collective tenure context was that those designing and implementing the intervention understood why focusing on women as well as men was important, how to effectively reach and involve women, and the need to monitor whether the intervention was working for women as well as men.

Paying Attention to Gender in Project Staffing

Women are not uniquely qualified to ensure that women’s interests are considered alongside those of men in land rights interventions. However, staffing a project is an opportunity to effect long-term changes, to provide role models for both men and women, and to show a commitment to gender inclusiveness.

Hiring female staff may mean that women in the community have approachable authority figures in the community. In Ghana, for instance, the project was able to reach its goals of sensitizing women by engaging women as trainers. Women were more comfortable attending meetings facilitated by women, and were more likely to participate in those meetings. On the other hand, the project only trained male local authorities on dispute resolution, which had a negative effect on women’s willingness and ability to bring disputes. Women in the communities said that they would be more comfortable approaching other women with disputes, and often did not bring disputes to male dispute resolvers without the help of male family members.

Often an affirmative effort is required to include women staff because women may face obstacles that men do not face in being involved in land sector projects. For example, certain resources, like pastures and forests, may cover large areas of land; women may not be able to travel long distances from home or to travel without a male companion, and both of these issues may affect the ability to hire female
staff. For instance, in the Kyrgyz Republic, the LDMP project had difficulty hiring women local staff because the work required travel by bikes, motorbikes, or horses to get to remote areas, which was not comfortable for most women. Also, many women consider pasture management men’s work and did not think it appropriate to be involved in the project.

Similarly, in India, while the NVSK project strived for 50% female social workers, they were only able to reach 37% women staff. Moreover, men hold all senior roles. One challenge NSVK identified is that it is difficult for female social workers to work in heavily forested areas because they need motorbikes to get around, and again, women are not comfortable with this mode of transportation.

Identifying challenges and barriers to employing women is a critical first step in an affirmative effort to hire women. Even though projects in both the Kyrgyz Republic and India had difficulty hiring female staff, their efforts to find women who were willing to take on the transportation challenge did pay off to some extent, and without affirmative efforts, it is possible far fewer women would have been hired.

Providing Support for Technical Capacity and Staff Training

The limited technical capacity of project staff to carry out the tasks set out in a gendered project design is also at issue. The LMDP project in the Kyrgyz Republic paid significant attention to gender in design. The design includes detailed elements specifying how the project will mainstream gender in every aspect of its implementation, including management, programming, and monitoring and evaluation. It also assigned specific responsibility for gender to one core staff member, and there is a monitoring and evaluation specialist with a gender focus in the project implementation unit who oversees consideration of gender issues in all implementation activities and conducts knowledge-sharing events. However, there is a gap between the gender-related activities envisioned in the design and the capacity of these implementers to address the identified needs.
Very often, donor projects require a gender expert on staff, or at least they require that someone be identified as a gender expert or focal point. In most instances this staff person will not have expertise in both gender and land tenure and will require additional training.

All project implementers need gender sensitivity training at the beginning of the project. This training should include information concerning gender issues in the country and project area, awareness-raising about why gender is a focus of the project, and concrete tools or a plan for learning what is necessary to fulfill the project design.

The best example of the effectiveness of this early training is from the India project. According to Oxfam, the funder, the staff at NSVK were not focused on gender or on the FRA when they first began the project. Oxfam worked closely with NSVK at the beginning of the project to impress the importance of the FRA and of gender issues. This included exposure visits to the other projects in other states working on the same issues and education on why particular attention to women’s involvement is important.

This exposure meant that by the time the case study was conducted, NSVK had an organizational commitment to implementing the project in a gender-sensitive way. All interviewed staff members were committed to paying attention to the different experiences and interests of men and women. They were able to identify the issues that tribal women in Jharkhand were most concerned about in the forest area. The NSVK staff believe the commitment of the staff to gender sensitivity played a major role in the project’s success.

**Targeting Beneficiaries**

Reaching women requires targeting them as intended beneficiaries of the project. Because rights to land are most often assumed to be men’s rights, including women in a land project requires a directed
effort. The first question is: which women should be targeted? The more specific the target group, the more likely the women in that group will benefit. For example, often when projects speak of targeting women, they are speaking about female heads of household only, but the issues facing female heads of household and the issues facing women within male-headed households are very different and need to be addressed differently in the project design.

In the Kyrgyz case study, although the project conducted a baseline survey that indicated that the number of women-headed households in the two provinces where they would be working was rather low, the initial idea of the project was to focus on female heads of household. While targeting women-headed households had less potential value than targeting women more generally, in the design phase women-headed households were given more attention than women in male-headed households. Because the project found that reaching these two different groups of women required a different design, design adjustments had to be made to the second phase, and in the initial phase the target population was shifted to women engaged in livestock-based livelihoods, no matter their status within their households. This meant more women, including women who were not initially target beneficiaries, were reached by the project.

The Communal Land Reform Act (CLRA) example from Namibia provides widows with specific protections, as land grabbing of widows’ land had been a problem in the collective land areas. The CLRA’s targeting of widows had a substantial impact in the areas visited, but only if the widows did not remarry. Traditional Authorities are legally obligated to honor the widow’s (or widower’s) rights to reallocation of customary land on the death of her or his spouse, but they are also authorized to cancel existing rights in accordance with customary law, which they usually do if a remarried widow moves to her new husband’s land.
In the example from China, two categories of women were left out of receiving grassland when it was distributed from the collective: women who married into the community and daughters who married out of the community. Women who divorced also lost their rights to land, because only men’s names were on the contracts with the collectives. To remedy this, in one region the local government distributed land from the collective’s “reserve” of land to women in these groups and then, on the basis of this allocation, paid the government subsidy attached to allocated grasslands. The local government even provided mediation for couples who were divorcing to address these issues and also allowed divorced men and women to split their bank accounts when receiving subsidy payments (otherwise splitting is not permissible).

Another way to target women in the project design is to support activities that are customarily carried out by women and to allocate a portion of the budget to addressing women’s interests. The LMDP project in the Kyrgyz Republic sought to target women through a value chain activity (milk products) and also through a seed bank program.

Designing Projects to Be Flexible

Because women’s rights to land have to be considered both socially and legally legitimate to be realized, understanding local context is critical to a good design. Even with a fairly small project area, there can be multiple groups and customs at play. Thus, pre-project research is important, and the design has to be flexible enough to allow for changes as the project is monitored throughout its lifetime. Project adjustments can make the difference between the women’s situation being improved and being harmed.

As illustrated in the case study from Ghana, the location of the four areas where the project worked made a difference in how women responded to the project. One area, Tamale, encompassed a city and its environs. Land prices were high and women were priced out of obtaining rights to the land. Because they did not see the possibility of gaining rights to land, they were not interested in gender
sensitization related to land rights. In the other three communities, to varying degrees, gender sensitization had an impact on women’s land rights going forward. Because the Tamale area is urban and peri-urban, many NGOs had worked there, and there was a good deal of message confusion regarding which NGO said what. Tamale would have benefited from a re-evaluation of the project design once it was clear that the issues facing women in Tamale were dissimilar to the other communities.

The case study from the Kyrgyz Republic illustrates how women’s engagement in developing the Community Pasture Management Plan depended on the importance of the pasture resource to their livelihoods, the commitment of the local implementer to mobilizing them, and the openness of the Pasture Committee to meaningfully engaging women. After implementation began, and these three factors came into focus, new activities were introduced to address the impact of these factors on women’s participation. To ensure women were part of the Pasture Committee, the project created a seat on the PC for the village health committees, which were made up of women.

While the Namibia case study was not a project per se, it is equally important, and in many cases much more difficult, that government programs and laws be flexible to accommodate new learning and understanding. In Namibia, the government made changes to both the CLRA itself and the communication strategy for the law to better accommodate diverse cultural practices. For example, at the time of the study, the registration mechanism did not account for the group rights-oriented customs of the Kavango people (Thiem, 2014). A Decade of Communal Land Reform in Namibia: Review and Lessons Learnt, with a Focus on Communal Land Rights Registration. Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH. Registration would deny the land rights of multiple right holders to the same parcel of land, which is a feature of Kavango customary tenure. This issue was addressed recently by an amendment to the Land Bill.
7. **Ensure That Data Collection and Use for Collective Tenure Interventions Assist in Monitoring and Evaluating Whether the Outcomes for Women and Men Are Equitable**

Because there is limited research on effective interventions for women as well as men when collective tenure arrangements are either being formalized or supported, data collection and monitoring what works are essential.

**Risks to Women’s Land Tenure Security**

There is a movement among the land sector actors to “secure all indigenous and community land rights everywhere,” with a target of “doubling the global area of land legally recognized as owned or controlled by indigenous peoples and local communities by 2020” (ILC, 2015). While securing indigenous and community land rights is imperative, what we know from earlier efforts to ensure that arable land was legally recognized is that a lack of sex disaggregated information 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.

**Promising Approaches**

*Conduct a Baseline Study*

To ensure that women, as well as men, benefit from community titling or support, baseline data must be collected and disaggregated, at a minimum, by sex and marital status. Ideally, the baseline would include: household composition (including age and sex), occupation, education, existing land rights and perceived tenure security, and marital status, for each member of the household. It is vital that women within male-headed households, as well as women-household heads are included among respondents.
Since the rights a woman has to community land often depend on her marital status, understanding the baseline situation is imperative,

*Going Beyond Sex Disaggregation of Data*

A key value to sex-disaggregated data is that it leads to an awareness of the differences between women’s and men’s respective experiences of the intervention. Particularly for collective tenure arrangements where the focus is on the community’s rights, it is easy for the rights of women to be undervalued.

In Oshana, Namibia, the Community Land Board (CLB) data was very useful in seeing patterns of applications based on gender and marital status. The CLB received a total of 17,028 applications for customary land rights as of June 2015. They received more applications from men (58.2%) than women (41.8%) with more applications received from married men than their unmarried counterparts. Of the total applications received from married couples, only 3.78% listed married women as applicants. Of the total applications received from unmarried persons, women accounted for 72% of that group.

While the disparity across marital status is significant for both sexes, the disparity between married and unmarried females is considerably higher, with very few married female applicants and a considerable number of unmarried female applicants applying for community land rights.

This finding could be further disaggregated by marital status to better understand the community norms. Disaggregating information by the nature of rights (existing and new rights) and the specific marital status of applicants (married, single, widowed, etc.) could help uncover important differences between female applicants, would more accurately capture the circumstances on the ground, and would expose the distinct experiences of various categories of women.
The baseline report for the LDMP project in the Kyrgyz Republic was based on interviews with both women and men. Of all respondents, 42.4% were women. However, it is not clear from the baseline report whether the female respondents were made up only of female heads of households or also included women in male-headed households. Moreover, while sex-disaggregated data was collected, it was not required in the report and was not published.

COLANDEF, in Ghana, conducted trainings to increase the capacity of Customary Land Secretariat (CLS) staff and other leaders to record land rights and resolve land-related disputes. The training highlighted the importance of securing land rights for women and focused in part on the special challenges facing women in the acquisition of land. Although the attendees were primarily male, following the trainings the CLS in one region said that they now disaggregate data by gender in their quarterly reports to the Office of the Administrator of Stool Lands (OASL).

**Monitoring Data**

Ongoing monitoring is necessary to ensure that projects are being implemented as envisioned and to ensure that projects can be adjusted as needed. For instance, although the CLRA is favorable to women in Namibia, limited monitoring mechanisms and inadequate institutional capacity appear to have resulted in insufficient monitoring of its enforcement. To the extent that the CLRA provides opportunities for women to gain rights to communal land, limited monitoring means that it is difficult to know how effective those provisions are and makes it more difficult to understand how they might be amended or improved to best serve women’s and men’s different needs.

**VI. CONCLUSION**

In all communities, women and men have different roles, different responsibilities, and different statuses. Because land that is collectively held belongs to the community, the differences between how
men and women function in the community will matter when the land is formalized or when rights to that land are strengthened. Without a specific focus on the differences between men’s and women’s gender roles, an intervention to strengthen a community's rights to land will not equally strengthen the rights of women and men and will risk disadvantaging women disproportionately.

Below is a list of questions to help identify issues that may affect whether and how women’s rights to collective or community land are strengthened.
<table>
<thead>
<tr>
<th>Social Change</th>
<th>Empowering Women</th>
<th>Legal Change</th>
<th>Governance</th>
<th>Informing Women</th>
<th>Project Staffing</th>
<th>Data Collection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does the implementing organization already have a relationship with the community?</td>
<td>Do women have agency in the household? Community? If yes, in what circumstances?</td>
<td>Does the constitution/formal law exempt customary law from equality provisions? What is the hierarchy between formal law and customary law?</td>
<td>What is required to ensure that women are able to fully participate in decision making?</td>
<td>What is the level of education of community members and leaders? Men and women? Are women and men equally literate?</td>
<td>What are the barriers to hiring female staff? For what positions is female staff necessary and not just desirable?</td>
<td>What data is necessary to design the project?</td>
</tr>
<tr>
<td>Does the implementing organization understand the cultural context of the project area?</td>
<td>What differentiates women who have a voice from women who do not—both in the beginning of the project and in the end?</td>
<td>If customary law is codified, are there any affirmative actions required regarding gender equality?</td>
<td>Do women have the training and confidence to participate fully? If not, what is required to improve their participation?</td>
<td>What methods of training and knowledge dissemination have worked in this community before?</td>
<td>Are there recruiting techniques or forums that are more likely to attract women staff?</td>
<td>What data is needed to monitor women’s: participation in governance, ability to gain or keep their rights to land, and understanding of project processes and legislative framework?</td>
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<td>Social Change</td>
<td>Empowering Women</td>
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<td>Governance</td>
<td>Informing Women</td>
<td>Project Staffing</td>
<td>Data Collection</td>
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<td>What norms in the community delegitimize women’s rights to secure LT?</td>
<td>How is membership in community related to marital patterns?</td>
<td>Legal definition for community membership includes women who marry into the community?</td>
<td>Are there incentives for women to participate in governance?</td>
<td>Has there been any gender training in the community?</td>
<td>Are accommodations necessary to ensure women staff participate?</td>
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<tr>
<td>What fundamental norms in the community support women’s rights to secure land tenure?</td>
<td>Do women know and understand their land rights and how to enforce them?</td>
<td>Do family laws apply to land held by the community but managed individually, and protect women’s rights?</td>
<td>Do women and men understand the benefit of women participating in decision making?</td>
<td>Have men or women or both engaged in trainings before?</td>
<td>Should the project have a target for the number of female staff?</td>
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<td>Does the implementing organization have the will/capacity to advocate for social change?</td>
<td>Do women have access to dispute resolution bodies? If not, why not?</td>
<td>How much discretion do local communities have in governing land? Is it absolute?</td>
<td>What is required to ensure that women’s interests are protected in the bylaws?</td>
<td>How/where do women receive their information that they trust? Men?</td>
<td>Is there a gender expert on the staff? If not, is there a staff willing to be trained?</td>
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<td>What sort of external pressure exists to conform to traditional practices?</td>
<td>Will men be more suspicious and resistant to women’s engagement if they are not included?</td>
<td>Does the leadership need training on the elements of good governance?</td>
<td>What are the social or time-related barriers to women attending trainings/information meetings?</td>
<td>Does staff designing the project have expertise to ensure the design benefits women and men equally? Is it available?</td>
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<td>What sort of internal community pressure exists to conform to traditional practices?</td>
<td>Are there existing organized women’s groups? What issues are these groups organized around?</td>
<td>Does the leadership/community understand the value of women’s involvement in decision making and need for secure LT?</td>
<td>What is required to have information available when the community needs to use it?</td>
<td>Is there resistance to considering gender as part of project design? What is needed to overcome it?</td>
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<td>What type of social change is possible within the timeframe of the project?</td>
<td>What are the characteristics of women who participate in groups?</td>
<td>Are there methods aside from training that might help get these messages across?</td>
<td>What incentives might influence men to allow women in their families to be better informed?</td>
<td>What training does staff need to ensure the project is gender-sensitive?</td>
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<td>Is there political will? Who?</td>
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<td>Which women is the project targeting?</td>
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<td>At what level is social change possible—household, community, government?</td>
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<td>Are there activities that can be supported to ensure women are included in project benefits?</td>
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<td>How can women be involved in governance in the community?</td>
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<td>Is there enough funding dedicated to including women?</td>
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</tbody>
</table>
References


Government of Ghana, Constitution, Article 17 (1) and (2).


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