



Supporting an enabling legal environment for women's empowerment in food and agriculture



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Empowerment is the “expansion of people’s ability to make strategic life choices” (Kabeer, 1999). According to the UN, women’s empowerment has five components: women’s sense of self-worth; their right to have and to determine choices; their right to have access to opportunities and resources; their right to have the power to control their own lives, both within and outside the home; and their ability to influence the direction of social change to create a more just social and economic order, nationally and internationally (FAO, 2017). The process of empowerment rests on enabling social conditions including social norms and legislative action that supports equality as well as individual will. To promote women’s empowerment in agriculture and food security, countries need enabling legal frameworks.

This legal brief discusses the role of national legislation in supporting women’s empowerment in agriculture and food security. It explores the conditions needed for legislation to achieve positive social change, highlights successful legal measures taken, and suggests steps legislators can take to strengthen women’s opportunities to participate in, benefit from, and achieve empowerment in food and agriculture.



Why women's empowerment in agriculture and food security matters

Despite being critical contributors to agriculture and global food systems (World Bank, 2021), rural women in low and lower-middle income countries face persistent obstacles and constraints limiting their empowerment. Women producers and entrepreneurs in agri-food systems are hindered by limited access to and control over essential resources and opportunities, particularly land and natural resources. Discriminatory practices and norms limit their ability to make strategic decisions and act on them.

Women face challenges in accessing financial services, markets and extension services. Moreover, employed women typically work without formal contracts, on a temporary or seasonal basis, without job security or benefits.

Rural women's access to social protection, labour and employment services that support empowerment is limited. Programme design and implementation should address indigenous and minority women and others facing language or literacy barriers. These constraints result from a complex interface between discriminatory socio-cultural practices, inadequate legislation and lack of enforcement that can contrast with rights upheld in formal laws.

This brief addresses these challenges by discussing four legislative areas that are key to promoting women's empowerment in agri-food systems: gender equality and women's legal capacity; access to land and natural resources; women's membership in cooperatives and producer organizations; and wage employment.

While laws and policies cannot generate women's empowerment per se, enabling legislation is a foundational step towards it

Gender equality, legal capacity and proof of identity

Eliminating all gender-based discrimination and achieving gender equality should be at the forefront of legislative efforts to promote women's empowerment. The 1979 Convention on the Elimination of Discrimination Against Women (CEDAW) established a "bill of rights" for women now ratified by 189 governments.

To achieve the gender equality goals of CEDAW, efforts should be focused on the elimination of gender-based discrimination in constitutions and in the legal framework (Article 2), and on the adoption of all appropriate measures in the political, social, economic and cultural fields, including temporary special measures, for the purpose of accelerating the achievement of de facto gender equality (Articles 3 and 4). To note, Indicator 5.1.1 of Sustainable Development Goal (SDG) 5 on Gender Equality measures "whether or not legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex." National legislation should include the following provisions.

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Key provisions	Legislative examples
Constitutional provisions that guarantee gender equality and prohibit gender-based discriminations.	Mali: Article 2 of the <i>Constitution</i> states that “Every Malian shall be born and remain free and equal in rights and obligations. All discrimination founded on social origin, colour, language, race, sex, religion and political opinion shall be prohibited.”
Legal provisions that promote women's participation in political processes and public institutions.	Costa Rica: Article 2 of the <i>Law 8765 of 2009</i> states that political participation of men and women is a human right. Participation shall be governed by the principle of parity which implies that all delegations, electoral lists and other entities with an even number of members must be composed of 50 percent of members from each gender, and in delegations, electoral lists or entities with an odd number of members the difference between the total number of men and women shall not exceed one.
Legislation against gender-based violence (GBV) with mechanisms for reporting, counselling, and punishment of perpetrators, including between husband and wife and other family members.	Armenia: The National Assembly enacted the <i>Republic of Armenia Law 'On Prevention of Violence Within the Family, Protection of Victims of Violence Within the Family and Restoration of Peace in the Family'</i> (2017) to introduce criminal and administrative liabilities against those guilty of domestic violence.

Data from 2019 indicates that 155 countries and territories have legislation in place on domestic violence (World Bank, 2020). Implementation remains weak and needed social services like shelters and counselling are limited. In 2020, GBV increased as a result of COVID-19 lockdowns (Dlamnini, 2020).

Women's legal capacity

To be autonomous stakeholders in agri-food systems, women need the same legal capacity to that of men: to enter any kind of contract, undertaking or transactions and to manage property without the consent of a spouse and independent of their marital status. The “entrepreneurship” component of the World Bank's Women, Business, and the Law reports on four measures: Does the law prohibit discrimination in access to credit based on gender?

- Can a woman sign a contract in the same way as a man?
- Can a woman register a business in the same way as a man?
- Can a woman open a bank account in the same way as a man?

To be autonomous stakeholders in agri-food systems, women must have the same legal capacity as men

Nearly 40 percent of the 190 reporting countries have met all four measures, and just over half the majority (55 percent) met three criteria (World Bank, 2020). Rural women's rights to access agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform, as well as in land resettlement schemes, are addressed in CEDAW,

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Article 14, while Article 15 speaks to the equality of women in business, with any restrictive contracts “deemed null and void.” SDG 5.a addresses equal rights to economic resources, property ownership and financial services and is measured by Indicators 5.a.1 and 5.a.2 on women's land ownership.

Key provisions	Legislative examples
<p>National legislation should guarantee women's capacity to enter contracts/engage in any undertaking independently from marital status.</p>	<p>Georgia: In 2019, access to credit was made easier for women by prohibiting gender-based discrimination in access to financial services (World Bank, 2020). Article 12 of the <i>Civil Code</i> confers legal capacity to all natural persons upon the age of majority, giving them the ability to fully acquire and exercise civil rights and duties.</p>

Proof of identity

Access to identity documents (ID) is essential to women's empowerment, including in the agriculture sector. Without proof of personal ID, women do not officially “exist” in the local or national legal systems and are unable to access many services, have no avenue towards formal political participation, cannot obtain an education, or access financial services – including the option to open a bank account or apply for a loan – or social protection programmes (Hanmer and Elefante, 2019).

Obtaining identity documents can be difficult for women and girls. Legal documentation, starting with a birth certificate, is a critical entry point for social inclusion. SDG 16 aims to provide every person with a legal identity, including birth registration, by 2030. Mobile phones can build digital identities. In agriculture, critical services –market information, banking, and product payments – are increasingly delivered by phone and rely on a trusted digital identity. Furthermore, even when access to a fixed identity is achieved, digital or not, small farmers, processors and traders find they also need to have an “economic” identity that can document a credit history, business transactions or farm size and location. Yet women are doubly disadvantaged by their lower access to phones than men (GSMA, 2017).

National legislation should include provisions stating that women and men are able to apply for ID documents independently and under the same conditions. In Pakistan, all citizens over 18 are expected to have a computerized national ID card (CNIC) as stated in the National Database and Registration Authority (NADRA) Ordinance, 2000 (Ordinance VIII of 2000) (Farhat, 2019). It allows people to register births and obtain marriage licences, bank accounts, passports or SIM cards for cell phone service. Restrictive social norms and limited mobility make women's registration a challenge, but linking CNIC ownership by women to cash stipends paid only to women rapidly grew enrolment (GSMA, 2017; World Bank, 2016).

For women and girls, legal identity is a steppingstone to empowerment, agency, and freedom of movement

Access to, control and management of land and natural resources

Land and natural resources such as forests and water are critical resources for agriculture and food production. They are important not only as factors of production for crop and livestock but also to leverage other resources that can be mobilized to participate and benefit from agricultural business and market opportunities. Women who operate as food producers, processors and traders need access and control over land and natural resources and security of tenure.

While the nature, scope and content of rights to land and natural resources may vary extensively across countries (e.g., individual freehold property; use rights in state-owned or managed land, and legally recognized customary rights), such rights should not be differentiated on the basis of gender.

Indicator 5.a.2

Indicator 5.a.2 under SDG Target 5.a on women's access to ownership and control over land measures the "percentage of countries where the legal framework (including customary law) guarantees women's equal rights to land ownership and/or control". The official reporting methodology (FAO, 2021) uses the following six proxies to track progress on Indicator 5.a.2:

- A. Is the joint registration of land compulsory or encouraged through economic incentives?
- B. Does the legal and policy framework require spousal consent for land transactions?
- C. Does the legal and policy framework support women's and girl's equal inheritance rights?
- D. Does the legal and policy framework provide for the allocation of financial resources to increase women's ownership and control over land?
- E. In legal systems that recognize customary land tenure, does the law explicitly protect the land rights of women?
- F. Does the legal and policy framework mandate women's participation in land management and administration institutions?

As of April 2021, close to 40 countries have reported on this indicator. Family, property and inheritance laws are essential in defining women's ability to own and control land individually. Where land and natural resources are held collectively, women also need to be able have a say in local governance processes.

National legislators should consider including the following provisions to protect women's rights to land and natural resources.

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Key provisions	Legislative examples
Recognition of gender-equality in the right to own or control property/land regardless of the type of marriage.	Viet Nam: Article 25 of the <i>Civil Code</i> states that every individual shall be entitled to civil rights and obligations with respect to personal rights associated to property, ownership rights and other rights associated with property; it also recognizes women's rights to ownership of individual property.
Specific measures to guarantee women's equal rights to land and natural resources.	Ecuador: Article 25 of the <i>Organic Law on Rural Lands and Ancestral Territories, Official Gazette No. 711 (2016)</i> states that for the exercise of the right of access to rural land, the State shall guarantee the rights to formal equality, material equality and non-discrimination.
Recognition of full or partial community of property as default marital property regime.	France: Under the <i>Civil Code</i> , the default marital property regime is the partial community of property meaning that any property acquired by the spouses during the marriage, as well as their income, is common (Article 1400 et seq).
Spousal consent should be mandatory for any transaction involving joint tenure rights.	Madagascar: Article 23 of <i>Law No. 2007-022</i> prevents a spouse from alienating immovable property without the consent of the other spouse.
Legislative instruments should offer the possibility for spouses to hold joint user rights or ownership of property.	Ethiopia: Article 62 of the <i>Family Code</i> provides for joint ownership of property acquired after marriage.
In case of registration procedure, provisions should encourage or provide for compulsory joint registration of land rights/ property for spouses.	Albania: Article 45 of <i>Law No. 111/2018 on cadaster (2018)</i> provides that if a property is acquired during the marriage in accordance with Article 76 of the Family Code, the registration is done jointly for both spouses.
Where customary tenure is recognized, laws should explicitly forbid discriminatory practices.	United Republic of Tanzania: Article 20(2) of the <i>Village Land Act (1999)</i> provides that any rules of customary law that deny women lawful access to ownership, occupation or use of land be held as void.
A surviving spouse should be granted user rights to matrimonial property for life.	Ecuador: Article 834 of the <i>Civil Code</i> grants the surviving spouse a right to reside during his/her lifetime in any family property, in which he/she cohabited with the deceased as their matrimonial home.
The surviving spouse should be entitled to a minimum share of matrimonial property).	Sierra Leone: The <i>Devolution of Estates Act, No. 21 of 2007</i> guarantees the inheritance rights of women and children married under customary law and co-habiting partners. Sections 6-8 provide the surviving spouse with a minimum share of matrimonial property which varies depending on the presence of other spouses and children.

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Key provisions	Legislative examples
<p>Governance processes should guarantee women's representation in decision-making processes on land and natural resources.</p>	<p>United Republic of Tanzania: Section 56 of the <i>Local Government Act (District Authorities)</i> provides that one third of the total number of village councils shall be women (2009 amendment).</p>

In countries where different types of marriage and inheritance co-exist and customary laws operate alongside the formal system, explicit provisions that protect women's rights to own property and inherit regardless of the type of marriage should be adopted. The laws should also specify that the recognition of full or partial community of property as default marital property regime applies to all types of marriage. Finally, states should explicitly identify which customary rules are deemed gender-discriminatory and void (Dancer, 2017).

Adequate financial resources need to be allocated so that provisions promoting women's equal rights to land can be properly implemented (Indicator 5.a.2, Proxy D)

Increasingly, countries are adopting gender equality provisions in family law, access to natural resources, and participation in local government. Yet, implementation of those measures remains a challenge due to restrictive socio-cultural practices, a lack of awareness of opportunities or available services, and a lack of resources. Adoption of non-discriminatory norms is an important starting point to stop such practices, but other efforts are also required, including ensuring adequate financial resources to ensure effective implementation.

Strengthening women's membership and leadership in producer organizations and cooperatives

Women's groups, cooperatives and producer organizations are a primary pathway for providing key services to self-employed women and agri-entrepreneurs, including business development training, credit, as well as bulking, grading, and transport services, market information, and market linkages. New research shows that group membership strengthens women's empowerment. Groups are a vehicle for delivering agricultural extension and advisory services that provide the guidance to maximize profitability as well as food and nutrition security.

Key provisions	Legislative examples
<p>Establish policies and laws related to the formation and management of cooperatives and producer or marketing organizations and their membership to ensure equity of access and operation.</p>	<p>Namibia: Article 29 of the <i>Cooperative Act No. 23 (1996)</i> identifies conditions to ensure women's participation as members and in leadership, e.g., if there are at least five women members, a woman must be named to the association board.</p>

Governments should pass laws to require quotas or other mechanisms that promote the participation of women both as members and leaders of producer organizations.

Women as wage workers

Women are essential wage labourers in agricultural production, processing, and marketing. Working informally, without written contracts, women in agricultural wage work have few legal protections. They often work long hours in hazardous conditions and are poorly paid. On commercial farms and processing plants, women often have supervisors who are men, even in women-owned firms. Henry and Adams (2018) report that social norms tolerating harassment combined with little accountability from management can lead to sexual violence and harassment.

Twenty-one countries still restrict women from working in some agricultural jobs or at certain hours. Even when these restrictions stem from a desire to offer women protections for themselves and their families, such legal barriers can inhibit women's labour force participation, with negative consequences on economic growth (World Bank, 2020). An equitable approach ensures the safety of all workers.

Laws to protect inclusive parental leave, establish penalties for GBV in the workplace, and that eliminate gender pay gaps can promote women's participation in the labour market and strengthen economic growth.

Key Provisions	Legislative Examples
Equal pay for work of equal value.	Iceland: Legislation on equal pay for work was passed in 1961. In 2018, an amendment to Article 19 of the <i>Gender Equality Act No. 10/2008</i> requires companies to prove they are paying their workers equally.
Safety, other protective legislation including the prevention and elimination of GBV.	Canada: Division XV.1 of Part III of the <i>Labour Code</i> provides that workers have the right to a workplace free from sexual harassment.
Create work-life balance for both women and men.	Czechia: Section 195 of the <i>Labour Code</i> provides that maternity leave replaces wages and can last up to 28 weeks, including leave prior to the due date.

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Messages clés

- National policies and legal frameworks provide foundational steps for women's empowerment. While laws and policies cannot alone generate women's empowerment, they offer an enabling framework to promote it. States should adopt national provisions that guarantee gender equality and eliminate gender-based discrimination in all legislative instruments, including special temporary measures.
- Legislation should guarantee women's capacity to enter contracts or any undertaking independently from marital status.
- Documentation of identity is a critical prerequisite to accessing assets and services critical to agriculture, notably land and credit. States should adopt legal provisions stating that women and men are able to apply for ID documents independently and under the same conditions.
- Family, property, inheritance, land and local governance laws are central to defining women's ability to access and control land and other natural resources. States should guarantee women's equal rights to land and natural resources as well as ownership of property independently from their marital status. They should also guarantee women's representation in local governance processes.
- States should adopt laws related to the formation and management of cooperatives and producer organizations and their membership to ensure gender-equality in access and operation.
- States should support policies and laws to improve hiring, promotion, retention and workplace safety – including protection from sexual harassment – for women wage workers in agriculture.
- States should strengthen laws and policies around pay equity, occupational safety, and the elimination of restrictions on women's wage work.