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WOMEN'S ACCESS TO LAND: SDG INDICATORS 5.A.1 AND 5.A.2

I. Introduction

Goal 5 of the Sustainable Development Goals (SDGs) “*achieve gender equality and empower all women and girls*”, known as the stand-alone gender goal, recognizes the fundamental role of women in achieving poverty reduction, food security and nutrition and sustainable development goals. It refers to governments’ commitments to end discrimination across the spectrum. Goal 5 is broken down into nine targets, including Target 5a, which is to “*give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws*”.

Achievements under target 5.a are monitored through two land indicators. While the first one focus on land related statistics, the second is a legal indicator:

- Indicator 5.a.1

(a) *Percentage of people with ownership or secure rights over agricultural land (out of total agricultural population), by sex; and*

(b) *Share of women among owners or rights-bearers of agricultural land, by type of tenure.*

- Indicator 5.a.2:

Percentage of countries where the legal framework (including customary law) guarantees women’s equal rights to land ownership and/or control.

Although different in nature, both indicators are closely interrelated. Indicator 5.a.1 is a *de facto or output* indicator, in that it examines the actual situation in a given country in terms of women and men’s land rights and tenure security, with a focus on agricultural lands. By contrast, indicator 5.a.2 is a *de jure* or process indicator, in that it monitors reforms in the legal and policy framework that support women’s equal rights to economic resources, ownership and control over land, with a focus on the adoption of legal reforms to promote women’s land rights.

Data on land ownership or secure rights over land disaggregated by sex is crucial to monitor the effectiveness of countries’ legal framework on women’s equal rights to land and the progress, towards women’s *de facto* equality in land ownership or control. The type of adjustments to the countries’ legal framework on women’s equal rights to land should be determined to the extent possible using the evidence provided by statistical data.

Indicator 5.a.2 is currently classified as a Tier III indicator which means that there is no internationally established methodology for monitoring and reporting under this indicator. FAO, which has been designated as custodian agency for this indicator, has developed a methodology for guiding states on how to track progress under Indicator 5.a.2.

II. Indicator 5.a.1

1. Definition

Indicator 5.a.1 is divided into 2 sub-indicators. While sub-indicator (a) uses the total male/female agricultural population as reference population, and tells us how many male/female own land, sub-indicator (b) focuses on the agricultural population with land ownership/tenure rights, and tells us how many of them are women.

Sub-indicator (a) is a prevalence measure. It measures the prevalence of people in the agricultural population with ownership or tenure rights over agricultural land, disaggregated by sex.

$$\frac{\text{No. people in agricultural population with ownership or tenure rights over agricultural land}}{\text{Total agricultural population}} * 100, \text{ by sex}$$

Sub-indicator (b) focusses on the gender parity, measuring the extent to which women are disadvantaged in ownership / tenure rights over agricultural land.

$$\frac{\text{No. women in the agricultural population with ownership or tenure rights over agricultural land}}{\text{Total in the agricultural population with ownership or tenure rights over agricultural land}} * 100$$

2. Concepts

Definition of all concepts and terms associated with the indicator, namely agricultural land, agricultural population, ownership and tenure rights over agricultural land, are reported below:

2.1. Agricultural land

In compliance with the classification proposed by the World Census of Agriculture 2020 (WCA 2020), land is considered ‘agricultural land’ according to its use. Moreover, a reference period is usually required in order to characterize the use of a specific area of agricultural land and identify subcategories. According to such definition, agricultural land includes: land under temporary crops, land under temporary meadows and pastures, land temporarily fallow, land under permanent crops and land under permanent meadows and pastures.

2.2. Agricultural population

Indicator 5.a.1 uses ‘agricultural population’ as denominator, instead of the total population, because tenure rights over agricultural land are relevant especially for individuals whose livelihood relies on agriculture. Although an official definition of ‘agricultural population’ does not exist, an operational definition of this term shall be proposed for the scope of indicator 5.a.1.

In the context of 5.a.1, ‘agricultural households’ – ie., household operating land and/or raising and tending animals – can be used as a proxy of ‘agricultural population’ and they are the reference population for this indicator.¹

2.3. Ownership and tenure rights over agricultural land

Land ownership is a legally recognized right to acquire, to use and to transfer land. In private property systems, this is a right akin to a freehold tenure. However, in systems where land is owned by the State, the term ‘land ownership’ refers to possession of the rights most akin to ownership in a private property system – for instance, long-term leases, occupancy, tenancy or use rights granted by the State, often for several decades, and that are transferrable. In this context, it is more appropriate to speak of tenure rights.

In order to overcome the lack of written documentation and to generate a globally valid indicator it becomes crucial to take into account also the *alienation rights* over land, which can be present even in contexts where tenure rights are not documented. Alienation is defined as the ability to transfer a given asset during lifetime or after death. The right to sell and to bequeath are considered as objective facts that carry legal force as opposed to a simple self-reported declaration of tenure rights over land.

3. Proxies

Considering the above, as well as the need to propose an indicator valid at global level, indicator 5.a.1 relies on the three conditions (proxies):

1) Presence of legally recognized documents in the name of the individual: It refers to the existence of any document an individual can use to claim property rights before the law over an asset by virtue of the individual’s name being listed as owner or holder on the document. Given the differences between legal systems across countries it is not possible to clearly define

¹ The adoption of a household perspective is particularly important from the gender perspective, because in many agricultural households, women often consider themselves as ‘not involved in agriculture’ whereas they provide substantive support to the household’s agricultural activities. In addition, tenure rights over agricultural land make women less vulnerable if the household dissolves.

an exhaustive list of documents that could be considered a proof of tenure security, but each country should customize its own list².

2) Right to sell: It refers to the ability of an individual to permanently transfer the asset in question in return for cash or in-kind benefits.

3) Right to bequeath: It refers to the ability of an individual to pass on the asset in question to another person(s) after his or her death, by written will, oral will (if recognized by the country) or when the deceased left no will, through intestate succession.

The presence of one of the three proxies is sufficient to define a person as ‘owner’ or ‘holder’ of tenure rights over agricultural land. The advantage of this approach is its applicability to different countries.

4. Data sources

In the specific case of indicator 5a1, National Household Surveys are the most recommended data source³. This is because they: i) can accommodate questions needed for the computation of indicator 5.a.1; ii) allow exploring associations between the individual status on indicator 5.a.1 and other individual or household characteristics, such as education, health, income level, etc; iii) can include additional data for a more detailed analysis of the indicator (eg., land size). Alternative sources include Population and Housing Censuses and Agricultural Surveys. In principle they could be used for collecting the data for indicator 5.a.1. However, both present disadvantages. Censuses are costly, they rely heavily on proxy respondents and their frequency is too low to closely monitor indicator 5.a.1. Agricultural surveys may not adequately cover the households where members are engaged in agriculture as wage laborers, therefore, they miss a part of the reference population.

² Countries can customize this list. Such documents can include: Title deed, Certificate of occupancy or land, Purchase agreement, Registered certificate of hereditary acquisition, Certificate of customary tenure, Registered certificate of perpetual / long term lease, Registered short term (less than 3 years) rental contract, Certificate issued for adverse possession or prescription.

³ Examples of household surveys that could be used to generate the indicator 5a1 are: Household budget surveys (HBS), Living standard measurement surveys (LSMS), Living Conditions Surveys, Labor Force Surveys (LFS), Demographic and Health Surveys (DHS), Multiple Indicator Cluster Surveys (MICS), Multipurpose Household Surveys.

5. Data collection strategies

5.1. Minimum Set of Data

A minimum set of data is needed to calculate the indicator. These are:

Whether or not at least one household member has been mainly engaged in agriculture in the past 12 months	To identify the adult agricultural population, by sex
Sex of the selected individual	
Age of the selected individual	
Whether or not the selected individual owns or holds any agricultural land	To identify land owners and land rights bearers (3 proxies)
Whether or not any of the land owned or held by the respondent has a legally recognized document that allows protecting his/her ownership / tenure rights over the land	
Whether or not the selected individual is listed as an owner or holder on any of the legally recognized documents, either alone or jointly with someone else	
Whether or not the selected individual has the right to sell any of the agricultural land, either alone or jointly with someone else	
Whether or not the selected individual has the right to bequeath any of the agricultural land, either alone or jointly with someone else	

5.2. Selecting individuals to interview

For indicator 5a1, it is crucial to: i) choose the number of individuals on which information is to be collected, and ii) determine who should report this information. Two options are suggested:

- **Option 1:** Each adult member of the household is interviewed on his/her ownership / tenure rights over agricultural land (self-respondent approach applied to all members)
- **Option 2:** One randomly selected adult household member is interviewed on his/her ownership / tenure rights over agricultural land (self-respondent approach applied to one member)

FAO does not recommend using proxy respondents, whereby the most knowledgeable household member is usually interviewed to collect information on all the household members⁴.

5.3. Questions to capture owners and rights holders over agricultural land

Case 1 - Individual level

This approach is recommended if:

1. the survey can collect only a minimum set of questions on the ownership of / or tenure rights over agricultural land
2. the inclusion of a roster of parcels goes beyond the scope of the survey

⁴ Findings from the pilot studies reveal that data from proxy respondents yield different estimates than self-reported data, with variations by asset, by type of ownership and by the sex of the owner. In particular, it was found that proxy-reported data decrease both women's and men's reported ownership of agricultural land. Such underestimation is greater for men (-15 percentage points) than for women (-10 percentage points), and is less pronounced when we consider documented ownership (-7 percentage points for men and -2 percentage points for women).

Under case 1, individual level questions should be asked through an individual questionnaire/module administered to a randomly selected adult household member or all household members. The list of questions is found in table 1 of the annex.

Case 2 - Parcel level

Countries may opt to collect information at the parcel level for two reasons: First, the country implements a nationally-representative survey that already collects a roster of parcels (e.g. the LSMS-ISA and many agricultural surveys) to which the questions on ownership or tenure rights can be appended. Second, the country wants to go beyond the data strictly needed for the computation of the indicator and collect a broader set of information in order to carry out a comprehensive analysis of women's and men's ownership, rights and control of agricultural land.

When a module on the ownership / tenure rights of agricultural land is appended to an existing survey, for calculation of SDG Indicator 5.a.1, the following rules should be followed:

- i. **If the main survey questionnaire already captures a roster of parcels belonging to the household**, the respondent randomly selected to complete the module on agricultural land ownership / tenure rights should be asked if she/he holds any agricultural land. If yes, the respondent should report which of the roster of parcels generated at the household level he/she possesses. In addition, the respondent should be given the opportunity to report any additional parcels not included in the household parcel roster. The questions in the module will only be asked for the agricultural parcels held by the respondent (see example in table 2 in the annex).
- ii. **If all household members are interviewed**, a roster of parcels should be created at the household level and the same procedure described in rule (i) should be followed.
- iii. **If the main survey questionnaire does not capture a roster of parcels at the household level and one randomly-selected adult household member will be administered the module on agricultural land ownership /tenure rights**, a respondent roster of parcels can be created in the individual questionnaire by asking the respondent to list all of the parcels that s/he holds (see example in table 3 of the annex).

6. Conclusions

In March 2017, the indicator has been upgraded to TIER II category. FAO is currently undertaking capacity development activities to enable countries familiarize with the proposed methodology and collecting the data required for the 5.a.1 monitoring. Two workshops will be held in 2017, in collaboration with the EDGE initiative. Additional workshop are planned in 2018, some of them in collaboration with EDGE or with the 1.4.2 custodians.

Indeed, FAO, UN-HABITAT and the World Bank are collaborating to align concepts, definitions and data collection tools for the indicators 5.a.1 and 1.4.2. In particular, work is ongoing to develop a common 'land tenure module' that is able to generate the data for calculating both indicator 5.a.1 and 1.4.2. This will facilitate countries in the collection and generation of both indicators.

7. Annex

Table 1 – Ownership and land tenure rights questions – CASE 1

List of standard questions	Function
<p>Q1. Do you hold (alternatively ‘do you have, use or occupy’) any agricultural land, either alone or jointly with someone else?</p> <p>1 - Yes 2 - No</p>	<p>Reported possession (ie., self-perception of respondent’s possession status)</p> <p>This questions refers to whether the respondent, not the respondent’s household, holds any agricultural land.</p> <p>It measures reported possession, which captures the respondent’s self-perception of his/her possession status, irrespective of whether the respondent has a formal documentation.</p>
<p>Q2. Is there a formal document for <u>any</u> of the agricultural land you hold (alternatively ‘you possess, use, occupy) issued by the Land Registry/Cadastral Agency? (allow for more than one type of document to be listed)</p> <p>1 - Title deed 2 - Certificate of customary tenure 3 - Certificate of occupancy 4 – Registered will or registered certificate of hereditary acquisition 5 – Registered certificate of perpetual / long term lease 6 – Registered rental contract 7 - Other (specify: _____) 9 - No document (skip to Q4) 98 - Don’t known (skip to Q4) 99 – refuses to respond (skip to Q4)</p>	<p>This question identifies whether there is a legally recognized document for any of the agricultural land the respondent reports having, and the type of documentation. Documented ownership / tenure rights refers to the existence of any document an individual can use to claim ownership or tenure rights in law over the land.</p> <p>The list of options is indicative and countries are encouraged to adopt country-specific list.</p> <p>However, it is of utmost importance that the list includes only country relevant documents that are enforceable before the law.</p>
<p>Q3. Is your name is listed as an owner or use right holder on any of the legally recognized documents?</p> <p>1 - Yes 2 - No 98 - Don’t know 99 - Refuses to respond</p>	<p>As above</p> <p>Because individual names can be listed as witnesses on a document, it is important to ask if the respondent is listed “as an owner” or “holder” on the document. It is recommend that the measure of documented ownership / tenure rights not be conditional on the respondent producing the document for the enumerator to confirm.</p>
<p>Q4. Do you have the right to sell any of the parcel you hold (alternatively ‘parcel possessed, used or occupied’), alone or jointly with someone else?</p> <p>1 - Yes 2 – No 98 - Don’t know 99 - Refuses to respond</p>	<p>Alienation rights</p> <p>This question obtains information on whether the respondent believes that he/she has the right to sell any of the agricultural land s/he reports possessing. When a respondent has the right to sell the land, it means that he or she has the right to permanently transfer the land to another person or entity for cash or in kind benefits.</p>
<p>Q5. Do you have the right to bequeath any of the parcel you hold (alternatively ‘parcel possessed, used or occupied’), alone or jointly with someone else?</p> <p>1 - Yes 2 - No 98 - Don’t know 99 - Refuses to respond</p>	<p>Alienation rights</p> <p>This question obtains information on whether the respondent believes that he/she has the right to bequeath any of the agricultural land he/she reports possessing.</p> <p>When a respondent has the right to bequeath the land, it means that he/she has the right to give the land by oral or written will to another person(s) upon the death of the respondent.</p>

Table 2 - Ownership and land tenure rights questions – CASE 2 rule (i) and (ii)

Q1. Do you hold (alternatively 'do you have, use or occupy') any agricultural land, either alone or jointly with someone else? 1 – Yes 2 – No (end of module)							
	Q2	Q3			Q4	Q5	Q6
Parcel ID	Please tell me which agricultural parcels you hold (alternatively 'you have, use or occupy') <i>ENUMERATOR: LIST PARCEL ID CODES FROM THE HOUSEHOLD QUESTIONNAIRE THAT ARE HELD INDIVIDUALLY OR JOINTLY BY RESPONDENT</i>	Is there a formal document or certificate for this [PARCEL] issued by the Land Registry/Cadastral Agency? (tick all that applies) 1 - Title deed 2 - Certificate of customary tenure 3 - Certificate of occupancy 4 – Registered will or registered certificate of hereditary acquisition 5 – Registered certificate of perpetual / long term lease 6 – Registered rental contract 7 - Other (specify: _____) 9 - No document (skip to Q4) 98 - Don't known (skip to Q4) 99 – refuses to respond (skip to Q4)			Is your name is listed as owner or use right holder on the formal document for this [PARCEL]? 1 - Yes (alone or jointly with someone else) 2 - No 98 - Don't know 99 - Refuses to respond	Do you have the right to sell this [PARCEL], either alone or jointly with someone else? 1 - Yes (alone or jointly with someone else) 2 – No 98 - Don't know 99 - Refuses to respond	Do you have the right to bequeath this [PARCEL], either alone or jointly with someone else? 1 - Yes (alone or jointly with someone else) 2 – No 98 - Don't know 99 - Refuses to respond
1		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
...		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
N		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Table 3 - Ownership and land tenure rights questions – CASE 2 rule (iii)

Q1. Do you hold (alternatively 'you have, use or occupy') any agricultural land, either alone or jointly with someone else? 1 – Yes 2 – No (end of module)							
	Q2	Q3			Q4	Q5	Q6
Parcel ID	List all of the agricultural parcels you hold (alternatively 'you have, use or occupy'), either alone or jointly with someone else	Is there a formal document or certificate for this [PARCEL] issued by the Land Registry/Cadastral Agency? (tick all that applies) 1 - Title deed 2 - Certificate of customary tenure 3 - Certificate of occupancy 4 – Registered will or registered certificate of hereditary acquisition 5 – Registered certificate of perpetual / long term lease 6 – Registered rental contract 7 - Other (specify: _____) 9 - No document (skip to Q4) 98 - Don't known (skip to Q4) 99 – refuses to respond (skip to Q4)			Is your name is listed as owner or use right holder on the formal document for this [PARCEL]? 1 - Yes (alone or jointly with someone else) 2 - No 98 - Don't know 99 - Refuses to respond	Do you have the right to sell this [PARCEL], either alone or jointly with someone else? 1 - Yes (alone or jointly with someone else) 2 – No 98 - Don't know 99 - Refuses to respond	Do you have the right to bequeath this [PARCEL], either alone or jointly with someone else? 1 - Yes (alone or jointly with someone else) 2 – No 98 - Don't know 99 - Refuses to respond
1		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
...		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
N		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

III. SDG Indicator 5.a.2

The indicator's focus on land reflects the recognition that land is a key economic resource inextricably linked to access to, use of and control over other economic and productive resources. In rural and peri-urban areas, it is a key input for agricultural production; it can be used as collateral to access financial resources, extension services or join producer organizations; and, in both rural and urban areas, it can generate income directly, if rented or sold. Further, the focus on land is an explicit acknowledgment that ownership of and/or control over land is critical for poverty reduction, food security, inclusiveness and overall sustainable development objectives in both rural and urban settings.

Women's land ownership and control has been linked to important gains in women's welfare, productivity, equality and empowerment. Development practitioners recognize that secure control and ownership of land have a strong empowering effect on women: it reduces their reliance on male partners and relatives, increases their bargaining power within the household and improves their chances of accessing a wide variety of productive resources, including extension services and credit.

Finally, gender equality in land ownership and control is a human right enshrined in International Conventions such as the "*International Covenant on Civil and Political Rights (ICCPR)*" and the *Convention on Elimination of all forms of discrimination against women (CEDAW)*".

1. Methodology

1.1. Background and Development

The development of the methodology for Indicator 5.a.2 took place over the past three years and builds on FAO's Legal Assessment Tool (LAT) and the Gender and Land Rights Database (GLRD). Both the GLRD <http://www.fao.org/gender-landrights-database/country-profiles/en/> and the LAT <http://www.fao.org/gender-landrights-database/legislation-assessment-tool/en/> have enormously contributed to the methodology of the SDG indicator 5.a.2.

In addition, the methodology has been developed on the basis of in-depth and continuous consultation with experts in land tenure, legal rights and gender issues, as well as an exhaustive literature review and thorough analysis of legal and policy frameworks.

As a result of the abovementioned activities and tools, the methodology proposes that progress in supporting women's ownership and control over land on an equal footing to men is assessed by testing the legal framework against six proxies drawn from international law and internationally accepted good practices. These include, in particular the Convention on the Elimination of Discrimination Against Women (CEDAW) ratified by 189 countries, and the Voluntary Guidelines for the Responsible Governance of the Tenure of Land Fisheries and Forestry (VGGT) endorsed unanimously by Committee of Food Security (CFS) members in 2012.

The six proxies through which indicator 5.a.2 is monitored cover the following areas: joint registration, spousal consent for land transitions, equal inheritance rights for women and girls, governmental financial commitments for ensuring increasing women's ownership and control

over land, protection of women's rights in legally recognized customary systems and women's participation in land management and administration institutions.

The selected proxies are deemed the most adequate to help to tackle some of the principal constraints women face in ensuring the protection and security of their land rights, and in particular some of the challenges that arise for pervasive gender bias. Collectively, they will track progress on provisions based in good practices or innovative measures included in national legal frameworks to enable de facto gender equality in ownership and control over land. Each of the proxies will be more extensively analysed in section e) of numeral II.

For the purpose of ensuring the universal relevance and applicability of the proxies as well as the overall methodology, FAO piloted the methodology in 10 countries representatives of the different regions of the world, including Albania, Colombia, Guatemala, Kenya, Indonesia Tanzania, Uganda, Oman, Nepal, and Serbia. The results were crucial for fine-tuning the guidelines where needed and ascertain any concerns or confusion in terms of the instructions provided in the guidelines.

1.2. Key concepts and data sources

This section sheds the light on the terminology used in the methodology developed by FAO, which attempts to provide a universal definition of the concepts used in the indicator and in the proxies.

Indicator 5.a.2 measures the “*percentage of countries where the legal framework (including customary law) guarantees women's equal rights to land ownership and-or control*”.

In its formulation, the indicator refers to the legal and policy framework which according to the methodology includes the Constitution, policy, primary legislation and secondary legislation that have that have been formally endorsed by a law-making body and are publicly available. More specifically, the relevant laws include the following: land, family, marriage, inheritance, land registration, gender equality laws, constitution, and agrarian reform. Relevant policies include land, agriculture and gender. It is important to note that the results regarding the policies will not be included in the global SDG assessment results. Only what it is found in binding instruments, that is in primary legislation and/or secondary legislation will be computed.

The inclusion of the customary dimension in the indicator is very important because in many contexts in which these systems prevail, women's land rights tend to be denied or insecure. Customary land tenure is defined in the methodology as the bodies of rules and institutions governing the way land and natural resources are held, managed, used and transacted within customary legal systems. Further, customary legal systems are to be intended as systems that exist at the local or community level, that have not been set up by the state, and that derive their legitimacy from the values and traditions of the indigenous or local group. Customary legal systems may or may not be recognized by national law.

Land is defined as all immovable property – for instance the house, the land upon which a house is built and land which is used for others purposes, such as agricultural production. It also encompasses any other structures built on land to meet permanent purposes.

In addition, the indicator refers to ownership and/or control of land which are two critical but different dimensions regarding women's land rights. Land ownership refers to the legally recognized right to acquire, to use and to transfer landed property, while the control over land is associated with the ability to make decisions over land.

Besides defining the concepts included in the indicator's formulation, the methodology provides a very exhaustive list of definitions for all the relevant terms.

1.3. Key rules of the assessment

The approach adopted by the methodology with regard to customary law is that only if such law has been incorporated into the formal legal framework, it will be considered for the purpose of the assessment. This approach has been adopted as it is not possible to assess whether unincorporated customary law contains a proxy, as customary law can differ from area to area, is often unwritten, and usually is applied flexibly depending on the facts of the case.

In systems with multiple religious laws, it is proposed to focus on situation for two largest religious groups in the country. This means the proxy must be present and apply to both groups, in the spirit of ensuring that the assessment remains feasible, but also captures the situation for the majority of people in the country.

The data for the assessment of the indicator is collected at the national level to ensure that it is representative of the country situation. This means that the assessment of 5.a.2, to determine the existence of the proxies, should focus on legal and policy instruments that have nationwide authority. In countries where law-making power for land or gender matters are not within the authority of the national government (or are shared between the national government and a sub-national government level), there may be a number of different state/provincial or county laws and policy that can be analysed. Further there may be inconsistencies between these different sub-national laws in terms of the presence of a proxy and the degree of its integration in the legal and policy framework. Where this is the case, the assessment should be conducted in as many states or counties needed to cover at least 50 percent of the total country's population. Therefore the proxy should be located in all of the legal and policy frameworks relevant to these locations. If it is not the case, the proxy is not present.

Finally, as far as the time- frame of the assessment is concerned, the analysis should be limited to the most recent legal or policy instrument and to the legal and policy situation when the assessment starts. This means that only a policy that is in force, or primary legislation or secondary legislation that is in force and binding (i.e. not expired) on the day of the assessment should be cited in the forms. In the case of a policy, it should be the policy that has been finalized and is applicable at the time of the assessment.

1.4. The proxies

As indicator 5.a.2 is not directly measurable, six proxies have been identified to measure indicator 5.a.2. The proxies, as mentioned above, are:

Proxy A: *Is the joint registration of land compulsory or encouraged through economic incentives?*

Proxy B: *Does the legal and policy framework require spousal consent for land transactions?*

Proxy C: Does the legal and policy framework support women's and girls' equal inheritance rights?

Proxy D: Does the legal and policy framework provide for the allocation of financial resources to increase women's ownership and control over land?

Proxy E: In legal systems that recognize customary land tenure, does the legal and policy framework explicitly protect the land rights of women?

Proxy F: Does the legal and policy framework mandate women's participation in land management and administration institutions?

The following paragraphs will shed light on the scope and rationale of the proxies, as well as the conditions and thresholds that have to be met for each of them to be considered as present in the legal and policy framework.

Proxy A: *Is the joint registration of land compulsory or encouraged through economic incentives?*

Without the inclusion of their names on the land title, deed or certificate, women's property rights remain insecure, especially in the context of land registration programs and of property acquired by the spouses during the marriage. This is particularly the case for married women who separate, divorce, are abandoned or become widows.

The proxy therefore assesses whether the legal and policy framework include provisions requiring joint registration of land or encouraging joint registration through economic incentives for both married and unmarried couples. For the proxy to be present it is sufficient that joint registration is provided at least for married couples.

Proxy B: *Does the legal and policy framework require spousal consent for land transactions?*

Whenever actions are taken unilaterally by a husband or male partner regarding land related transactions such sale, mortgage or lease, especially when they concern the family home or other critical assets, they can leave women and any children homeless and without means of subsistence. Therefore spousal or partner consent requirements prior to any land transaction strengthen women's control rights over land whether they are married or within an unmarried couple. By supporting equality in the marriage and the joint administration of important property, such provisions directly contributes to the achievement of indicator 5.a.2, particularly with regard to gender equality in the control over land.

The proxy examines whether countries incorporate into the legal and policy framework a spouse or partner consent for land transactions. As with proxy A, the assessment covers both married and unmarried couples. Yet, for the proxy to be present it is sufficient that joint registration is provided at least for married couples.

Proxy C: *Does the legal and policy framework support women's and girls' equal inheritance rights?*

Inheritance is one of the main channels through which women acquire property and secure independent land rights. However, the persistence of discriminatory cultural and legal norms often deny women's and girls' equal inheritance rights and hinder women's opportunity to acquire property on an equal footing to men. Personal laws and customary laws in particular have often denied women's right to inherit or at least to inherit equal shares, and many post-

colonial governments have incorporated these rules in the formal legal architecture. In some cases, daughters may only be entitled to inherit in the absence of a traceable male relative.

Proxy C examines the extent to which states have incorporated into their legal and policy framework provisions that guarantee equal inheritance rights over land to surviving children and surviving spouses.

More specifically, this proxy aims to identify if the legal and policy framework of a country provides that sons and daughters have equal inheritance rights. It also aims to ascertain whether male and female surviving spouse and/or partner are entitled to an equal share of the deceased spouse's estate and/or to a lifetime user right to the family home. Both equal inheritance rights for sons and daughters and surviving spouse and/or partner have to be ensured for Proxy to be present.

Proxy D: *Does the legal and policy framework provide for the allocation of financial resources to increase women's ownership and control over land?*

Legal reforms to support gender equality in land ownership and/or control and access to other productive resources have not always translated into practice. The poor implementation of land and agriculture related policies and laws geared towards enhancing gender equality, is partially due to the lack or insufficiency of financial resources.

For this reason, this proxy identifies any legal provision that commits the government to allocate financial resources for the purpose of increasing women's ownership and control over land or access to productive resources, including land. For the purpose of the assessment the amount of the fund or financial resources is not relevant. It is, however a "conditio sine qua non" for this proxy to be satisfied that the fund is anchored into the national law. Such provisions are widely regarded as innovative measures to support women's land rights, and have been consistently endorsed by the CEDAW Committee in its deliberations and comments on state parties' reports under the treaty.

Proxy E: *In legal systems that recognize customary land tenure, does the legal and policy framework explicitly protect the land rights of women?*

Many countries have incorporated customary land tenure rights into the formal legal system, in effect 'formalizing' them. The legal recognition of customary land tenure however may reinforce discriminatory practices where there is no explicit protection for women's customary land rights. Further, the use of gender neutral provisions in the context of formalization of customary land tenure has in practice been associated with a lack of protection of women's rights. To avoid such outcomes explicit provisions securing the protection of the land rights of women should accompany any legal provision recognizing customary land rights.

Proxy E assesses whether the Constitution and/or any land related law that recognizes customary land tenure provides explicit protections for women's land rights.

It is important to note that for those countries where customary law has not been incorporated into the legal framework, Proxy E is not applicable and will not be assessed in the computation. As noted above, the only feasible way to take into account/to measure the customary dimension of this indicator is when it has been legally recognized, and therefore incorporated in the legal framework.

Proxy F: *Does the legal and policy framework mandate women's participation in land management and administration institutions?*

Land related institutions are responsible for governing the land tenure systems, and are in charge of land administration and management. Women are often excluded from participating in the day-to-day processes of land governance at all levels, and therefore have limited capacity to influence decision-making. A lack of women's representation in land governance tends to lead to biased outcomes in land recording and registration processes and the hindering of women's land claims, for instance by overlooking women's rights on common lands.

Proxy F aims to identify provisions within the legal framework requiring mandatory participation of women (quotas) in land related management and administration institutions.

2. Computation and Reporting

As with all the SDG targets and indicators, the computation and reporting process for target 5.a is global in scope and country-led. This section discusses the assessment and reporting at national level.

The concerned indicator has three important features that should guide Government's decision in the selection of the institution that will have the responsibility for the monitoring of this indicator: the legal nature of the indicator, land tenure aspects and gender/women's rights. In view of this, the most adequate national institutions that could be designated for having this responsibility are land related institution (i.e Ministry of land or the national institution governing land matters) or a national gender institution (i.e Gender Equality Commissions, Women's Affairs or Gender Ministries).

Given the legal nature of the indicator, the assessment should be conducted by a legal expert with knowledge on gender and land. The assessment under indicator 5.a.2 should take place every two years, using an electronic survey.

The three forms contained in the electronic survey are as follows:

- ✓ **Form 1 "Checklist of policy and legal instruments"**. This form provides a checklist of the relevant policy and legal instruments for each proxy.
- ✓ **Form 2 "List of policy and legal instruments for reporting under indicator 5.a.2"**. This form is where the details of instruments containing the proxy are provided and relevant provisions cited.
- ✓ **Form 3 "Questionnaire on indicator 5.a.2"**. This form summarizes the results of the assessment for each proxy.

The computation of results involves two different stages. First, the assignment of a "stage of incorporation" for each proxy, and second the classification of country according the number of proxies located in primary or primary and secondary legislation.

- **Assignment of stage of incorporation for each proxy**

The assessment of the indicator 5.a.2 entails collecting of all the relevant policy and legal documents, determining whether the proxies exist in the legal and policy framework by using the detailed methodological guidelines, and completing the three forms contained in the electronic survey.

Each of the six proxies is computed by stage of incorporation in the policy and legal framework, using a scale from 0 to 3.

Stage 0: Proxy is absent / could not be located in the legal and policy framework;

Stage 1: A policy is in place, incorporating the proxy;

Stage 2: Primary legislation includes the proxy;

Stage 3: Secondary legislation contains the proxy; and

Non-Applicable (NA): The proxy does not apply to the country.

- **Classification categories of country**

The country will then be classified according to the total number of proxies found in bidding documents, that is **in primary legislation or primary and secondary legislation**. Given that not in all countries customary land tenure rules exist or customary law is recognized (related to proxy E), for the purpose of computation a two-scale (or dual) approach has been developed:

1) For countries where customary land tenure is NOT recognized in the legal framework (either via statute or the constitution), regardless of whether it exists de facto or not, Proxy E is marked non-applicable and the country will be assessed out of the five remaining proxies.

2) For countries where customary land tenure is recognized in the legal framework, the country will be assessed against all six proxies,

The table below describes the dual approach classification and the classification bands. As is shown below, in countries where customary law is applicable (Proxy E) the presence of five or six proxies are included in the same band (band 6 - very high levels of guarantees). This is due to the necessity of making universal the calculation of the component of customary law - a component of the indicator which in itself is not universal to all countries.

Under the methodology all proxies have an equal weight. This implies that no dimension is more important than another in terms of supporting gender equality in land ownership and/or control. This is a legal indicator that “measures” the extent to which a country’s legal framework supports women’s land rights. All the data needed for measuring it are extracted from national legislation or the national constitution. As legal sources are always available in countries, there are no missing values at the country level for this indicator. The results will be communicated to FAO for the quality control and global reporting to the UN SDGs Secretariat.

Where Proxy E is applicable	Where Proxy E is <u>not</u> applicable	Classification
None of the six proxies are present in the primary or primary and secondary legislation	None of the five proxies are present in the primary or primary and secondary legislation	Band 1: No evidence of guarantees of gender equality in the land ownership and/or control in the legal framework.
One of the proxies present in primary or primary and secondary legislation	One of the proxies present in primary or primary and secondary legislation	Band 2: Very low levels of guarantees of gender equality in land ownership and/or control in the legal framework.
Two the proxies present in primary or primary and secondary legislation	Two of the proxies present in primary and secondary legislation	Band 3: Low levels of guarantees of gender equality in land ownership and/or control in the legal framework.
Three of the proxies are present in primary legislation or primary and secondary legislation	Three of the proxies are present in primary legislation or primary and secondary legislation	Band 4: Medium levels of guarantees of gender equality in land ownership and/or control in the legal framework.
Four of the proxies are present in primary legislation or primary and secondary legislation	Four of the proxies are present in primary legislation or primary and secondary legislation	Band 5: High levels of guarantees of gender equality in land ownership and/or control in the legal framework.
Five or six proxies are present in primary legislation or primary and secondary legislation	All five proxies are present in primary legislation or primary and secondary legislation	Band 6: Very high levels of guarantees of gender equality in land ownership and/or control in the legal framework.

3. Global estimates: obtaining data for global monitoring

In each reporting period, the reporting countries are classified in 1 of 6 bands depending on how many proxies are present in the primary or primary and secondary legislation as detailed in Table 1. The share of countries in each band is estimated in each year using the following formula:

$$1) \frac{\text{Total no. of Countries in Band (n)}}{\text{Total no. of countries}}$$

In the first expected reporting period, which is 2018, only one data point per country will be available. In the first reporting period, it is therefore possible to report the shares of countries in each of the 6 bands as well as the share of countries which have not reported yet. This first reporting period will also serve as the baseline against which future progress will be measured.

Subsequently, the progress report will classify the countries according to whether they have been making any progress (moving up the bands).

1. Achieved sufficient guarantees for women’s equal rights to land ownership: The percentage of countries that remained in band 5 or 6, or that moved to band 5 or 6 in the reporting period (which are the highest bands and therefore, no further progress is possible under the methodology).

2. Making progress (or on course): The percentage of countries that have moved up at least one band over the reporting period, but have not yet reached bands 5 or 6.

3. No reported progress: The percentage of countries (out of 193 countries) which have reported no progress from bands 0, 1, 2, 3 or 4, or which have reported only once and, therefore, no progress has been made (by assumption).

4. Comments and limitations

Indicator 5.a.2 entails an important challenge in terms of the assessment and computation of the results due to the reference to customary law in the title of the indicator. Customary law is not a homogenous system of law. Therefore, unless it is recognized by the general legal system, it will be extremely difficult to monitor whether or not customary law guarantees men and women equal rights to land ownership and(/or) control. In order to guarantee feasibility of the assessment, the choice of the methodology has been to monitor customary law to the extent that it has been recognized in the legal framework of a country. This however is a major limitation for the purposes of the SDGs of “leaving no one behind” as it excludes from the assessment many legal systems where customary practices which have not been endorsed in statutory law which are one of the major factors of discrimination against women. Further, given that customary law does not exist in all countries, it is not universally applicable and computation of the results represents a major challenge. The methodology has addressed this issue by creating a dual system of computation of the results which allows to assess separately those systems where customary law has been recognized, and those where no recognition of customary law is present.

5. Conclusion

The methodology developed for the monitoring and reporting under indicator 5.a.2, is an important tool which serves as a benchmark for analyzing gender equality in land tenure systems. The six proxies selected cover those areas where women face the most significant legal challenges in ownership and control over land: joint titling, spousal consent for land transactions, inheritance, protection of women’s land rights in legally recognized customary systems, government financial commitments for advancing women’s land property and/or control and participation in land governance institutions. Despite the progress the inclusion of a legal indicator on legal women’s land rights in the SDG means, two important issues should be kept in mind. First, this assessment alone is not sufficient to provide a complete understanding of the situation of women’s land rights in a country. It just offers an entry point to identify major gaps and entry points for reform. This means that a more thorough analysis of the policy, legal and institutional context would be essential for achieving the fact gender equitable land tenure. Second, the analysis is restricted to the legal frameworks and does not delve into implementation, which is crucial to ensuring that women’s rights are guaranteed in practice. In fact, while progressive law reforms are important in providing the foundation for de facto gender equality in land ownership and control, evidence shows that law and policy implementation are critical for advancing women’s land rights. Nonetheless, it is important to point out that two of the proposed proxies touch upon setting some gender sensitive mechanisms for implementation, i.e governmental financial commitments for advancing women’s land property and/or control and participation in land governance institutions.