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## Voluntary Guidelines on the responsible Governance of Tenure Governing land for Women and Men

**Bozhana Stoeva**; International Cooperation and Regional Development Expert

**Aroa Santiago Bautista**; Gender Mainstreaming Specialist  
Regional Office for Europe and Central Asia



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***“The eradication of hunger and poverty, and  
the sustainable use of the environment,  
depend in large measure on how people,  
communities and others gain access to land,  
fisheries and forests”***

**FAO Voluntary Guidelines on the  
responsible Governance of Tenure**



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**“All are equal before the law and are entitled without any discrimination to equal protection of the law”**

Article 7, UN Universal Declaration on Human Rights (1948)

***“Land rights discrimination is a violation of human rights”***

UN Economic and Social Council Commission on the Status of Women.  
Report of the forty-second session (2-13 March 1998). Supplement No. 7.  
E/CN.6/1998/12 – E/1998/27



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## **Convention on the Elimination of All Forms of Discrimination Against Women (1979):**

**Article 14. 2.** States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and **equal treatment in land and agrarian reform as well as in land resettlement schemes;**

**Article 16.1.** States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(h) **The same rights for both spouses in respect of the ownership,** acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.



## Weak tenure governance and the consequences

Weak governance of tenure ***“makes already socially and economically marginalized women more vulnerable”*** (VGGT). Some consequences include (to name a few):

- Denied right to land
- Limited access to credit (collateral)
- Land insecurity that leads to vulnerability in the event of male migration, divorce or widowhood
- Reduced access to services associated to land owners
- Reduced or denied access to land means denied and reduced access to food production
- Denied rights to land increase poverty
- The right to land is a cultural identity, political power and participation in decision making
- Evidence shows that women's land rights reduce domestic violence and that women owners of land are more capable of exiting domestic violence<sup>1</sup>
- Agricultural production and food security increase when women are granted tenure security<sup>2</sup>
- Rights to land increases women's bargaining power within the household, which usually has as a result an increased allocation of resources to children and women<sup>3</sup>

<sup>1</sup> COHRE, (2006) 'A Survey of Law and Practice related to women's inheritance rights in the MENA Region'

<sup>2</sup> UNECE, UNDP, UN Women. Expert group meeting on "The impact of the implementation of the Beijing Declaration and Platform for Action on the Achievement of the Millennium Development Goals" (11-13 November, 2009, UNOGE). EGM/BPFA-MDG/2009/EP.1

<sup>3</sup> UN Economic and Social Council Commission on the Status of Women. Report of the forty-second session (2-13 March 1998). Supplement No. 7. E/CN.6/1998/12 – E/1998/27



*“States should consider the particular obstacles faced by women and girls with regard to tenure and associated tenure rights, and take measures to ensure that legal and policy frameworks provide adequate protection for women and that laws that recognized women's tenure rights are implemented and enforced”*

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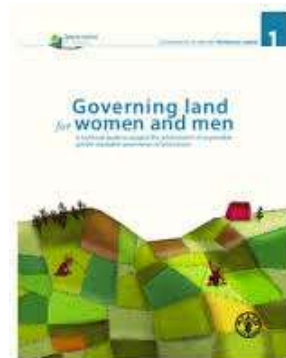
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## Governing land for women and men

*Governing land for women and men:* Technical guide that assists the implementation of the VGGT. Modules:

1. Policy making
2. Legal issues
3. Institutions
4. Technical issues
5. Getting the message across



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## Governing land for women and men

1. Policy making





## Governing land for women and men

### 2. Legal issues



## Governing land for women and men

### 3. Institutions





## Governing land for women and men

### 4. Technical issues



## Governing land for women and men

### 5. Getting the message across





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## Land Tenure and Women 's rights in Tajikistan

- The Constitution of the Republic of Tajikistan guarantee the rights of all citizens. A separate article underlines that men and women have equal rights.
- “The rights and freedoms of the person and the citizen are regulated and protected by the Constitution and laws of the republic, as well as by international legal acts recognized by Tajikistan. Limitations of the rights and freedoms of citizens are only allowed for the purposes of ensuring the rights and freedoms of other citizens, ensuring social order, and protecting the constitutional system and territorial integrity of the republic” (Article 14 of the Constitution of the Republic of Tajikistan adopted on 6 November 1994, amended on 26 September 1999 and 22 June 2003 )
- “All persons are equal before the law and the courts. The government guarantees the rights and freedoms of every person regardless of ethnicity, race, sex, language, faith, political beliefs, education, or social or property status. Men and women have equal rights” (Article 17, Constitution of the Republic of Tajikistan)



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## Land Tenure and Women 's rights in Tajikistan

- There is no general definition of the expression “discrimination against women” in the legislation of the Republic of Tajikistan.
- Women as well as man are entitled to equal rights on land in Tajikistan
- Law of the Republic of Tajikistan “On State Guarantees of equality between men and women and equal opportunities for their realization” (2005)
- Law on Prevention on Domestic Violence (2013)
- Conventions and international legal acts ratified and recognized by the Republic of Tajikistan are considered superior to national laws.



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## Land Tenure and Women 's rights in Tajikistan

- Tajikistan has acceded to:
- the 1952 Convention on Maternity Protection (1993)
- the 1930 Forced Labor Convention (1993)
- the 1949 Convention on Wages Protection (1993)
- the 1951 Convention on Equal Remuneration (1993)
- the 1957 Convention on Abolition of Forced Labor (1999)
- the 1958 Convention on Discrimination (Employment and Occupation) (1993)
- the 1979 Convention on the elimination of all form of Discrimination Against Women (CEDAW) (in 1993)
- the 1996 Convention on Home Work (2012)
- the 1989 Convention on the Rights of the Child (1993)
- the 1999 Convention on Worst Forms of Child Labor (2005)



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## Land Tenure and Women 's rights in Tajikistan

### Specific national legislation

- The Constitution stipulates that “The land, its resources, water, airspace, fauna and flora, and other natural resources are exclusively the property of the State, and the State guarantees their effective use in the interests of the people” (Article 13)
- Land Code amendments (2012), including the provisions of equal access of women and men to land.
- Family Code of the Republic of Tajikistan
- Criminal Code of the Republic of Tajikistan
- Labor Code of the Republic of Tajikistan





## Land Tenure and Women 's rights in Tajikistan

### National Strategies and Programs

- National Action Plan on Enhancing the Role and Status of Women for 1998- 2005”;
- Presidential Decree “On increasing role of women in society” (1999)
- “State program on ensuring equal rights and opportunities for men and women for 2001-2010”
- State Program “Access of Women to Land” (2004) and additional ammendments
- Presidential quota is established for education of girls and young men from remote regions in the universities
- Poverty Reduction Strategy in RT for 2007-2009, 2010- 2012 (PRS)
- Living Standards Improvement Strategy for 2013-2015
- National Development Strategy of RT for the period by 2015 (2007) (NDS)
- State program “Education, selection and appointment of leading cadres among capable women and girls for 2007-2016” (2006)
- “National Strategy on activation of women in the Republic of Tajikistan 2011-2020” (2010)
- State program “ On training specialists among women and support their employment for 2012-2015” (2012 )
- Statistical Agency under the President of the RT annually was publishing the statistical collection “Gender indicators in productivity of dehkan farms”, with gender disaggregated indicators of dehkan farms development (since 2007)



## Land Tenure and Women 's rights in Tajikistan

### Challenges to face

- imperfect legal framework due to lack of mechanisms to implement the legislation on equality between men and women;
- formal equality between women and men;
- Traditional stereotypes about the role and place of women in the society
- low awareness of the society on the need in gender equality and implementation of gender policy
- Different traditions forced women to a subordinated position

Women, especially in rural areas are still affected by:

- poverty;
- high level on unemployment
- although not officially, but subordinated to traditional stereotypes and dogmas ;
- lower education level;
- lack of knowledge about their rights;
- access to education
- and...



## **Governing land for women and men in practice**

### **Group discussions**

#### **1. Policy design**

1. Which may be the limitations that women may experience for accessing land in Tajikistan?
2. What to do to put in practice the equality between women and men?

#### **2. Legal issues**

1. How family and marriage traditions limit de facto women's equal rights to land that is established by the law?
2. What to do to help those women who want to escape from traditional stereotypes and dogmas?

#### **3. Technical issues**

1. What difficulties women faces when they want to register the use rights on land?
2. What to do to help and support them?