



## Women's Land Rights Project in Guatemala, India, and Sierra Leone:

Empowering poor and excluded women  
and fighting against poverty and hunger  
through enhanced access to and control  
over land

## Acknowledgements

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Cover photos: 1) Jaqueline Victoria Chutá Cax from the South Region of Guatemala is sharing the findings of the baseline study. © Estela Jocon  
2) A village facilitator interacts with the community women and collects data regarding women's land rights in India. © Annie Thomas.  
3) A partner staff from Voice of Women (VOW), Sierra Leone, and the community women discuss the stigma faced by HIV positive women, and the discrimination they face in their access to land. © Sydnella Rogers.





# Contents

Acronyms .....	v
Glossary of Indian Terms .....	vi
Glossary of Spanish Terms .....	vi
Map of Project Countries .....	viii
Executive Summary .....	ix
<b>Chapter 1</b>	
<b>Project Background and Context .....</b>	<b>viii</b>
Relevance of the women's land rights project .....	1
Project focus .....	2
Uniqueness and inter-linkages between the multi-country projects .....	2
Relationship between the project and prior ActionAid interventions .....	3
Implementation first steps: Baseline studies .....	3
This Report .....	4
<b>Chapter 2</b>	
<b>Laws, Policies and Programmes Pertinent to Women's Land Rights .....</b>	<b>5</b>
<b>Guatemala</b> .....	<b>5</b>
Brief profile of the Indigenous land situation .....	5
Statutory laws related to indigenous women's land rights .....	6
Customary land dynamics in Guatemala .....	9
Proposed laws aimed at addressing indigenous land rights .....	9
National Policies affecting indigenous women's land rights .....	9
<b>India</b> .....	<b>10</b>
Brief profile of the land situation of Dalit peasants .....	10
The legislative framework relevant to women's land rights .....	11
Policies and programmes relevant to women's land rights .....	13
<b>Sierra Leone</b> .....	<b>14</b>
Brief profile of the land situation of remote rural women .....	14
The land tenure system and women's land rights .....	14
Other laws related to women's land rights .....	15
Programmatic interventions .....	16
<b>Global and Continental Land Governance Frameworks</b> .....	<b>16</b>
ICARRD Declaration .....	16
Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries in the Context of National Food Security (VGs) .....	17
Linkages between the Project and Land/Agriculture Frameworks in Africa .....	17
<b>Conclusion</b> .....	<b>18</b>
<b>Chapter 3</b>	
<b>Grounded situation of women's land rights .....</b>	<b>19</b>
<b>Women's perceptions about their land rights situations</b> .....	<b>19</b>
<b>Scope of women's access to, control over, and ownership of land</b> .....	<b>20</b>
Defining access, control, and ownership of land .....	20
Access to land by women .....	20
Ownership of land by women .....	22
Control of land by women .....	24
<b>Women's knowledge of land-related laws and policies</b> .....	<b>27</b>
<b>Women's awareness of NGOs working on women's land rights</b> .....	<b>28</b>
<b>The role of women in decision-making structures relevant to land rights</b> .....	<b>29</b>
<b>The state of support and knowledge of key gatekeepers</b> .....	<b>30</b>
<b>Conclusion</b> .....	<b>31</b>

**Chapter 4**

<b>Key trends: Barriers and opportunities to promoting women's land rights</b> .....	<b>33</b>
<b>Increasing the capacity of women's groups to develop and lead advocacy on rights to land (Result 1)</b> .....	33
Barriers related to Result 1.....	33
Opportunities related to Result 1.....	34
<b>Increased participation of landless women's movements in policy and legal framework development at local and national level (Result 2)</b> .....	34
Barriers related to Result 2.....	35
Opportunities related to Result 2.....	36
<b>Increased awareness of rights and use of the justice system (Result 3)</b> .....	36
Barriers related to Result 3.....	36
Opportunities related to Result 3.....	37
<b>Conclusion</b> .....	38

**Chapter 5**

<b>Approaches by the project to advance women's land rights</b> .....	<b>39</b>
<b>Strategies for increasing the capacity of women's groups to develop and lead advocacy on rights to land (Result 1)</b> .....	39
Development of training manuals.....	39
Training of women leaders.....	39
Formation of new structures for women.....	40
<b>Strategies for increasing the participation of landless women's movements in policy and legal framework development (Result 2)</b> .....	40
Development of advocacy plans.....	40
Holding advocacy meetings and seminars.....	40
Staging petitions and mass campaigns.....	41
Research.....	41
<b>Strategies for increasing awareness of rights and use of the justice system (Result 3)</b> .....	41
Awareness-raising sessions.....	42
Production of Information, Education and Communication (IEC) materials.....	42
Public mobilisation.....	42
<b>Conclusion</b> .....	42

**Chapter 6**

<b>Conclusion and recommendations</b> .....	<b>44</b>
<b>Conclusion</b> .....	44
<b>Recommendations</b> .....	44
References.....	48
Annex.....	50

**Tables**

1: Poor and excluded women targeted by the project.....	2
2: Project expected results.....	3
3: Women's level of land ownership in Sierra Leone (%).....	24

**Boxes**

1: Relevant provisions defending indigenous land rights under ILO Convention 169.....	6
2: Objectives of the national system for integral rural development in Guatemala.....	10

**Figures**

1: Fourteen reasons that justify women's quest for full land rights in Guatemala, India and Sierra Leone.....	24
2: Women and land ownership in three project countries.....	24
3: Levels of land control by interviewed women (% where data available).....	26
4: Women's access to and control over land in Sierra Leone (%).....	26
5: Linkages between the project strategies under Results 1 - 3.....	43



## Acronyms

<b>AA</b>	ActionAid
<b>AIDS</b>	Acquired Immune Deficiency Syndrome
<b>AARDIP</b>	Adoni Area Rural Development Initiatives Programme
<b>AU</b>	African Union
<b>CAADP</b>	Comprehensive Africa Agriculture Development Programme
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>COCODE</b>	Community Development Council
<b>CPI-M</b>	Communist Party of India Marxist
<b>CUC</b>	Committee for Peasant Unity
<b>DEA</b>	Devolution of Estate Act
<b>EC</b>	European Commission
<b>ECAs</b>	Associative Community Enterprises
<b>DEMI</b>	Defense of Indigenous Women
<b>DMK</b>	Dalit Mannurimai Kootaippu
<b>FAO</b>	United Nations Food and Agriculture Organisation
<b>FGD</b>	Focus Group Discussion
<b>FNM</b>	National Women's Forum
<b>HIV</b>	Human Immunodeficiency Virus
<b>ICARRD</b>	International Conference on Agrarian Reform and Rural Development
<b>IEC</b>	Information, Education and Communication
<b>ILO</b>	International Labour Organisation
<b>INTA</b>	National Institute of Agrarian Reform
<b>IRDS</b>	Integrated Rural Development Society
<b>MDG</b>	Millennium Development Goal
<b>MSWGCA</b>	Ministry of Social Welfare, Gender and Children's Affairs
<b>NREGS</b>	National Rural Employment Guarantee Scheme
<b>SADC</b>	Southern Africa Development Community
<b>SEPREM</b>	Presidential Secretariat for Women

## Glossary of Indian Terms

<b>Dalit</b>	Scheduled caste communities
<b>Dalit Mannurimai Kootaiippu</b>	Dalit Federation for the Right to Land
<b>Jama Bandhi</b>	Land days
<b>Lakh</b>	A term in the Indian numbering system. 1 lakh = 100 thousand.
<b>Gram panchayat</b>	Local self-governments at the village or small town level
<b>Gramsabha</b>	Village decision-making meetings
<b>Panchami land</b>	Land assigned to Scheduled castes
<b>Panchayat Raj</b>	Local Governance System
<b>Patta</b>	Title deed
<b>Poramboke</b>	Government wasteland

## Glossary of Spanish Terms

<b>CONTIERRA</b>	National Land Commission
<b>Campesinos</b>	Farmers
<b>Finca</b>	Large plantation
<b>FONTIERRAS</b>	Land fund
<b>Ladinos</b>	Non-indigenous
<b>Mestizo</b>	Literally meaning "mixed" usually referring to someone who is mixed between Spanish and Native American
<b>UTJ-PROTIERRA</b>	Juridical Technical Unit, Institutional Committee for Development and Fortification of Land Ownership
<b>Acuerdo de Identidad y Derechos de los Pueblos Indígenas</b>	Agreement of Identity and Rights of Indigenous Peoples

# Map of Project Countries<sup>1</sup>

**Guatemala**



**India**



**Sierra Leone**



<sup>1</sup> Map source: CIA World Factbook.

## Executive Summary

The women's land rights project is being implemented by ActionAid (AA) in Guatemala, India and Sierra Leone in recognition of the hard fact that struggles for women's land rights have not yet generated positive results for most women. With the support of the European Commission (EC) between 2010 and 2013, the project is focused on **enhancing poor and excluded women's access to and control over land as a strategy for empowerment and fighting hunger**. The "poor and excluded women" identified by the project are: rural indigenous women in Guatemala, Dalit women in India, and rural women affected by HIV and AIDS in Sierra Leone.

**Rural indigenous women in Guatemala suffer many forms of discrimination, including those related to land matters.** While land-related violations widely affect the indigenous population (men and women alike), it is women who bear the brunt of the violations; they enjoy negligible land rights, including user rights. High levels of poverty and illiteracy also ruthlessly limit the prospects of development for the rural indigenous women.

**Dalits in India are considered an "inferior caste" and Dalit women regularly encounter land rights violations.** Dalit women hold little or no stakes in natural resources. Most Dalit women have to withstand violent opposition from all structures of the society when they attempt to claim their rights over land. Compared to the men within their communities, Dalit women are particularly illiterate, and fall at the bottom of the ladder as the "untouchables among the untouchables."

**In Sierra Leone, the already fragile situation of women's land rights has worsened by the HIV and AIDS pandemic.** Widows, including those that are HIV positive, are sometimes disinherited. Many HIV positive women in remote rural areas also experience land rights violations when they are abandoned by their husbands, or deprived of access to family owned land.

Addressing these crude challenges, ActionAid's women's land rights project in Guatemala, India and Sierra Leone aims to support the poor and excluded women to **influence national policy and legal frameworks to promote and protect women's equal rights to land**. However, there are many challenges to the current legal and policy measures in three project countries. These include: a) various policy gaps that lead to the failure of the promotion of women's land rights;

b) the lack of rigorous and effective implementation of progressive provisions; c) discriminatory customary land tenure systems (particularly in Guatemala and Sierra Leone); and d) the general lack of awareness by most women of statutory provisions that can strengthen their land rights. The quest to improve relevant legal and policy frameworks for the advancement of women's land rights in the three study countries is supported by similar calls made at the global level under the Declaration by the International Conference on Agrarian Reform and Rural Development (ICARRD), and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGs). For Sierra Leone, continental frameworks like the African Union Framework on Land Policy in Africa and the Comprehensive Africa Agriculture Development Programme (CAADP) also apply.

**In Guatemala and Sierra Leone, the customary land tenure system governs most of the land used by the poor and excluded women.** However, in both Guatemala and Sierra Leone, the customary land tenure system has not been held fully accountable for impinging on women's land rights in both land allocation and inheritance.

In Guatemala, this situation persists despite the existence of legal provisions that address the land rights obstacles faced by indigenous women - including the 1985 Political Constitution, the Peace Accords, the Land Trust Act, the Agreement of Identity and Rights of Indigenous Peoples, and the ILO Convention 169 on the Rights of Indigenous Populations and Tribes. Thus, even before Guatemala can concentrate on fresh laws that would further bolster the land rights of indigenous women, the most urgent business is to ensure the diligent and gender-sensitive implementation of existing laws and policies that have the potential to halt the exclusion and marginalisation of indigenous women in land matters.

In Sierra Leone, the violations that rural women, including those affected by HIV and AIDS, face in land matters continue despite the existence of the 2007 Devolution of Estate Act, which promotes land inheritance rights of women. Although this law is very relevant for challenging discriminatory tendencies in inheritance matters in the customary tenure system, it is yet to be fully implemented. In several project areas that are governed by the statutory land tenure system in

Sierra Leone, there is rampant marginalisation of women. This is due to the poor land administration system, lack of a comprehensive piece of legislation that systematically addresses women's land rights concerns, and discrimination against women at the family level.

**The poor and excluded women in India commonly live under the statutory land tenure system.** Dalit women have hardly benefitted from land rights protections under the Constitution, personal laws (on inheritance or divorce) and land legislations that regulate land ceilings, *panchami* land (Depressed Class Land) and temple land. The huge challenge is that, apart from the personal laws, most of the land-related laws that are meant to benefit marginalised castes like the Dalits, as well as land-related policies, are neither framed nor implemented in a gender-sensitive manner. Consequently, legal safeguards for promoting the rights of Dalit women to access and exercise control over land in Indian states like Andhra Pradesh and Tamil Nadu (project sites) are still partly weak and partly not implemented.

In light of all these challenges, the women's land rights projects in Guatemala, India and Sierra Leone shoulder the big, but not insurmountable, task of influencing visible transformation in the promotion and enjoyment of women's land rights regardless of the tenure system. The baseline findings expose that for poor and excluded women, **enjoyment of their full land rights is non-negotiable, as land is a source of their identity, dignity, and sustainable livelihoods.** Women are not merely seeking the right to access land, but they are demanding authority over the land (control). For women living under the customary tenure system in Sierra Leone, the proportion of women that have gained both access to and control over land (by being directly allocated land in their own right) at the time of the baseline was much lower than those who completely lacked land access and control. In Guatemala, married women rarely had exclusive decision-making power over land use, though some women enjoyed joint decision-making powers with their husbands. These were direct implications of lack of direct access to land by most women, who instead depended on their husbands' land.

Thus, this consolidated baseline report notes that **despite the fact that joint decision-making over customary land between spouses is an advantage to women, in reality, such control is frail as it can be immediately snatched away by divorce or death.** Therefore, the ideal situation for women in customary land tenure systems is to be allocated land in their own right, and to have direct decision-making powers (whether joint or exclusive) over land. In India, it was found that Dalit men were the ones that made decisions

related to land in majority of the families. Again, this is not surprising since the country baseline study established that men were mostly the owners of privately-held land. For instance, the amount of land owned by men in Andhra Pradesh was more than five times that owned by women; at the same time, women in Tamil Nadu did not own any land. The relevance of the women's land rights project in drawing on Dalit women's challenges amidst the broader land rights struggles of the Dalit population cannot therefore be overemphasised. Thus in India, a core obligation of states should include strengthening statutory land tenure mechanisms in order to proportionally guarantee women and men the benefits of owning and controlling statutory land. The same applies in parts of Sierra Leone where statutory land tenure is tenable. Further, in both customary and statutory tenure mechanisms, women who are able to control and/ or own land should be supported to make their agriculture productive.

The baseline findings call for the following recommendations to improve women's land rights in the three countries. First, **women need to build their capacities to become better advocates by building their knowledge of laws, policies and programmes that can promote or impede the enjoyment of their land rights.** Second, **women also need to be part of critical decision-making structures that influence land-related reforms or matters.** Third, **it is essential to tailor capacity and knowledge building for duty-bearers like men, government officials and traditional leaders** (who are gatekeepers because they usually determine the extent to which women will enjoy their land rights). All these interventions would provide a good foundation for other relevant interventions that seek to reform laws, policies, programmes, systems and practices—so that the societies in which the poor and marginalised women live become responsive to women's needs.

**There already exist opportunities to realise the land rights of poor and marginalised women in the three countries, and the interventions by ActionAid and its implementing partners could utilise and build on these.** They include: women's expressed desire to enjoy their land rights; the presence of pockets of women who are already enjoying land; the existence of structures for influencing laws and policies; and the existence of organisations that could facilitate access to the justice system by women.

In implementing its interventions, the project seeks to achieve three common interrelated results across the three countries: **Result 1 focuses on building capacity of women leaders.** This empowerment would enable the fulfilment of **Result 2**, which expects **landless women to lead advocacy interventions to secure**



**their land rights.** Further, women's enhanced capacity under Result 1 would contribute to the achievement of **Result 3**, which aims to ensure that **knowledgeable women are conducting large-scale awareness-raising activities within their communities.** And generally, the combined achievement of Results 1 and 3 would make Result 2 possible, as there would be a critical mass of knowledgeable landless women that would be pushing land-related advocacy interventions. Other regional level Results (4 and 5) have also been planned, and these are further explained in the report.

# Chapter 1

## Project Background and Context

This Chapter demonstrates that the continued oppression of women's land rights worldwide is the source of poverty, hunger and inequitable development amongst women and societies. The women's land rights project is therefore highly relevant in modern context. This chapter introduces the focus of the project; the unique as well as related features of the projects being implemented in Guatemala, India and Sierra Leone; the project implementation sites/partners; and the methodology for developing this report.

### 1.1. Relevance of the women's land rights project

The project being implemented by ActionAid (AA) in Guatemala, India and Sierra Leone recognises that the struggle for women's land rights have not yielded as much of the desired results to date. The UN Food and Agriculture Organisation (FAO) estimates that even though rural women provide *80 per cent* of food needs worldwide, they own less than *10 per cent* of the land despite international commitments to address inequality in men's and women's land and property rights. Land is the basis of many social and political struggles, and for most people—particularly those living in rural areas—is the key property that they need to access, own or control in order to secure their livelihoods and dignity. For rural women in particular, land is not only the primary source of their livelihood; it is also a source of their empowerment. Yet, in many societies, deeply entrenched patriarchal attitudes dictate that women cannot own property in their own right. Worse still in many cultures, wives and daughters are viewed as property themselves.<sup>2</sup>

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<sup>2</sup> ActionAid International. 2010. 'Project Proposal: Enhancing poor and excluded women's access to and control over land as a strategy for empowerment and fighting hunger'.

The fragility of women's land rights is exacerbated by the fragmented nature of rural, remote and excluded communities in which the project beneficiaries live. In addition, because women are often not recognised as "farmers" in their own right, they do not have strong movements which can advocate for their rights and be a strong force to be reckoned with by governments and other actors. While much has been done through legislation to assert women's civic and political status, legislation concerning women's equality within the household and society at large has not been reformed. Thus women experience discrimination in matters of inheritance, widowhood, or divorce, with disastrous consequences for their dignity and well-being. At a broader level, discrimination in land rights is contributing to increased poverty, food insecurity, conflict, violence against women and environmental degradation.

Generally there is continued resistance and/or indifference from political leadership, legislators and administrators to secure justice for women through agrarian reform processes. Unlike in Southern Africa where ActionAid has started to generate concrete data on women's land rights, there is no or very little empirical evidence which shows the intrinsic link between women's access to and control over land, and their long term empowerment (in the broadest sense of that term), and or their ability to fight hunger in the three study countries.<sup>3</sup> The project therefore aims at concretely addressing prevailing discrimination in land rights under the hypothesis that improving poor and excluded women's access to and control over land is a key strategy towards: their empowerment, better economic livelihoods, their ability to negotiate relationships and protect themselves from violence and/or HIV; as well as their ability to stand up for their own rights as spouses, widows, single women, or members of excluded castes or indigenous communities.

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<sup>3</sup> Ibid.



An improvement in women’s land rights and the consequent decision-making power (to decide what to grow, when to grow it, and what to do with it) would enable the poor and excluded women to fight hunger and withstand price shocks or food crises. Disparities in land ownership patterns on the basis of structural inequalities would be unveiled, and gender based policy changes in the agrarian sector would be a possibility so as to ensure gender equitable land ownership. In the widest context, the project contributes toward achieving Millennium Development Goal (MDG) 1(ending extreme poverty and hunger) and MDG3 (gender equality and empowerment of women) and improving the living standards and well-being of the poorest and most marginalised women in the three target countries. Women’s rights to access and exert control over land and land based resources are central to the goal of poverty eradication, and a rights-based approach to development. Eliminating discrimination in land and property rights is essential to rolling back the impoverishment of millions of women worldwide and it is, without doubt, a necessary condition for equitable development.<sup>4</sup>

## 1.2. Project focus

The project, which is being supported by the European Commission (EC) for a period of 36 months (2010-2013), is entitled **“Enhancing poor and excluded women’s access to and control over land as a strategy for empowerment and fighting hunger.”** For the purposes of the project, the term “poor and excluded women” in Guatemala, India, and Sierra Leone refers to the categories of women mentioned in Table 1.

The project’s overall objective is to achieve the empowerment, improved living standards and dignity for poor and excluded women. Its specific objective is for poor and excluded women to influence national policy and legal frameworks to promote and protect their equal rights to land. The project aims to accomplish the five common Results outlined in Table 2. According to Annex 1, three of these Results (1, 2, and 3) would be attained through country specific strategies, while two Results (4 and 5) would be implemented through regional level mechanisms.

## 1.3. Uniqueness and inter-linkages between the multi-country projects

The project will work through strong local partnerships with women’s movements in each country. All are membership organisations formed around specific agendas for economic, social and political rights with a major focus on women’s rights to land. The three target countries have been selected because each has groups of women who are particularly marginalised and affected by severe property rights violations (Table 1). However, each group of marginalised women is unique to the particular social, cultural and political contexts of each of the three countries. The country projects are also interlinked because they pursue the same results, but unique because they employ different strategies that are relevant to local contexts.

All three countries share the common project objective of ensuring that poor and excluded women should begin to influence national and legal frameworks to promote and protect their equal rights to land. Bringing together Guatemala (Central America), India (South Asia) and Sierra Leone (West Africa) as three seemingly disparate countries would therefore show that the action undertaken on women’s land rights could be scaled up as a model – not just in one geographic region, but in all three. Learning gathered would be shared with a wide array of stakeholders including donors and governments outside the three countries, so that they learn from and be replicated in more countries.

**TABLE 1.**  
**Poor and Excluded Women Targeted by the Project**

Country	Beneficiaries classified as poor and excluded women
Guatemala	Indigenous women farmers who have suffered centuries of land expropriation
India	Dalit women (women from a lower/socially disadvantaged caste)
Sierra Leone	Women in rural remote areas, particularly those living with or affected by HIV and AIDS

<sup>4</sup> Ibid.

**TABLE 2.**  
**Project Expected Results and Strategies**

Expected Results
<p><b>Result 1</b> Increased capacity of women’s groups to develop and lead advocacy on land rights</p>
<p><b>Result 2</b> Increased participation of landless women’s movements in policy and legal framework development at local and national level</p>
<p><b>Result 3</b> Increased awareness of rights and use of the justice system</p>
<p><b>Result 4</b> Creation of an inter-regional alliance of women’s movements and groups</p>
<p><b>Result 5</b> Increased knowledge and empirical evidence of the linkages between access to and control over land and women’s empowerment, which is disseminated regionally and internationally (e.g. through promising programming and campaigning approaches)</p>

#### **1.4. Relationship between the project and prior ActionAid interventions**

The women’s land rights project in Guatemala, India and Sierra Leone will build on the successful outcomes of the ActionAid Hunger Free campaign launched in 2007, which had as one of its three pillars—campaigning for women’s rights to land. In 2008, women who were mobilised by the Hunger Free Women media and communications (including in India and Sierra Leone) expressed their need for: quantifiable demands for land which could be monitored over a period of time; advocacy for law and policy reform or effective implementation of existing laws; strengthened movements of women farmers and landless women; cross national learning as to what works; and generation of empirical evidence to make a stronger case for why women’s rights to land matter. All these needs have influenced the development of the project. The project also spreads the scope of ActionAid’s interest in women’s land rights beyond the Southern Africa Development Community (SADC), where since 2009, a similar project is being implemented in Malawi, Mozambique, South Africa, Zambia and Zimbabwe with the support of the Dutch government’s MDG 3 Fund.

#### **1.5. Implementation first steps: Baseline studies**

Between March and July 2011, national consultants conducted baseline studies in Guatemala, India and Sierra Leone as the take-off point of the project. Though each country customised the baseline objectives to its context specific situation, the baselines shared the common purpose of assessing the pre-project situation regarding existing inequalities that obstruct certain classes of marginalised women from attaining full empowerment and sustainable livelihoods through fair access to and control over land. Data was collected from both primary and secondary sources. Primary data from Guatemala and Sierra Leone was both qualitative and quantitative, while that from India was mainly qualitative. The national baseline studies were reviewed by both the regional office of ActionAid and the international consultant that produced this consolidated baseline report in order to offer appropriate guidance in filling data gaps.

## 1.6. This Report

This consolidated baseline report is a comparative analysis of the baseline data from the national reports produced by Guatemala, India and Sierra Leone. It was written under the supervision of ActionAid's Coordinator for Natural Resource rights, who coordinated ActionAid's input into both the report outline and the draft. It isolates key findings from the national reports, and forms a single reference document which congregates the project's baseline data relating to:

- The policy and legal frameworks on women's land rights in the three countries and beyond;
- The grounded situation of women's land rights;
- Barriers and opportunities to the promotion of women's land rights; and
- How the project is seeking to address these barriers through its various strategies.

## Chapter 2

# Laws, Policies and Programmes Pertinent to Women's Land Rights

Guatemala, India and Sierra Leone have country specific legislative, policy and programme frameworks within which their respective women's land rights projects will be implemented. The legislative framework related to land in Guatemala and Sierra Leone recognises both private and collective land rights. The rural indigenous women in Guatemala, and the rural women affected by HIV and AIDS in Sierra Leone, mostly operate under the customary tenure system. In India, the statutory tenure system, which protects private ownership of land, is widely applicable to the various categories of land that Dalits can hold. Regardless of the tenure system, achieving comparable land rights between men and women in poor and excluded communities in all three countries remains an unsettled issue.

In this chapter, the legal and policy framework relevant to women's land rights for each country is discussed in turn. Subsequently, the Chapter scrutinises the relevance of the women's land rights projects in the three countries to selected global and continental land governance frameworks that have the broader agenda of achieving equity, equality and justice in land governance.

### 2.1. Guatemala

#### 2.1.1. Brief profile of the Indigenous land situation

Guatemala has one of the most unequal land distribution patterns in the world, and the second most inequitable in Latin America (next to Brazil). About 8 per cent of commercial agricultural producers in the country occupy almost 80 per cent of cultivatable land, whereas 92 per cent of subsistence and infra-subsistence producers only use 22 per cent of such land. Thus in

rural Guatemala, poor mostly indigenous farmers scrape off a living on the nation's poorest soils as subsistence farmers, while wealthy *finca* (large plantation) owners reap the benefits of an agricultural system based on international exports and the exploitation of cheap labour.<sup>5</sup> Agriculture workers and indigenous peasant populations form 61.4 per cent of the population in Guatemala,<sup>6</sup> and land is the basic productive resource for women as it is their source of food and means to exercise their economic, social and cultural rights.

Indigenous peoples suffer racism, exploitation, and the denial of human, social, political, economic and cultural rights.<sup>7</sup> They represent the poorest and the most vulnerable section of the society who face profound systemic and structural exclusion on many fronts.<sup>8</sup> The status of indigenous peoples has remained unresolved since colonisation, when upon conquest by the Spanish, their land was seized and granted to colonisers. The emerging class of wealthy *ladinos* (non-indigenous) gained increasing control over land and labour,<sup>9</sup> while the indigenous Mayan and Xincas peoples lost their community and historical property rights over their land and territories.<sup>10</sup> The result has been fierce and often violent land conflicts between poor *campesinos* (farmers) and the powerful land barons, who usually

<sup>5</sup> Viscidi, L. 2004. 'Land Reform and Conflict in Guatemala'. *Counterpunch*, 8 September, accessed on 21 March 2012

<<http://www.counterpunch.org/2004/09/08/land-reform-and-conflict-in-guatemala/>>

<sup>6</sup> National Survey on Life Conditions (ENCOVI). 2011.

<sup>7</sup> Lorena, M. & Lopez, M. 2006. 'Indigenous Women and Governance in Guatemala'. Ottawa, Ontario: Canadian Foundation for the Americas (FOCAL).

<sup>8</sup> ActionAid International and International Food Security Network (IFSN). 2005. 'Cultivating Women's Rights for Access to Land: Country Analysis and Recommendations for Afghanistan, Bangladesh, Burkina Faso, Ethiopia, Ghana, Guatemala, Malawi, Mozambique, Uganda, and Vietnam. Rome: ActionAid International Italy.; Brown, M. J. et al. 2005. 'Guatemala Land Conflict Assessment'. Washington, D. C.: USAID.

<sup>9</sup> Ibid.; Viscidi, L. 2004, note 5 above.

<sup>10</sup> Lorena, M. & Lopez, M. 2006, note 7 above.

enjoy close ties with the government.<sup>11</sup> By 2006, no indigenous person—man or woman—had ever been Governor of any of the 22 Departments in the country, even though indigenous people are a majority in 11 of these departments.<sup>12</sup>

Rural indigenous women in Guatemala bear the brunt of violations of property rights. Though national data has not been systematically and regularly updated in the country, statistics between 1998 and 2006 still reflect the gravity of the land problem in respect to rural indigenous women in Guatemala. In 2000, the proportion of indigenous men that in possession of farming lands (13.6 per cent) was more than twice the proportion of their female counterparts (5.1 per cent).<sup>13</sup> And a study conducted between 1998 and 1999 revealed that only 25.7 per cent of women in rural areas were granted land user rights in their own rights; 12.2 per cent only accessed their family land; and 3.7 per cent administered leased lands. A majority of indigenous women farmers (58.4 per cent) worked on land as wage earners.<sup>14</sup> A 2003 study established that in the southern coast, 74 per cent of working women earned less than the minimum wage.<sup>15</sup>

Further, poverty severely limits development opportunities for rural indigenous women in Guatemala. About 75 per cent of indigenous people are poor (27.4 per cent live in extreme poverty and 47.6 per cent in overall poverty). On the other hand, only 36.5 per cent of the non-indigenous population is poor.<sup>16</sup> Overall, 51.5 per cent of women in Guatemala are poor, compared to 48.5 per cent of men. Out of these, poverty affects 80 per cent of indigenous women, compared to 75 per cent of rural women.<sup>17</sup> As a further mirror of the long standing discrimination against indigenous rural women in Guatemala, who are perceived as socially inferior,<sup>18</sup> Guatemalan rural women have one of the highest illiteracy rates in Latin America. Indigenous Guatemalan girls have the lowest literacy levels because of misalignment of school programs and curricula which are inadequate for rural and indigenous realities.<sup>19</sup> Generally, the literacy level for men more than twice outnumbers that of females (68.7 per cent versus 31.3 per cent) in the country.<sup>20</sup>

### 2.1.2. Statutory laws related to indigenous women's land rights

In Guatemala, the legal framework for women's status regarding land tenure is constituted by the 1985 Political Constitution, the Peace Accords (1986–1996), and the Land Trust Act (Decree 24-99, of 1999). Guatemala's legal framework on land is also expanded by the fact that Article 46 of the Political Constitution gives international treaties and conventions precedence over the Constitution in human rights matters. As such, courts are bound to invoke critical treaties like the Convention on All Forms of Discrimination Against Women (CEDAW), which safeguards rights of rural women; and the 1996 ILO Convention 169 on the Rights of Indigenous Populations and Tribes (Convention 169). Box 1 contains land-related protections that are offered to indigenous populations by Convention 169, which also apply to the Guatemalan women being targeted by the project.

#### BOX 1. Relevant provisions defending indigenous land rights under ILO Convention 169

##### Article 13:

Protects land rights of indigenous communities by committing Governments to respect the special importance that land or territories, or both, has for the culture and spiritual values of interested populations that occupy or use the land in one way or another.

##### Article 14:

The right to ownership and possession over lands traditionally occupied by interested populations must be acknowledged. In addition, in appropriate cases, measures should be in place to safeguard the right of interested populations to use lands that are not occupied exclusively by them, but to which they have traditionally had access to for traditional activities and for livelihood purposes. In this regard, special attention should be placed on the situation of nomad populations and those of travelling agricultural workers. Governments should ensure that measures are put in place to determine which lands have been traditionally occupied by interested populations, and to ensure the effective protection of their rights to ownership and possession.

<sup>11</sup> Ibid.

<sup>12</sup> Lorena, M. & Lopez, M. 2006, note 7 above.

<sup>13</sup> National Survey on Life Conditions (ENCOVI). 2006.

<sup>14</sup> Ibid.

<sup>15</sup> National Coordinator of Peasant Organizations, 2003.

<sup>16</sup> ENCOVI. 2006, note 13 above.

<sup>17</sup> FIAN. 2004. 'El derecho humano a la alimentación de mujeres rurales. Reto para la cooperación al desarrollo con América Latina'. Heidelberg: FIAN International Secretariat.

<sup>18</sup> ActionAid International. 2005., note 8 above.

<sup>19</sup> Ibid.

<sup>20</sup> ENCOVI. 2006, note 13 above.



The various laws in Guatemala are supported by the Penal Code, which in 2002 was amended by decree to criminalise discrimination. However, in many cases, the pursuit for gender equality is contingent on the government's willingness to apply gender-related legislation is applied in too few cases, and strong patriarchal traditions persist within the judiciary.<sup>21</sup>

Though the Political Constitution of Guatemala does not include specific provisions on gender equality, Article 4 upholds the principle of equality for all individuals.<sup>22</sup> It also formally grants indigenous peoples the status of citizens, both men and women, regardless of their level of instruction.<sup>23</sup> Specific to the issue of land, key statutory developments include the Land Trust Fund Act, the Peace Accords, and the Agreement of Identity and Rights of Indigenous Peoples.

### **2.1.2.1. Indigenous women's land rights under the Land Trust Fund Act**

The Land Trust Fund Act amended by Congressional Decree No. 24-99 grants both male and female farmers (including indigenous and *mestizo* populations) equal rights to land. It incorporates the concept of co-ownership for couples that are married or in *de facto* unions; and individual ownership for single women. This provision is intended to protect women and their families from unilateral sales by men and to provide stability for peasant families.<sup>24</sup> However, despite the theoretical legal provisions, in reality, women continue to be excluded and marginalised in land matters. As of 2005, out of 100 land owners at the time of the study, only 16 were women. And only 5.13 per cent of leasehold titles were held by women.<sup>25</sup> Changes therefore have to first permeate culture and rural farm traditions.<sup>26</sup>

### **2.1.2.2. Indigenous women's land rights under institutions created by the 1996 Peace Accords**

As part of the democratic transition, the signing of the Peace Accords in 1996 offered Guatemala an enormous opportunity to improve the marginalised position of women, particularly indigenous women.<sup>27</sup> Land ownership was one of the most controversial components of the Peace Accords, which charged the State with the task of providing land to peasant farmers.<sup>28</sup> However, the land aspects of the peace process have been unsuccessful in changing the land dynamics in any fundamental way.<sup>29</sup> The Peace Accords contained a number of important land-related commitments, and saw the establishment of new land-related institutions.<sup>30</sup> Three institutions that were created by the Agreement on Social and Economic Aspects and the Agrarian Situation were CONTIERRA (National Land Commission), UTJ-PROTIERRA (Juridical Technical Unit, Institutional Committee for Development and Fortification of Land Ownership) and FONTIERRAS (Land Fund).<sup>31</sup>

As a Land Fund, the FONTIERRAS was created for the purposes of facilitating rural people's access to land, and regularising property titles in favour of small landholders.<sup>32</sup> The fund offers credit to *campesinos* to buy idle State lands or private *fincas* sold on the market, while simultaneously providing technical assistance to its beneficiaries to make acquired lands productive.<sup>33</sup> Decree no. 3 of the Land Fund intended to promote policies and programmes to secure the equal access of rural women to credit and the land market. However, the focus was on family farming and household heads, and thus provision was not made for joint titling of land. There was also an omission in that women were not specifically targeted in the aspects of the programme related to technical assistance and credit.<sup>34</sup> Records in

<sup>21</sup> OECD Development Centre. n.d. 'Social Institutions and Gender Index, Gender Equality and Social Institutions in Guatemala'.

<<http://genderindex.org/country/guatemala>> (accessed on 21 March 2012)

<sup>22</sup> Ibid.

<sup>23</sup> Lorena, M. & Lopez, M. 2006, note 7 above.

<sup>24</sup> Centeno de Celada, E. 2002. Manual for Implementing a Gender Equity Approach in Guatemala's Land-Legalization Process. Washington, D. C.: Development Alternatives, Inc.

<sup>25</sup> Instituto Nacional de Estadística (INE). 2005. 'Elaboración propia de la Unidad de Género del INE con datos de la Encuesta Nacional Agropecuaria. Guatemala'.

<sup>26</sup> Centeno de Celada, E. 2002, note 24 above.

<sup>27</sup> Ibid.

<sup>28</sup> Viscidi, L. 2004, note 5 above.

<sup>29</sup> Brown, M. J. et al. 2005, note 8 above.

<sup>30</sup> Ibid.

<sup>31</sup> ActionAid International. 2005, note 8 above.

<sup>32</sup> Barham, B. L. et al. 2004. 'Towards a New Generation of Policies to Enhance Land Access for Growth and Poverty Reduction in Central America and Mexico'. Prepared for the Conference on Improving Land Access to Broaden the Base of Economic Growth in Managua, Nicaragua. Madison: University of Wisconsin-Madison. Cited in Ibid.

<sup>33</sup> Viscidi, L. 2004, note 5 above.

<sup>34</sup> Tanaka, L.S. et al. 2002. 'The Agrarian Question in Guatemala, Country Background Paper'. Land Research Action Network (LRAN). Cited in ActionAid International. 2005, note 8 above.

2005 indicated that only *16 per cent* of credit beneficiaries were women.<sup>35</sup>

Overall, the impact of the new land agencies has been very limited.<sup>36</sup> As of 2010, the FONTIERRAS had benefited 1,229 female heads of households out of the total of 11,915 family beneficiaries, representing barely *11.5 per cent* of the total population.<sup>37</sup> The CONTIERRA and FONTIERRAS are yet to find a comprehensive a solution to agrarian problems at the structural level in Guatemala, thus have failed to ensure that indigenous peoples can actually enjoy their rights to the land. Generally, the market system has been largely ineffective, and the land has not been equitably redistributed. Reasons include the tendency of large land owners to sell low quality land at inflated prices, forcing *campesinos* into crippling debts that they have to repay “forever,” instead of investing their money as capital to make their farming system more productive. Many *campesinos* have thus been forced to abandon the land or return it to the government.

Further, the Land Fund has a very small budget that does not allow for the purchase of all the lands requested and hiring of personnel to provide technical assistance. The United Nations estimates that current budget levels would allow FONTIERRAS to adequately meet approximately only *5 per cent* of the claims of landless families.<sup>38</sup> Yet, without the help of FONTIERRAS, it is practically impossible for *campesinos* to enter the land market, because most lack sufficient savings to purchase large tracts of land.<sup>39</sup> But positively, the creation of the CONTIERRA and FONTIERRAS has diminished the practices of colonisation, dispossession, deceit and dismantling of the community social fabric that were previously carried out by the National Institute of Agrarian Reform (INTA).<sup>40</sup> Until 1998, the INTA was the instrument used by different governments to destroy the whole system of relation, vision, use and

community administration of the land in the country's indigenous communities in Guatemala. While legally recognising community lands, the INTA broke them up into small plots and private units. Even worse, widows would lose the right over the land unless they had a son who could take over as head of the family.<sup>41</sup> Between 1962 and 1996, only *8 per cent* of the total land that was distributed by the INTA was given to women. This was because a beneficiary was defined as the male head of household.<sup>42</sup>

### **2.1.2.3. Indigenous women's land rights under the Agreement of Identity and Rights of Indigenous Peoples**

The Agreement of Identity and Rights of Indigenous Peoples- (*Acuerdo de Identidad y Derechos de los Pueblos Indígenas*) signed on 31 March 1995 between the guerrillas and the national army to end 36 years of civil war also formed a part of the firm and lasting peace agreement in Guatemala.<sup>43</sup> It affirmed that “*the rights of indigenous peoples over the land include both communal and collective possession, as well as personal, property rights and other legal rights, as well as the use of the natural resources in them for the good of the communities, without detriment to their habitat.*”<sup>44</sup> The government further recognised the particular vulnerability of indigenous communities, which have historically been the victims of dispossession, by committing to put in place mechanisms to respond to communal land claims by indigenous communities, and either return the land or offer fair compensation.<sup>45</sup> The Agreement particularly protected women's land rights by prohibiting any form of legal or *de facto* discrimination against woman in regards to access to land, housing, loans and participation in development projects. However, in reality, indigenous women remain largely invisible and are fundamentally denied their human rights.<sup>46</sup> As noted, aggravating factors for this situation include structural social and political isolation on account of their sex and indigenous status, poverty and illiteracy.

<sup>35</sup> INE. 2005, note 25 above.

<sup>36</sup> ActionAid International. 2005, note 8 above.

<sup>37</sup> Gender Component, FONTIERRA, Guatemala. 2010. Also, note that due to lack of meticulously disaggregated data by the government system, it is difficult to determine the percentage of female heads of households that have benefited from the total population of female heads of households in the Guatemala.

<sup>38</sup> Viscidi, L. 2004, note 5 above.

<sup>39</sup> Ibid.

<sup>40</sup> Until 1998, the National Institute of Agrarian Reform (INTA) was the instrument used by different governments to destroy the whole system of relation, vision, use and community administration of the land in the country's indigenous communities. Though the INTA may have legally recognized community lands, it also broke them up into small plots and private units. Under the arrangement, widows would lose the right over the land unless they had a son who could take over as head of the family.

<sup>41</sup> Lorena, M. & Lopez, M. 2006, note 7 above.

<sup>42</sup> INE. 2005, note 25 above.

<sup>43</sup> Lorena, M. & Lopez, M. 2006, note 7 above.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

### **2.1.3. Customary land dynamics in Guatemala**

At customary level, Guatemalan women are generally excluded from decision-making because of the gender division of work and the prevailing patriarchal culture where the male household head makes all the major decisions regarding the family and the farm.<sup>47</sup> Gender discrimination with regards to land, is closely related to son preference in inheritance patterns. Though inheritance is the standard way for indigenous and poor women in Guatemala to acquire access to land,<sup>48</sup> daughters are rarely given land, or are given a share much smaller than that of their brothers. Women leave their natal homes upon marriage, and thus mostly have indirect access to their husbands' land. At the community level women don't participate in decision-making.<sup>49</sup>

### **2.1.4. Proposed laws aimed at addressing indigenous land rights**

One of Guatemala's promising pieces of legislation in the making is the 4084 Initiative, which is the Bill for the National System for Integrated Rural Development. The Bill recognises land as a cross-cutting issue in integrated rural development policy. It supports the transformation of the existing land structure, acknowledges the social nature of rural ownership, and propagates for the respect of municipal, public, and community property through consultation with and approval of its use by the owners or population groups that hold the land. The transformation of the land structure and strengthening of the rural, indigenous and peasant small and medium economies would pursue the specific objectives outlined under Box 2, which all exhibit the desire to remedy injustices faced by indigenous communities in land matters.

The fulfilment of the various objectives will be complemented by the enactment of a land code. The approval and implementation of the proposed law would be an important step for rural indigenous women. The law would affirm the rights of women to own land, and their independence as individuals with access to further resources such as credit and training. Its enactment could play an important role in enabling

indigenous women farmers to retain and control the land that they access.

### **2.1.5. National Policies affecting indigenous women's land rights**

Guatemala has a Gender Equity Policy for the Land Fund that endorses specific actions to improve women's ability to participate in income generating activities. However, there is need to reactivate the Gender Equity Unit of the Land Registration Department so that the Policy is implemented. In another development, the Presidential Secretariat for Women (SEPREM) was established in October 2000 by the Governmental Agreement No 337. It aims at promoting the integral development of Guatemalan women.<sup>50</sup> The SEPREM is the leading organ for the formulation, implementation, evaluation and updating of policies that would propel women's progress. The SEPREM implements these functions through strategic alliances with the Office for the Defense of Indigenous Women (DEMI) and the National Women's Forum (FNM), who all form a Steering Committee. However, the lack of maintenance of gender disaggregated statistics is a challenge faced by the SEPREM.<sup>51</sup>

<sup>47</sup> ActionAid International. 2005, note 8 above.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

<sup>51</sup> Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). 2002. 'Consideration of reports submitted by States parties under article 18 of the CEDAW. Fifth periodic report of States parties. Guatemala'. CEDAW/C/GUA/5. Cited in *ibid*.

**Box 2.****Objectives of the national system for integral rural development in Guatemala**

**Increase** access to land and other productive assets for peasant families and groups, for their optimum benefit, beyond the market mechanisms;

**Speed up and complete** the processes for the regularisation of peasants' ownership in national estates and vacant lots;

**Address and solve** land conflicts, promoting the acknowledgement of traditional systems for solving conflicts, and creating and building the corresponding administrative and jurisdictional mechanisms;

**Promote** actions linked to the recovery of lands acquired in an irregular or fraudulent manner, making recovered lands available for the State to respond to the demand for land and strengthening the Guatemalan system of protected areas;

**Promote** incentives for the democratisation of the access to land and productive assets, as well as disincentives that prevent the concentration of land and other productive assets in an unbalanced manner;

**Implement** the technical cadastral process, so that excesses within private, national and municipal estates can be identified, to be destined to the land transformation regime.

**2.2. India****2.2.1. Brief profile of the land situation of Dalit peasants**

The situation in India resonates with that in Guatemala to the extent that Dalit populations in India have also suffered land expropriations and exclusions from decision-making. However, unlike in Guatemala where the infringement of indigenous peoples' land rights is rooted in the Spanish conquest, the source of infringement in India is the caste system, which gravely oppresses Dalit (Scheduled caste communities) peasants. The agricultural sector in the country provides employment to *64 per cent* of the work force, of which Dalit and the tribal peasants constitute *31 per cent*. Nationally, most Dalit peasants hold less than half a hectare of land, way lower than what is required to support a family. In Tamil Nadu, *90 per cent* of Dalits in rural areas are illiterate, whereas only *10 per cent* of the non-Dalit community are. Women are especially affected by this problem.<sup>52</sup>

Nationally, literacy rate of non-Dalits is *64.13 per cent*, and literacy rate of women is *39.29 per cent*. Dalit women's literacy rate is much lower at *23.76 per cent*. The large disparity in the literacy rate is attributed to widespread prejudice based on castetism and patriarchy against women, particularly Dalit women. The caste system is the oldest surviving social phenomenon in India. The inherent superiority of some castes and the inferiority of others is the core element of discrimination. The two basic social characteristics of the caste system are the so-called the "touchable" and the "untouchable." The social function of the "untouchable" refers to caste, work, and descent-based discrimination. The "touchables" (the oppressors) wield control over the "untouchables" (the oppressed/Dalits). Women of the socially disadvantaged groups are often considered to be the "untouchables among the untouchables" ("Dalits among the Dalits"). Dalit women face multiple marginalisation in this unequal society not just because of their caste, but also because of gender and class based discriminations.

Dalit women have no or poor stake in the land resources. Differential bargaining power of women and social and cultural sanctions of society makes it difficult for women to access and own land. Particularly, most Dalit women have to endure violent opposition from all the structures of society and the government when they attempt to claim rights over land. This challenge is

<sup>52</sup> Centre for Development and Solidarity for Dalits (DACA). n.d. 'Dalits and Tamil Nadu'. <[http://indianhope.free.fr/site\\_eng/tamil.php3](http://indianhope.free.fr/site_eng/tamil.php3)> (accessed on 26 March 2012).



preserved by the fact that the inadequacy of legislative protection of women's land rights in India interacts with the structural inequalities that result in further alienation of women's land rights. Therefore, the project on women's land rights opens up a space to work not only on strengthening the existing laws and policies, but also on issues, institutions, systems and processes that perpetuate oppression and injustice amongst Dalit women.

It is particularly important to pay attention to Dalit women because their challenges could easily be obscured by an agrarian crisis that has currently engulfed India. Against a 7 per cent growth in the Indian economy in 2009-2010, growth in agriculture and related sectors was only 1 per cent. The agrarian crisis is forcing more and more peasants out of their generational livelihood practice, and towards uncertain futures – at the cost of the larger food security of the nation. Women, who constitute 40 per cent of the nation's farmers, have been severely impacted by the crisis. As communities get dispossessed and the men migrate in search of labour, the feminisation of the agrarian crisis has scripted untold miseries in every corner of the country. Resolving this deep rooted agrarian crisis demands the challenging of current policies, with emphasis on radical restructuring of land reforms to transform agrarian relations to directly benefit the farming community of India.

## **2.2.2. The legislative framework relevant to women's land rights**

The legal framework that applies to Dalit women's land rights starts with the Constitution of India, and multiplies to personal laws related to property rights and other land-related legislations.

### **2.2.2.1. Women's land rights under the Constitution of India**

The 1949 Constitution of India, as amended, guarantees every citizen the equal protection of the laws.<sup>53</sup> The Constitution not only grants equality to women, but it also empowers the State to adopt measures of positive discrimination in favour of women.<sup>54</sup> The Constitution further abolishes the practice of "untouchability."<sup>55</sup> The

continued oppression of Dalit peasants in land matters therefore signals the existence of a void between law and practice. The 73rd and 74th Amendments (1993) to the Constitution of India have provided for the reservation of seats in the local bodies of *Panchayats*<sup>56</sup> and Municipalities for women. This lays a strong foundation for women's participation in decision-making at the local levels, despite different realities. In addition, India's constitutional stance supports the country's ratification of the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) in 1993.

### **2.2.2.2. Women's land rights under Indian personal laws**

At statutory level, India has different sets of personal laws that affect women's property rights, some of which apply to specified communities of people. The 2005 Hindu Succession (Amendment) Act—which applies to Hindus, Sikhs, Jains and Buddhists—bestows equal property rights to daughters and sons.<sup>57</sup> It is a very welcome piece of legislation with the potential to shift levels of enjoyment of Dalit women's property rights in Andhra Pradesh and Tamil Nadu, if diligently implemented and enforced.

The Muslim Personal Law Shariat Application Act of 1937, which applies to all Muslims, also protects women's rights to property, including upon inheritance and divorce.<sup>58</sup> However, the protection falls short in that

<sup>56</sup> Reed, J. n.d. 'What Are the Duties of the Panchayat?'.  
<[http://www.ehow.com/list\\_6834703\\_duties-panchayat\\_.html](http://www.ehow.com/list_6834703_duties-panchayat_.html)>

(accessed on 27 March 2012); The word *Panchayat* literally means governance by a council of five when translated into English. They are divided up to districts comprising anywhere between 200 and 600 villages. The *Panchayat* is often associated with a grass roots style of democracy as even people from the lowest part of the economic spectrum still have a say in who represents them.

<sup>57</sup> Article 6 [1], Hindu Succession Act: the daughter of a coparcener shall i) by birth become a coparcener in her own right in the same manner as the son; ii) have the same rights in the coparcenary property as she would have had if she had been a son; iii) be subject to the same liabilities in respect of the said coparcenary property as that of a son. Article 6 [2], Hindu Succession Act: Any property to which a female Hindu becomes entitled shall be held by her with the incidents of coparcenary ownership and shall be regarded as property capable of being disposed of by her by testamentary disposition. Article 6 [3] [a] of the Act provides that the daughter is allotted the same share as is allotted to a son. Article 14 [1] of the Act states that any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner.

<sup>58</sup> Article 2 of the Hindu Succession Act states that Muslim Personal Law Sharia, applies to matters regarding intestate succession, special property of women, including personal property inherited or obtained under contract or gift or any other provision of Personal Law, marriage and dissolution of marriage, but does not apply to agricultural land. Article 24 of the Act provides that property may be disposed of by a

<sup>53</sup> Article 14, Constitution of India.

<sup>54</sup> Article 14(3), Constitution of India.

<sup>55</sup> Article 17, Constitution of India.



inheritance of agricultural land is explicitly excluded from the scope of the Act.

The Indian Succession Act of 1925 (amended in 1991), which governs all people registering civil marriage under the 1956 Special Marriage Act, ensures that upon the death of a husband, a widow gets one third and children get two thirds of the estate. In the absence of children, the estate is equally shared between a widow and the kindred of the deceased. If there are neither kindred nor children, the widow gets the whole property.

Generally, the actual realisation of various property rights by women, particularly Dalits, is constrained by three main factors. First is the ignorance by women of their property rights due low literacy and legal awareness levels. Second is the lack of political will to support policies promoting non-discrimination. Deficiencies in political will have led to lack of prioritisation of legal awareness interventions, as well as the poor implementation of legislation and programs that could potentially strengthen gender equality. Third is the restrictive economic, social and cultural environment that maintains the position of Dalit women at the lowest strata of society.

### **2.2.2.3. Women's land rights under land-related laws**

Despite some of the recognition of women's right to land in personal laws, land-related laws in India have not been forthcoming in making particular guarantees for women. For instance, India has specific laws for the purposes of: regulating tenancy contracts, abolishing the feudal structures, implementing ceilings on land holdings, as well facilitating the acquisition of land for development and industrial purposes. Of particular interest is the land ceiling legislation, which was adopted by all Indian States after attaining independence in 1947 in order to limit the amount of agricultural land a person or family can own. The law was designed to equalise land holdings by taking possession, often for inadequate compensation, of the land in excess of the ceiling. Excess land was then to be redistributed to poor, landless, and marginal farmers.<sup>59</sup>

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woman in all respects and in case she dies intestate, go as the same would have gone if her husband had been then dead. Article 30 states that if the husband, or any creditor seizes any property of the wife, he shall be liable, at the suit of the wife, to return or deliver to her the specific property, and also to pay her a sum equal to double its value.<sup>59</sup> Vhugen, D.S. et al. 2009. 'Ensuring Secure Land Rights for the Rural Poor in Andhra Pradesh: A Case Study'. <[http://www.rd.ap.gov.in/IKPLand/IKP\\_Land\\_doc\\_Mar\\_09.pdf](http://www.rd.ap.gov.in/IKPLand/IKP_Land_doc_Mar_09.pdf)> (accessed on 26 March 2012)

The land ceiling legislation was enacted in two phases: 1960 to 1972 before National Guidelines on legislation providing for ceilings on agricultural holding were laid down; and the latter since 1972 after the adoption of National Guidelines.

Under the land ceiling laws, land holding sizes are calculated by fixing a land ceiling for each household of up to five members, and allowing additional land for larger households. Adults and children are considered as separate units. The government issues title deeds over ceiling lands to individuals (in the name of either husband or wife in a family). The land is regarded as private property, and benefits the family and ancestors of the title holder.

The Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act of 1973 permits a family of five to hold between 10 and 54 acres of land depending on the quality of the land.<sup>60</sup> Under the Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act of 1970, a family of not more than five members cannot own more than 15 standard acres. Tamil Nadu therefore ranks as the third State in India to have the smallest size of average land holding (after Kerala and West Bengal).

India also has legislation that governs *Panchami* land (Depressed Class Land), which is land that is distributed to Dalits by local revenue authorities.<sup>61</sup> Panchami land is statutory land based on individual title. However, there are conditions that are attached to the land, including that: land assignees cannot sell or mortgage the land to others for first ten years; and after ten years, they can only sell, mortgage, or lease the assigned land to another Dalit. Any transactions that do not abide by these conditions are legally invalid.<sup>62</sup> Where caste Hindus violate the conditions and buy panchami land from Dalits, the Revenue Divisional Officers have full powers to cancel the transactions and re-assign the land to the Dalits without paying any compensation.<sup>63</sup> Another category of land is private/own/patta land, which is gained through inheritance or purchase from others. Individuals obtain title deeds over this land. Then there is temple land, which is leased land and is governed by the Hindu Endowment Board. Though it belongs to the temple, this land is still statutory, and is leased to individuals.

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<sup>60</sup> Behuria, N. C. 1997., *Land Reforms Legislation in India: A Comparative Study*. New Delhi: Vikas Publishing House.

<sup>61</sup> Government Order No:1010 dated 30.09.1892.

<sup>62</sup> The above mentioned Government Order was reinforced by the Standing Orders of the State Revenue Department Numbers 15(9) and 15(14) and by the following Government Orders: M.S .2217 dated 01.10.1941; M.S.3092 dated 12.12.1946; M.S. 3316 dated 25.09.1958; M.S .882 dated 22.08.1967; and M.S. 1314 dated 30.04.1970.

<sup>63</sup> Section XIV and sub section No.1, Revenue Officers Proceedings Guidelines.

An overall review of land reform programmes in Tamil Nadu and Andhra Pradesh suggests that patterns of inequalities in the agrarian structure and resultant social rigidities have not been substantially reduced. In Tamil Nadu, laxity in implementing legislation has still enabled resourceful landowners to successfully cling to their surplus lands, even where these were allocated to the Dalits in Tamil Nadu. Further, over the years, the Dalits were forced to sell the land by coercion and threat. Names in the title deeds are changed by threatening or cheating the Dalits. Even the *panchami* land (Depressed Class Land) that was allotted to Dalit communities during pre-independence times<sup>64</sup> continues to remain out of access to Dalit men and women. And in Andhra Pradesh, it is acknowledged that in many cases, socially and economically backward communities who live in and use assigned government lands for cultivation are forced to surrender their land for allotting the land to industries.<sup>65</sup> Further testimony of the weak successes of the land ceiling legislation lies in the data that while 72 per cent of Dalits in Tamil Nadu are land workers, only 7 per cent of the land belongs to them. About 90 per cent of Dalits own no land in the State.<sup>66</sup> And whereas 40 per cent of Dalit women in Andhra Pradesh are agricultural labourers, only 2 per cent own land.

Land reforms in India have been undermined by many factors including: corruption; lack of resources; weak administrative mechanisms; diversion of land administration personnel to other work; and most significantly, the low prioritisation of land reform by the State.<sup>67</sup> While the State is mandated to ensure the rights of the economically weaker sections and the socially disadvantaged sections of the country, the legal safeguards are still inadequate for promoting the rights of Dalit women to access and exercise control over land.

### 2.2.3. Policies and Programmes relevant to women's land rights

Some gains in achieving women's rights to land in Andhra Pradesh compared to those in Tamil Nadu (which has not made any advancement) could partly be attributed to policies of the Rajasekhara Reddy government soon after his inauguration in 2004. The

Rajasekhara Reddy government constituted a Land Committee under the chairmanship of Koneru Ranga Rao "to assess the overall implementation of land distribution programmes of the government and suggest measures for more effective implementation." In response to the recommendations made by the Committee, the government started the first phase of systematic land redistribution from 26 January 2005, and has since continued up to the fifth phase (which took place on 14 April 2010). So far around 7 lakhs (0.7 million) of land have been distributed to around 5 lakh (0.5 million) poor and landless families. But of course, it has been noted in section 2.2.2.3 that Dalit women in Andhra Pradesh have still enjoyed the smallest benefit of the land redistribution process.

The government of Tamil Nadu has begun to pursue some institutional mechanisms that could potentially support women's right to land with regards to wastelands. By a Government Order of 12 September 2006, the *Poramboke* (wasteland of the government) lands are to be developed into cultivable land and distributed to poor landless farmers—two acres each. The development of such wastelands would be done under the schemes run by the Department of Agriculture. The arrangement also welcomes families of poor farmers who already possess *Pattas* (title deeds) to seek the development of their lands into cultivable lands at the expense of the government.<sup>68</sup> By targeting poor farmers, these institutional mechanisms offer an opportunity for addressing the challenges faced by Dalit women, provided that the need to balance male and female beneficiaries is kept in mind.

At the national level, recognising that housing programmes provide a means for women to exercise property rights, India's central government directed the States in 1985 and 1992, to issue titles to government-distributed land, jointly in the names of husbands and wives, or in the names of women individually. A handful of States responded to the directive and issued joint or individual titles to government-distributed agricultural land, house sites, and houses. In most cases, gender-specific titling directives were new procedural requirements superimposed on existing programmes. While positive, the housing programme needs to be well balanced with the pressing needs of Dalit women to access and control agricultural land.

National Plans such as the Fifth Five Year Plan (1974-78) and other subsequent Plans have generally marked a shift in the approach to women's issues from welfare to

<sup>64</sup> By Government Order Number 1010 Dated 30 September 1892.

<sup>65</sup> Vhugen, D.S. et al. 2009, note 59 above.

<sup>66</sup> Centre for Development and Solidarity for Dalits (DACA). n.d. 'Dalits and Tamil Nadu'. <[http://indianhope.free.fr/site\\_eng/tamil.php3](http://indianhope.free.fr/site_eng/tamil.php3)> (accessed on 26 March 2012).

<sup>67</sup> Vhugen, D.S. et al. 2009, note 59 above.

<sup>68</sup> Agriculture - Scheme of distribution of 2 acre wasteland to landless / poor Agricultural Labour families – development of such wasteland – formulation of guidelines – approved – Orders – Issued. G.O. (Ms.) No.241 Date: 12.9.2006.

development. In recent years, the empowerment of women has been recognised as the central issue in determining the status of women. The National Commission for Women was set up by an Act of Parliament in 1990 to safeguard women's rights and legal entitlements. However, the persistence of various forms of discrimination against Dalit women shows that the Commission still has an uphill task in respecting and protecting the human rights for all women.

## 2.3. Sierra Leone

### 2.3.1. Brief profile of the land situation of remote rural women

The status of women in Sierra Leone, who account for about 51 per cent of the total population,<sup>69</sup> has over the years been characterised by deprivations, particularly those pertaining to decision-making and owning and retaining property. In the country's rural communities, poor women have inadequate and insecure ownership to land. Even after the war<sup>70</sup> and the onset of the peace process, women, particularly in the north of the country, continue to enjoy substantially less rights than men and still express a strong desire to be able to inherit land. This can be an important desire in a post-war context where many male heads of households have been killed during the war, or are unable or unwilling to return to their homes.<sup>71</sup>

HIV and AIDS has exacerbated the complexities surrounding women's land rights because it further threatens property rights of women affected by the epidemic. Widows, including those who are HIV positive, sometimes suffer disinheritance. There are many cases of HIV positive women in remote rural areas who suffer particular marginalisation, are abandoned by their husbands, and deprived of access to family owned land. Overall, despite women's immense contribution to agriculture and food production and the fact that they constitute the largest group of agricultural labourers, most of them usually only access small plots of land for purposes of household gardening. They rarely own or control land. This prevailing situation in Sierra Leone hinders the ability of rural women to cultivate large

portions of land and to accumulate and retain assets and incomes.<sup>72</sup>

### 2.3.2. The land tenure system and women's land rights

Two main land tenure systems exist in Sierra Leone—one based on customary laws and traditions and the other based on the statutory freehold system.

#### 2.3.2.1. Customary tenure system

The customary tenure system mostly applies to rural communities in the provinces, while the statutory tenure applies to the Western Area and commercial centres of provincial headquarters.<sup>73</sup> Under this system, rural land in Sierra Leone is held by landowning families (extended families or lineages), with a chieftaincy structure which plays a significant administrative and custodial role. Extended families are attached to particular areas within a chiefdom. While there are section chiefs at different administrative levels, the paramount chief is particularly important in land matters as the custodian of community land. Different chiefdoms have varying degrees of influence in determining who gets what land. However, no significant decisions on land matters are made without the approval of the paramount chief. In essence, access to land is granted to individuals and families by the chief in consultation with other community elders. The decision makers in land matters are usually men, because women rarely hold decision-making positions either as chiefs, family heads, or elders.

Although traditional means of allocating land may vary from one locality to another, generally, wives are considered as "strangers" or properties themselves.<sup>74</sup> Daughters are considered as "leavers." This classification excludes most women from having the right to own or inherit land. Bluntly put, women in Sierra Leone have never had full control over land that is governed by customary rules. For example, in the north and west of Sierra Leone, women can theoretically own plots of land, but in the south and east, they can access land

<sup>69</sup> Census Report; 2004

<sup>70</sup> Sierra Leone was ravaged by civil war from 1991 to 2002.

<sup>71</sup> Unruh J.D., & Turray H. 2006. 'Land tenure, food security and investment in post-war Sierra Leone'. *LSP Working Paper 22*. Rome: Access to Natural Resources Sub-Programme, FAO.

<sup>72</sup> Sierra Leone Poverty Strategy Reduction Paper I, 2005.

<sup>73</sup> Williams, S. 2006. 'Scoping Study: Land and Pro-Poor Change in Sierra Leone'. A Report prepared for DFID Sierra Leone.

<sup>74</sup> The notion that marries women are property stems from the fact that under customary marriage rules, a married woman is not entitled to manage a couple's property because she is considered to be one of her husband's possessions. Women are considered as perpetual minors and are not free to make decisions without their husbands' agreement.



only through their husbands or other male family members.<sup>75</sup> Further, under customary tenure, married women who have been allocated land may still lack decision-making powers over that land, as they often need their husbands' permission regarding the use of land.

Under Sierra Leone's customary tenure system, a fundamental feature of land holding that strongly influences the current land tenure is the belief that land exists for the dead, the living, and the unborn, and so cannot be permanently alienated. Tenure insecurity by landowning families results in an extreme reluctance to allocate lands to others in a secure way, due to a fear that "strangers" (non-community and/or non-family members) may make claims. And laying claim to land contradicts the collective ownership of land by both the present and future generation.<sup>76</sup> And since customary land cannot be technically owned by an individual, the allocation of customary land only bestows rights to use and control the land. This restricts citizens, including women, who have been allocated land from accessing bank loans, because financial institutions often require proof of land ownership as a guarantee.<sup>77</sup>

### **2.3.2.2. Statutory tenure system**

The statutory land tenure system guarantees private ownership of land in the Western Area (made up of the Capital of Freetown and the Freetown Peninsula) and commercial centres of provincial headquarters.<sup>78</sup> The provincial urban areas have an effective boundary limit of a 5-mile's radius. Consequently, lands within this radius are subject to mapping and registration.<sup>79</sup> The statutory tenure system in Sierra Leone is based on English law that was inherited at independence. It permits individuals to own private land through the issuance of title deeds. Such land may be sold, rented or transferred. However, because of poor administration of land and the prevalence of male egoism within most family circles, even the statutory land tenure system tends to marginalise women.<sup>80</sup> Though there are piecemeal legislations addressing land-related issues like inheritance, Sierra Leone lacks a comprehensive

piece of legislation that systematically addresses women's land rights concerns.

### **2.3.3. Other laws related to women's land rights**

The three Gender Acts of Sierra Leone that were simultaneously passed in 2007 collectively grant legal protection to women, and promotes equality between men and women under the three sets of laws that operate in Sierra Leone—formal law, customary law, and Islamic law. These are the Devolution of Estate Act, the Domestic Violence Act, and the Registration of Customary Marriage and Divorce Act. In constitutional terms, the passing of three laws helped to uplift the status of women in Sierra Leone. This is because Sierra Leonean customary law, largely unwritten but which forms part of the common law, regulates matters including marriage, inheritance, divorce, and property—matters which impact heavily on women. Under the customary law, women's status is considered equal to that of a minor.<sup>81</sup>

However, the Gender Acts are questioning and reversing the status of women as minors at custom. This is a very progressive development, because the Acts are directly addressing challenges posed by a claw back clause in Sierra Leone's 1991 Constitution. Despite the fact the Constitution prohibits any law from containing provisions that have discriminatory effects on the basis of sex,<sup>82</sup> an exception is made in respect of laws that to govern areas of adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law.<sup>83</sup> Since women's property rights often fall in the realm of personal law, this claw back clause is a step backwards in the promotion of gender equality and women's development. It also fundamentally flouts CEDAW, which Sierra Leone ratified on 11 November 1988. With the enactment of the Gender laws, Sierra Leone has an outstanding task of amending its Constitution and deleting the claw back clause, so that constitutional provisions and the gender laws are well aligned.

Out of the three Gender Acts, the Devolution of Estates Act is the law that directly affects women's land rights by recognising the rights of all women to own and inherit property, thus addressing the structural

<sup>75</sup> OECD Development Centre. n.d. 'Social Institutions and Gender Index, Gender Equality and Social Institutions in Sierra Leone'. <<http://genderindex.org/country/sierra-leone>> (accessed on 27 March 2012).

<sup>76</sup> Unruh J.D., & Turray H. 2006, note 71 above.

<sup>77</sup> Ibid.

<sup>78</sup> Williams, S. 2006, note 73 above.

<sup>79</sup> Unruh J.D., & Turray H. 2006, note 71 above.

<sup>80</sup> Williams, S. 2006, note 73 above.

<sup>81</sup> Fofanah, M. 2009. 'Sierra Leone: Custom Slow to Yield To New Law on Inheritance'. *IPS News*. 25 August, accessed on 13 March 2-12.

<<http://ipsnews.net/africa/nota.asp?idnews=48215>>

<sup>82</sup> Section 27 (1), Constitution of Sierra Leone.

<sup>83</sup> Section 27 (4)(d), Constitution of Sierra Leone.

inequalities women face in the inheritance and ownership of property in Sierra Leone. It protects women against property grabbing, a negative customary practice that robs women and their children their entitlement to their husbands' (fathers') property when they die intestate (without a Will). Women and children operating under customary law, as well as co-habiting partners, are no longer subject to undue interference from extended family members as the bulk of a deceased man's estate will now be devolved to them. The Act overturns a previous legal position, whereby a property of a man who had died intestate simply is reverted to his parents and brothers. Thus the law provides a source of wealth, and in most cases the only source, for widows who would have ordinarily been left poor and economically disadvantaged.

#### 2.3.4. Programmatic interventions

The Ministry of Social Welfare, Gender and Children's Affairs (MSWGCA) is the lead in implementing the provisions of the Gender Acts, including the Devolution of Estate Act. This is being done through the National Strategic Roll-out Plan 2009 to 2011.<sup>84</sup> The plan adopts a three-way interrelated strategy that guarantees the full implementation of its provisions: enforcement, public education, and monitoring/data collection. This plan is to be implemented in collaboration with stakeholders across the country including civil society, state actors, and relevant UN agencies. Due to financial and technical bottlenecks, the MSWGCA is dependent on its strategic partners in the implementation of the plan. At the time of the baseline study, implementation was not yet satisfactory, and most rural women remained unknowledgeable about the Gender Acts. Public education through radio had achieved little success because about 80 per cent of rural poor women in Sierra Leone have no access to radio information.

## 2.4. Global and Continental Land Governance Frameworks

By seeking to promote the empowerment of poor and excluded women so that they are able to fight hunger through meaningful access to and control over land, the women's land rights projects in Guatemala, India and Sierra Leone are pursuing aspirations of significant land governance frameworks both at global and at

continental levels. This section discusses the connection between the project objectives and the provisions of the Declaration by the International Conference on Agrarian Reform and Rural Development (ICARRD); the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGs); the African Union (AU) Framework on Land Policy in Africa; and the Comprehensive Africa Agriculture Development Programme (CAADP).

### 2.4.1. Declaration by the International Conference on Agrarian Reform and Rural Development (ICARRD)

Member States that convened at the 2006 FAO's ICARRD<sup>85</sup> recognised that agrarian reform and rural development (including the realisation of human rights, food security, poverty eradication, and the strengthening of social justice) are indispensable in promoting sustainable development.<sup>86</sup> This recognition is reflected in the goal of the women's rights project, which is to strengthen the land rights of marginalised sections of indigenous women in Guatemala, Dalit women in India, and women affected by HIV and AIDS in Sierra Leone. ActionAid believes that shifting inequalities in access to and control over land in societies where these poor and excluded women live is the cornerstone for achieving their empowerment, improved living standards, and dignity.

The project's interventions to take a microscopic analysis of the women's lived realities with a view to prompting necessary reforms therefore falls squarely within ICARRD's principle as agreed by the Member States: "*the establishment of agrarian reform mainly in areas with strong social disparities, poverty, and food security is a means to broaden sustainable access to and control over land and related resources.*"<sup>87</sup> The ICARRD Declaration particularly spots that sustainable access to resources like land by women, indigenous, marginalised and vulnerable groups is essential to hunger and poverty eradication, contributes to sustainable development and should therefore be an inherent part of national policies.<sup>88</sup> The project is aligned to the ICARRD vision which is to implement any such policies by fully respecting the rights and aspirations of

<sup>84</sup> Government of Sierra Leone, National Strategic Roll-out Plan 2009 to 2011, Ministry of Social Welfare, Gender and Children's Affairs.

<sup>85</sup> Hosted by the Government of Brazil at Porto Alegre, from 7-10 March 2006.

<sup>86</sup> FAO, Final Declaration of the International Conference on Agrarian Reform and Rural Development, ICARRD 2006/3. Paragraph 1.

<sup>87</sup> Paragraph 29, ICARRD Declaration.

<sup>88</sup> Paragraphs 5 and 6, ICARRD Declaration.



marginalised and vulnerable communities.<sup>89</sup> ActionAid's project therefore facilitates the realisation of the commitment made by the Member States to develop appropriate mechanisms related to agrarian reform that are more focused on the poor, and respectful of gender equality at global, regional, national and local levels.<sup>90</sup>

### **2.4.2. Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries in the Context of National Food Security (VGs)**

The VGs seek to improve tenure governance by providing guidance and information on internationally accepted practices for systems that deal with the rights to use, manage and control land, fisheries and forests.<sup>91</sup> The VGs, whose negotiations were concluded in March and are adopted by Member States in May 2012, were developed by the UN Committee on World Food Security (CFS) and its partners through different sessions and consultative processes that occurred between 2009 and 2011. Similar to ActionAid's women's land rights project, the VGs are intended to contribute to the global and national efforts towards the eradication of hunger and poverty, based on the recognition of the centrality of land to sustainable development. The objective of ActionAid's project to tackle deep and precise challenges prevent women's land rights in Guatemala, India and Sierra Leone is consistent with the guiding principles of the VGs, which call on States to:

*Recognise and respect all legitimate tenure right holders and their rights;<sup>92</sup> safeguard legitimate tenure rights against threats and infringements;<sup>93</sup> promote and facilitate the enjoyment of legitimate tenure rights, such as ensuring that services are accessible to all;<sup>94</sup> and to provide access to justice to deal with infringements of legitimate tenure rights.<sup>95</sup>*

And just as the VGs invite States to efficiently use legal and policy frameworks to address particular obstacles faced by women and girls with regard to tenure and

associated tenure rights,<sup>96</sup> the crux of ActionAid's project is to ensure that poor and excluded women are agents of their own change and that they influence the promotion of women's land rights in national policy and legal frameworks.

The women's land rights project also follows the footsteps of the VGs by recognising the need for secure customary tenure systems, where special attention has to be given to the provision of equitable, secure and sustainable access for women, including in indigenous settings.<sup>97</sup> Effective participation of all members—men, women and youth—in decisions regarding their tenure systems through their local or traditional institutions is also considered paramount.<sup>98</sup> Therefore, ActionAid's women's land rights project is on the right track in taking an early step to implement the progressive standards of the VGs.

### **2.4.3. Linkages between the Project and Land/Agriculture Frameworks in Africa**

The component of the women's land rights project that is being implemented in Sierra Leone (West Africa) contributes to goals of the 2009 African Union (AU) Framework and Guidelines on Land Policy in Africa (continental framework and guidelines on land policy),<sup>99</sup> and the 2003 Comprehensive Africa Agriculture Development Programme (CAADP). The project unequivocally aligns with one of the motivations for developing the 2009 continental framework and guidelines on land policy, which was *"to prompt and inspire African countries to develop and/or implement comprehensive land policies that address the serious problem of gender discrimination in access to land resources."*<sup>100</sup> This interest came out of the realisation that gender discrimination persists in Africa despite the fact that agriculture production and the conservation of

<sup>89</sup> Paragraph 28, ICARRD Declaration.

<sup>90</sup> Paragraph 30 (1), ICARRD Declaration.

<sup>91</sup> FAO. 2012. Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security. Rome: FAO, Paragraph 1.2.

<sup>92</sup> Paragraph 3.1, *ibid.*

<sup>93</sup> Paragraph 3.2, *ibid.*

<sup>94</sup> Paragraph 3.3, *ibid.*

<sup>95</sup> Paragraph 3.4, *ibid.*

<sup>96</sup> Paragraph 5.4, *ibid.*

<sup>97</sup> Paragraph 9.2, *ibid.*

<sup>98</sup> Paragraph 9.2, *ibid.*

<sup>99</sup> The continental framework and guidelines were developed through the joint initiative by the African Union (AU), the African Development Bank (AfDB), and the United Nations Economic Commission for Africa (ECA). The process started in 2006, and included regional assessments and consultative workshops of different groups of stakeholders and experts from the five regions of Africa. The AU Heads of States and Governments adopted the continental framework and guidelines on 3<sup>rd</sup> July 2009 in Libya through a Declaration on Land Issues and Challenges in Africa. Under the Declaration, the Heads of States and Governments particularly undertook strengthen security of land tenure for women as an issue requiring special attention.

<sup>100</sup> African Union (AU), African Development Bank (AfDB), and United Nations Economic Commission for Africa (UNECA). 2009. 'Framework and Guidelines on Land Policy in Africa', Part 3.1.4.

land resources is primarily the responsibility of women and children.<sup>101</sup> Hence, the objectives and strategies under the current project in Sierra Leone subscribe to the philosophy of the continental framework and guidelines:

*To ensure the full enjoyment of land rights, adopted measures must be part of an ideology that removes issues regarding land rights of women from the private sphere of marriage and family, and places them in the public domain of human rights and economic efficiency.<sup>102</sup>*

The relevance of the 2003 CAADP to the women's land rights intervention in Sierra Leone is that CAADP is a key vehicle through which African governments seek to revitalise their agricultural sector for economic growth.<sup>103</sup> CAADP endorses that creating enabling conditions for African agriculture development requires ensuring that women, who are the principal users of land, develop stronger rights over the land that they work.<sup>104</sup> The women's land rights project in Sierra Leone is therefore a critical mechanism for achieving CAADP, since improvements in women's access to and control over land in remote rural areas could translate into their optimal benefit from agriculture.

## 2.5. Conclusion

Though the existence of supportive policies and laws in Guatemala, India and Sierra Leone has benefited some women, these remain insufficient. Generally, there is a wide gap between land-related theoretical rights/entitlements and practice. Poor and excluded rural women in Guatemala and Sierra Leone are usually subjected to arrangements that reinforce collective land rights, under which they cannot hold land in their individual private capacities. In Guatemala, though various pieces of statutory laws have the potential to strengthen land rights of indigenous groups even in their communal settings, their effect on the enjoyment of indigenous women's land rights has been insubstantial. In Sierra Leone, the land distribution mechanisms under the customary land tenure system continue to flout legislative gender equality goals. This too translates into minimal enjoyment of land rights by a majority of rural women. In India, though Dalits can

possess assigned land, ceiling land, and *panchami* land as private property (subject to alienation restrictions in the case of *panchami* land), most Dalit women still suffer structural marginalisation.

Deliberate interventions are necessary to comprehensively implement laws and policies that carry the potential to shift the paradigm in the promotion of rights of indigenous women in Guatemala, Dalit women in India, and remote rural women that are affected by HIV and AIDS in Sierra Leone. At the same time, some legal and policy reforms are also necessary in the many areas where there are deficits in the promotion of the land rights of the poor and excluded women. Women themselves hold the key for change. However, this can best be possible a) if the women are aware of applicable legal and policy frameworks; b) if alliances within women's organisations are strengthened so that the organisations are able to pursue well-coordinated action on behalf of women; and c) if women develop and make proposals for progressive change that suit their political and cultural realities.

The need for action is urgent because global and continental land frameworks aspire to create an environment where land rights are fully accorded to marginalised and vulnerable groups. In the next chapter, the findings of the country-level baseline studies are presented, exposing the status of women's struggles, opportunities and experiences – data which significantly shapes the strategic interventions of any project that seeks to meaningfully improve the situation of land for poor and excluded women.

<sup>101</sup> Ibid.

<sup>102</sup> Ibid.

<sup>103</sup> African Union (AU) and New Partnership for Africa's Development (NEPAD). 2003. 'Comprehensive Africa Agriculture Development Programme'. Midrand: NEPAD.

<sup>104</sup> Ibid.

## Chapter 3

# Grounded situation of women's land rights

Chapter 2 demonstrated that in Guatemala and Sierra Leone, most of the excluded and poor women that were part of the country baseline studies live in a context where collective tenure system prevails. Thus at best, the women can access and/or exercise control over land which they are allocated through perpetual or long-term usufruct rights. They cannot privately own land, unless they are the privileged few who manage to acquire statutory land. However, with regards to India, the notion of land private ownership is widely applicable, since title deeds are issued by the government over the land to which Dalits are entitled.

This Chapter provides an in-depth picture of the realities of rural indigenous women in Guatemala, Dalit women in India, and HIV positive women in rural Sierra Leone by capturing their perceptions of their land rights situation; the extent to which they are accessing, controlling and owning land; their knowledge of land-related laws and policies; their awareness of NGOs working on women's land rights; their perceptions on the effectiveness of NGOs relevant to women's land rights; the role they are playing in decision-making structures relevant to land rights; and the state of support and knowledge of key gatekeepers. In the context of this report, "key gatekeepers" refer to traditional leaders, government officials (not just institutions), and the men in the communities in which poor and excluded women live.

### 3.1. Women's perceptions about their land rights situations

*Without land, people cannot exist. Land is the main source of rural women's economic activity and identity – Women's Focus Group Discussion, Tamil Nadu, India*



Collecting baseline data from the community through PRA, Tamil Nadu, India. © Esther Mariaselvam

The baseline study findings exposed that women did not only desire to obtain tenure security through the inheritance of land upon the deaths of their husbands, but also through acquiring and exercising control over land even when their spouses are alive. This is because to women, owning land is indispensable for their daily social, political and economic empowerment. Women in Guatemala, India, and Sierra Leone were therefore very dissatisfied with the prevailing situation that deprives a majority of them of their land rights. Women eagerly shared their thoughts regarding how they value land, including strong reasons that justified their need to enjoy their full land rights (Figure 1). These reasons boil down to the need for financial independence and prosperity; to become empowered as farmers in their own right; to reclaim their security, human dignity and self-confidence; to be self-reliant; and to be able to access credit.

In Guatemala, 92 per cent of interviewed indigenous women stated that their land rights were important because land offers the only means to survive—as it provides food, income, work, and a space to build a home where one can enjoy a decent livelihood and raise a family. Dalit women in Andhra Pradesh State in



India spoke volumes on why modern and democratic societies cannot reasonably expect women to decently survive without land:

*The landless will always depend on wages as agricultural labourers, and are therefore at the mercy of landlords who decide such wages, which are usually minimal. The landless suffer scarcity of food, ill health and all types of difficulties. Without land from which to meet basic needs, education will not be treated as so important. Landlessness leads to increased migration. During festivals and marriages, the landless are vulnerable to exploitation by money lenders because they lack a strong source of income to meet the costs of such festivals.*



Women from Tamil Nadu State in India were also unyielding in their assertion that women are entitled to land rights simply because it is their human right and they have equal rights as men. In Sierra Leone, women felt that their limited access to land under both statutory and customary land tenure systems made it difficult for them to productively sustain their livelihoods through agro-based enterprises,<sup>105</sup> which is the main sector dominated by rural women. They asserted that access to and control over sufficient land would give them the capacity to grow a wide range of agricultural products for trading, and therefore maximise profits. Nevertheless, the women's common perception that they are fully entitled to their land rights was not matched by their reality in access to, control over, and ownership of land in all the three countries.

## 3.2. Scope of women's access to, control over, and ownership of land

Women in Guatemala, India and Sierra Leone have limited access to, control over, and ownership of land. Among indigenous and Dalit communities of rural Guatemala and India respectively, the baseline study findings uncovered that being a woman translated into further structural marginalisation because decision makers were usually male heads of households whose own land rights were still an unresolved issue. Except for Tamil Nadu in India, all project sites in the three study countries were seen to have taken some baby steps towards recognising land rights of women.

### 3.2.1. Defining access, control, and ownership of land

In the context of this baseline report, *access* to land is understood as possessing direct or indirect user rights over land. Direct user rights accrue when a woman is allocated land in her own right, while indirect user rights are established when a woman is able to cultivate on land that has been allocated to a third party, commonly a spouse.

*Control* over land refers to the decision-making capacity over how land is used, allocated, transferred or sold. And as explained in the introductory section, where customary land is concerned, *control* over land is also associated with being allocated land in perpetuity or for long term use. In an ideal setting, an individual (including a woman) who has been allocated customary land also ought to have control over that land by enjoying unfettered decision-making powers over the land. However, in reality, such control may be eroded by the woman's lack of decision-making power over the use of such land or its proceeds. Thus in such cases, the woman will be deemed to only have direct access to the land.

This study uses the term *ownership* in respect to cases where individuals possess a private title over land. In this context, the concept of land ownership would also loosely apply to leases, where land may be owned for a long term period through a title deed, subject to renewal.

<sup>105</sup> Marketing of vegetables and other agricultural food stuffs

**FIGURE 1.**  
**Fourteen reasons that justify women's quest for full land rights in Guatemala, India and Sierra Leone**

Improve their capacity to make independent decisions, including when a husband is financially irresponsible.

Emancipate them from bonded-like situations as agricultural labourers and will allow them to become farmers.

Give them self-confidence.

Enhance their capability to raise their own money for their families' livelihoods.

Increase their buying power, and ultimately reduce their dependency on men.

Enable them to produce more food, and their families would not have to migrate.

Capacitate them to produce sufficient food for consumption, since men mostly use land for producing cash crops.

**WOMEN WANT THEIR FULL LAND RIGHTS TO BE PROMOTED BECAUSE THIS WOULD:**

Enable them to assist their relatives.

Increase their security upon the death of their husbands.

Allow them to increase their household land size.

Give them personal security and dignity.

Make their families prosperous, hence children would be assured of a good education.

Enable them to access credit from bankers and micro credit institutions.

Provide them with comfort because they would know that they would be looked after by their children in old age.



Women from Moyamba District, Sierra Leone talk about having no access to land, and particularly the difficulties they face in having no land in their names. © Sydnella Rogers



### 3.2.2. Access to land by women

The baseline findings from Guatemala explained that though 92 per cent of interviewed indigenous women knew that they had “the right to access land, and decide over its use and management,” most did not exercise this right in reality.<sup>106</sup> India’s baseline study focused on access to land in connection to land ownership and control, and this data is discussed in the next section. In Sierra Leone, the baseline study established that that most of the women in the project sites had access to land through using family land and community land, and a husband’s land (for married women). It was only in Bombali district in Sierra Leone that the women unanimously agreed that those living with HIV in the community had equal access to land as other women. On the contrary, a women’s focus group discussion in Moyamba, Sierra Leone, summarised the views of HIV positive women in three districts<sup>107</sup> “we do not access land equally because we are stigmatised. Friends and husbands abandon us because of our status.” In all the three countries, the baseline data clearly indicated the dynamics with regards to ownership and decision-making, and the two are separately discussed in the subsequent parts.

### 3.2.3. Ownership of land by women

Some level of joint ownership of land between women and their spouses was present in parts of Guatemala, India and Sierra Leone; but women’s individual ownership of land allocated by the state was only noticeable in the latter two countries (Figure 2).

#### 3.2.3.1. Joint Ownership of land

Joint ownership of land through title registration guarantees women land tenure security, and the study found that some women were able to jointly own land with their spouses in all three countries. Sierra Leone emerged as the country with the highest number of women that claimed to jointly own land with their spouses, and the least number was found in India. With regards to land that was allocated by the State in Guatemala, 16 per cent of interviewed women stated that land was registered jointly with their husbands. The only incidences of joint land ownership in India were found in Andhra Pradesh, where 442.2 acres (1.3 per cent) of the land held by Dalits was jointly owned by Dalit men and women. There was no joint ownership of land by any of the Dalit families in Tamil Nadu.

<sup>106</sup> 2 per cent of interviewed women did not respond to the question.

<sup>107</sup> Moyamba, Bo, and Kambia.

Joint ownership of land in varying amounts was quite common amongst half of the interviewed women that responded to this question in Sierra Leone.<sup>108</sup> It was found that 82 per cent of these women jointly owned statutory land with their spouses. However, this percentage is not included in Figure 2 below to prevent distorting the picture, since as far as Sierra Leone is concerned, the figure is intended to only capture the proportion of all interviewed women that claimed to own land in the country. Out of the 82 per cent, about 13 per cent jointly owned up to three acres of land; about 58 per cent jointly owned two acres of land; and 29 per cent jointly owned only an acre. As will be noted in the next part, these land holding sizes were smaller compared to those held by women in sole capacity. Overall, joint ownership of land is a strong starting point for women, and can further be strengthened by de facto joint decision-making powers.

#### 3.2.3.2. Exclusive ownership of land

The majority of women believed that ownership of land was a licence to utilising land freely. In Guatemala, where ownership of land was mainly achieved through purchase or lease, none of the women interviewed in the 79 Mayan communities that were involved in the study claimed to have individually purchased or leased any land. This picture contrasted with the somewhat improved situation of male respondents—28 per cent of them claimed to have purchased land, while 33.3 per cent claimed to have leased land. Only 1.3 per cent of interviewed women had obtained land by inheritance. Within the project areas in Andhra Pradesh and Tamil Nadu in India, the baseline study exposed some differences between the two States, with the former displaying some sensitivity and tolerance towards ownership of land by Dalit women than the latter.

Even then, the study still concluded that Dalit women in Andhra Pradesh, who owned 5,564.3 acres (17 per cent of the total land), had very limited rights over land when compared to the fact that 26,555.5 acres of land (81.5 per cent of the total land) was in the hands of Dalit men. The disadvantaged position of Dalit women in Andhra Pradesh also extended to the size of their land (1.3 acres), because it fell below the average land size for Dalits in the State.<sup>109</sup> Generally, there were some few pockets of women in the State who were content with the dominance of Dalit men in land ownership. This group felt that only men should own land; and they

<sup>108</sup> 209 women.

<sup>109</sup> 1.90 acres. The average land holding size for individual Dalits in Tamil Nadu was way smaller (0.67 acres) compared to the 1.90 acres in Andhra Pradesh.



feared that if land was in the name of a woman, upon marriage, the land would be alienated as it would go to another family (the husband's). This symbolised high levels of lack of awareness. In Tamil Nadu, the baseline established that *all* the 207 acres that were in the hands of Dalits were owned by men, and Dalit women *did not* possess even a single acre.

As noted in Chapter 2, the general situation in the two Indian States is complicated by the fact that apart from the issue of women's land rights, Dalits have to deal with a broader struggle for their communities' land rights which, despite legal measures, are disrupted without any control or check. For instance, at the time of the baseline in the 300 villages of Tamil Nadu, about 5,679 acres of the land meant for Dalits under *panchami* and temple land systems were occupied by others of the dominant caste. And out of 5,059 acres of land that were available for distribution to Dalits, only about 207 acres of land (4 per cent) was in fact in the hands of Dalits. Though at a reduced scale, general struggles relating to occupancy of Dalit land also still persisted in Andhra Pradesh. About 379 acres of land meant for Dalits in the State were occupied by the other dominant caste people at the time of the study. The findings in both Andhra Pradesh and Tamil Nadu expose the negative effects of inadequate conscientisation among Dalit men and women, as well as gender insensitivity among land officials.

In Sierra Leone, only 29 per cent of interviewed women owned land through purchase, and had title deeds. About 60 per cent of female headed households did not own land. Signalling a close linkage between higher education levels and the likelihood of owning land by women, 14 per cent of the women who owned land had acquired tertiary education. The study found that there was no significant relationship between the levels of income and the means by which rural women acquire land in Sierra Leone.<sup>110</sup> The key Ministry through which women bought their land was the Ministry of Lands, Country Planning and the Environment. The study concluded that though some differences between land ownership levels of HIV positive and HIV negative women existed, an HIV positive status did not seem to affect a woman's ownership of land. This was because the women interviewed may not necessarily have

acquired the land by virtue of publicly declaring their HIV status.

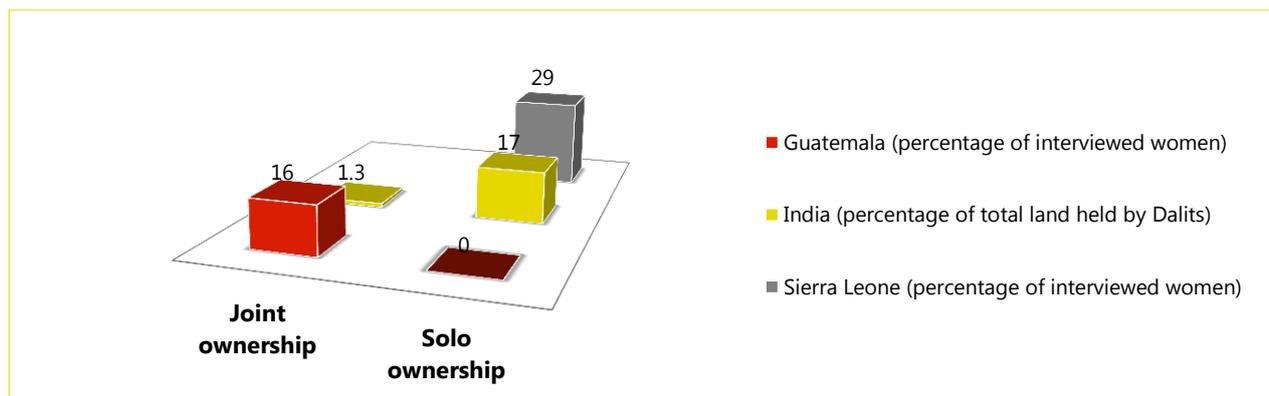
According to Table 3, out of the women that owned land, more were HIV positive (53 per cent) than HIV negative women (47 per cent). However, HIV positive women lagged behind when the data was disaggregated to examine the status of HIV positive women who owned land as female heads of households (FHHs), and those whose land holding size was up to 5 acres. About 57 per cent of HIV positive women who were female heads of households did not own land, while 43 per cent of their HIV negative counterparts did. And out of the 82 per cent of interviewed women that reported to personally own land up to five acres, 60 per cent of interviewed HIV negative women owned land up to five acres compared to 40 per cent of HIV positive women. What was striking about the average land holding size generally owned by women in Sierra Leone compared to that of Dalit women in India's Andhra Pradesh was that the majority of rural women in Sierra Leone who claimed to enjoy some land rights had bigger land sizes by far (up to 5 acres) than their counterparts in India (1.3 acres). Guatemala had no data relating to individual land sizes owned by women, particularly because indigenous women in the project sites mostly enjoyed collective land rights and not private ownership rights.

While indisputably significant, land ownership, particularly for married women, is in itself not a measure of control. Without empowerment and education of both men and women concerned, there is a high risk of husbands remaining in control over land owned by women. It is important to note that the land rights for women living under customary land tenure systems can still be safeguarded by strengthening their land control rights, so that they, too, are able to equally benefit from collective land rights. It has been established in similar projects that strengthening women's land control rights within their existing customary systems is a more preferable intervention, than seeking to dismantle them; the latter option may be unsuccessful due to the complex nature of the customary systems.<sup>111</sup> The next part analyses the degree to which women were found to exercise control over land in the three study countries.

<sup>110</sup> For instance, 66 of the 75 women who reported not owning any land had an average income of between Le 11,000 and 200,000 per day. Given the minimum wage in the country as Le150,000 (USD 38) and the poverty line is at Le2,011 per day, these women live exceedingly above the poverty line. One of the reasons given for the lack of ownership of land by rural women who have the means was that because of their insubordinate status, such women still found themselves relying on men to represent them during land transactions, as women could easily be bullied and could not often want to be part of land disputes that may occur during the transactions.

<sup>111</sup> ActionAid International & NiZA (ActionAid Netherlands). 2009. 'Women's Land Rights in Southern Africa: Consolidated baseline findings from Malawi, Mozambique, South Africa, Zambia and Zimbabwe'. Amsterdam: NiZA.

**FIGURE 2.**  
Women and land ownership in three project countries



**TABLE 3.**  
Women’s level of land ownership in Sierra Leone (%)

Category of women	With land ownership	With land ownership of up to 5 acres	With no land ownership
HIV+	53	40	47
HIV-	47	60	53
HIV+, female households heads	43	-	57
HIV-, female households heads	57	-	43
All female households heads	40	-	60
All women	30	-	70

### 3.2.4. Control over land by women

*We have family land, but it is my younger brother that is in charge. It is not easy for a woman to inherit her husband’s property after he passes away. For example, when I lost my husband, his relatives asked for the documents (house plan) which I surrendered to them because the pressure was more than I could bear.*

– In-depth Interview, Bo, Sierra Leone

*A woman cannot take land as her property after the death of her husband, because the family members of the deceased husband will ask the woman to identify one man of the family to be the new husband if she wants to inherit the property*

– Focus Group Discussion, Kono, Sierra Leone



Women’s power to make decisions over land, whether in joint or sole capacity, was regarded as an indicator of the level of control that women had over land in the three study countries. Comparative proportions of women that enjoyed control over land in the three study countries appear in Figure 3. In Guatemala and Sierra Leone, findings related to women’s control over land applied to customary land, over which individuals can best claim control but not ownership. In India, land



control was still investigated in relation to decision-making power over the statutory land that Dalits managed to own.



Group discussion in Guatemala © Estela Jocon

In Guatemala, it was found to be easier for married women to have decision-making leverage in a joint capacity with their husbands, than on their own. At the time of the baseline study, focus group discussions in the country revealed that *50 per cent* of the male population were the ones who made most decisions regarding what crops should be grown, and how and when agricultural activities should be carried out. This situation was nurtured by the culture whereby males were the ones that were commonly inheriting, buying or selling land—privileges that indigenous women hardly ever enjoyed.

Only *3 per cent* of the women respondents in Guatemala professed to have exclusive decision-making power over land use. However, it was the widows or divorced women that seemed to enjoy this benefit. Thus, the women were not necessarily enjoying autonomous control over land because men did not trust their capacity to make farming decisions. What was encouraging though was that in *47 per cent* of cases, decisions over land use were made jointly by a husband and a wife. The advantage enjoyed by a respectable number of women to contribute to decisions related to land use also expanded to decision-making power regarding the handling of farm proceeds. The number of couples that made joint decisions regarding money (350)<sup>112</sup> much outweighed the number of interviewed men that had absolute control over how to spend the money (85). Further, 552 women<sup>113</sup> said they were able to sell part of farming produce in order to supplement their families' income. However, the number of women who had absolute control over the management of their families income

<sup>112</sup> 34 per cent of total female respondents (1,029).

<sup>113</sup> 53.6 per cent of total female respondents.

stood at 88.<sup>114</sup>

Similarly, Dalit women in India revealed that in majority of the families (*70 per cent*), men were making decisions regarding land. For the rest of the families (*30 per cent*), decisions were jointly taken. This is not surprising, considering the gross inequalities that exist in the ownership of statutory land between men and women in Andhra Pradesh and Tamil Nadu, more particularly in the latter. Despite the fact that joint decision-making is a privilege for very few families, all interviewed Dalit women felt that joint decision-making would help them to have better access to land in order to improve their livelihoods.



Elderly women participating in data collection © Annie Thomas



Women interviewed for the India baseline report © Annie Thomas

The study in Sierra Leone conjunctively used the term “access and control” by referring to women that had been allocated customary land in their own right. Overall about six in every ten women reported not to have any access to and control over any piece of land. Out of these, according to Figure 4, *55 per cent* were HIV positive and *45 per cent* were HIV negative. Out of the *40 per cent* of interviewed women that had access to and control over land, the findings again noted divergences between HIV positive and HIV negative women. While more HIV positive women generally had less access to and control over land, those who did had larger pieces of land compared to HIV negative women. About *74 per cent* of the women had access to and control over up to 5 acres of land, and HIV negative

<sup>114</sup> 8.6 per cent of total female respondents.

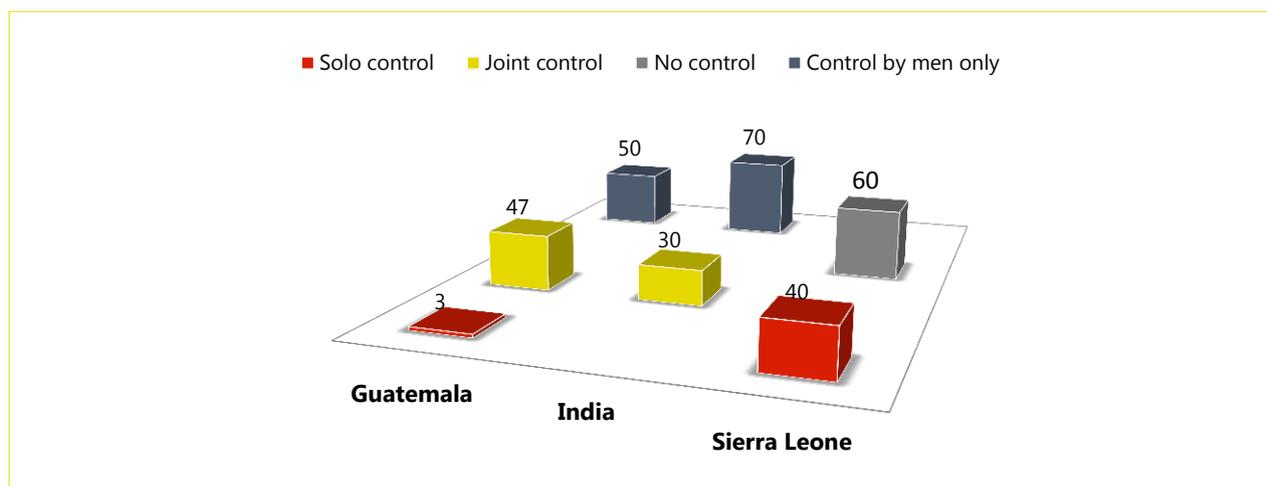


women formed the majority (61 per cent). However, there was a shift when it came to access and control of land over 5 acres, because the majority that fell in this category (74 per cent) were HIV positive. Three of them had access to and control over 20 acres, while no HIV negative woman had access to and control over this much land.

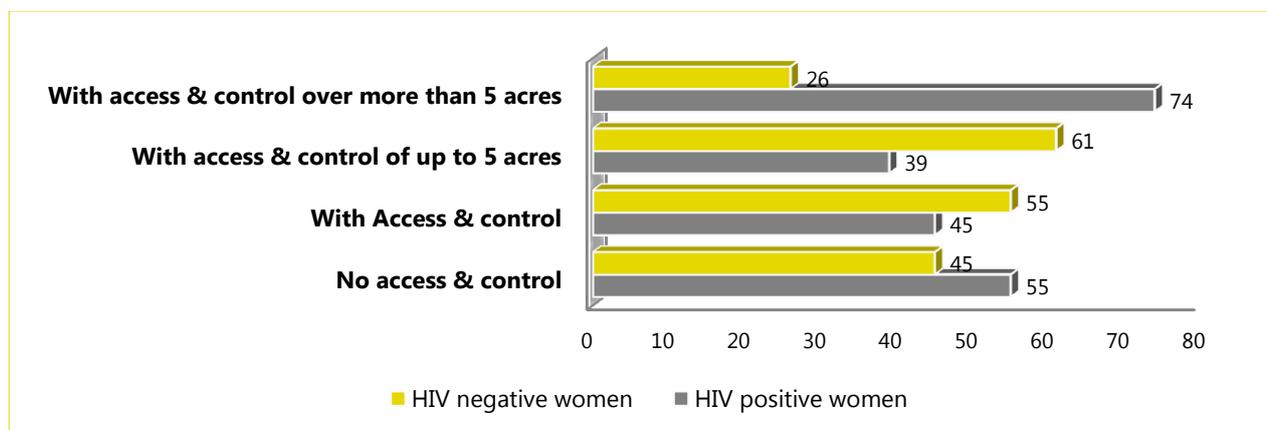
For HIV positive women in Sierra Leone, the challenge is therefore to ensure that more of them are being allocated adequate customary land in their own right. And since land allocation may not usually take into

account one's HIV status due to non-disclosure, the broader challenge is to change the condition of the high proportion of women who generally do not currently access and have control over land in rural Sierra Leone (60 per cent). Achieving control over land by rural and excluded women not only in Sierra Leone, but also in Guatemala and India, will also depend on the extent to which the women themselves know and utilise relevant laws and policies in pursuing their land rights agenda.

**Figure 3.**  
Levels of land control by interviewed women (% where data available)



**Figure 4.**  
Women's access to and control over land in Sierra Leone (%)





### 3.3. Women's knowledge of land-related laws and policies

The baseline study report for Guatemala generally observed that most indigenous Guatemalan women lacked knowledge of national laws that could potentially protect their land rights. This placed them at a disadvantage in strongly claiming improvements to their situation. More research is needed to exhaustively ascertain the degree of indigenous women's knowledge of land-related laws in the country. As for Dalit women in India, women's focus group discussions revealed that though the women had some understanding of the laws related to land, they could not name the specific legislations or legal provisions that protected their land rights. Most Dalits were familiar with the legislation that broadly protected *panchami* land from alienation to non-Dalits.

In Tamil Nadu for example, up to 80 per cent of interviewed Dalits possessed this knowledge due to various land campaigns that had been organised by the Dalit Mannurimai Kootaippu (DMK). Knowledge in Andhra Pradesh was attributed to the Communist Party of India Marxist (CPI-M). Dalit women also expressed high knowledge of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act than any other land-related laws. Most of the Dalit women alleged that they had not made attempts to familiarise themselves with any of the land-related laws addressing women's land rights at both State and national level because no one had taken up the initiative to educate them. However, understanding the environment of subjugation in which they lived, almost all interviewed women and community leaders expressed the desire to see changes in land-related laws, so that Dalit women could be expressly guaranteed the right to own land. They felt such changes would support women not only in owning land, but also in having effective control over the land.

Sierra Leone had more comprehensive data regarding levels of rural women's knowledge of the legal framework on land that safeguarded their rights. Generally, out of the women who were asked if they were aware of rights under the Devolution of Estate Act as the law that provides the strongest protection for women's land rights,<sup>115</sup> an overwhelming 85 per cent confirmed their awareness of their rights to own and inherit land under this law. Nearly all the HIV positive women that responded to this question (91 per cent) exhibited awareness of their rights under the Act,

compared to 77 per cent of HIV negative women. The study established that women who belonged to an organisation (60 per cent) were able to name the relevant legislative framework protecting women's land rights in Sierra Leone,<sup>116</sup> compared to those who did not (50 per cent). About 81 per cent of HIV positive women that specifically mentioned the Devolution of Estate Act as the law promoting women's rights to property, including land, belonged to an organisation or association.

Use of the Devolution of Estate Act in practice had started to happen, but not at a large scale. Though knowledge of the Act was above average, about 29 per cent of the women interviewed reported to have claimed their rights under the law since its enactment. Some claimed ownership through the court system and for others, they relied on women's rights activists to apply the Devolution of Estate Act in mediations with chiefs on their behalf. And 19 per cent of interviewed women testified that they were aware that the law had been used by others in their communities. For instance, about 60 per cent of this group of women mentioned that the law had been applied to cases of dispossession of property, 30 per cent of which related to land dispossession. Generally, there were very low knowledge levels amongst both women of the contents of the Registration of Customary and Marriage and Divorce (22 per cent) and the Domestic Violence Act (11 per cent).

Thus knowledge of the three Gender Acts was unbalanced, and women were limited in holistically knowing how they could also apply the Registration of Customary and Marriage and Divorce (22 per cent) and the Domestic Violence Act to property rights issues that were not necessarily related to inheritance. In Sierra Leone, the radio was the major source of information on women's land rights issues for 60 per cent of the interviewed women. Other sources of information were community sensitisation meetings, women's group sessions, and council meetings). For traditional leaders, their major sources of information on women's right to own property were the radio and community/chiefdom awareness-raising meetings. Radio and awareness meetings are an effective way of reaching rural and illiterate population.

<sup>115</sup> 60 per cent of the women involved in the study.

<sup>116</sup> Including the Registration of Customary Marriage and Divorce Act; and the Domestic Violence Act.



### 3.4. Women's awareness of NGOs working on women's land rights

The baseline study investigated the extent to which the study sites in all the three countries had the presence of organisations that were already working for the promotion of women's land rights. In Guatemala, most of the indigenous women that were aware of organisations that were advancing women's land rights (60 per cent) mentioned CUC, Mama Maquin and Madre Tierra (*Alianza de Mujeres Rurales*—AMR). These organisations share the agenda of supporting women to have equitable access to land. Most of the interviewed women claimed to participate as activists in the advocacy activities of the two organisations. Other organisations, including public offices were also sometimes mentioned, and the full list is captured under Annex 2.

In India, it was clear that except for ActionAid, the other two organisations that were well known to the respondents dwelt much on advocating for rights of the Dalit population in general, and not so much on women's land rights. In Andhra Pradesh, the Communist Party of India (Marxist) was recognised as the prominent organisation that focused on getting land for the landless poor. None of the Dalit women and community leaders who participated in the study's focus group discussions were members of the Party. In Tamil Nadu, most of the participants mentioned DMK and ActionAid as the two organisations that were working for the land rights of Dalit women. Some Dalit women in Tamil Nadu had been involved in the struggles of the DMK, but these were towards the reclaiming of Dalits' right to panchami land. Overall, it was mentioned that men dominated land-related campaigns and activities in both Andhra Pradesh and Tamil Nadu. Though not many struggles had been focused on the right of Dalit women to own land, all respondents agreed that the Communist Party of India (Marxist) and DMK were very important organisations for ensuring the land rights of Dalits, Dalit women, and abolishing untouchability in the two States.

In the study in Sierra Leone, apart from identifying two government offices, women respondents recognised seven NGOs and many community-based organisations (CBOs) as defending the promotion of women's rights (Annex 3). However, no specific organisation was isolated as exclusively addressing women's land rights. The majority of the interviewed women reported that these organisations have over the years undertaken a number of activities that promote women's human

rights and empowerment.<sup>117</sup> While the women did not specifically state that these organisations were directly engaged in land rights issues, it cannot be denied that most of the interventions were relevant to a comprehensive approach of promoting women's land rights, since the topics covered issues that could sabotage the women's land rights agenda.

Without identifying a specific organisation, only 14 per cent of the women respondents in Sierra Leone reported that they had undertaken community initiatives to improve women's land tenure security. Only women in Bombali district claimed to have undertaken community initiatives focused on women's access to land. These activities involved advocacy actions targeted at land owners and community leaders. Even then, considering the low capacity of the women's groups that were interviewed to conduct effective advocacy activities, it was likely that very few communities had been targeted with little impact. In investigating awareness of NGOs working on women's land rights, the baseline study in Sierra Leone also explored women's opinions on whether or not their fellow women could effectively lead organisations that were championing women's rights/land rights. About 66 per cent had confidence in the leadership of women, and more HIV positive women (75 per cent) expressed the confidence compared to 58 per cent of HIV negative women. When asked to rate the performance of organisations engaged in women's rights issues, there was no significant difference in the rating of HIV positive and HIV negative women respondents in Sierra Leone. About 60 per cent of the women rated the performance as good, while 35 per cent thought it was satisfactory. Only 5 per cent of the respondents rated the performance of the organisations as fair and poor.

There was some discrepancy between the rating by the women, and that by government officials in relation to the capability of women's organisations. Only 24 per cent of the later felt that the performance of women's rights organisations was good. About 68 per cent rated the performance as satisfactory. However, what both ratings had in common was that by grading the performance as good or satisfactory, a majority of women and government officials were in agreement that women's rights organisations were ably delivering on services required by women. In fact, 80 per cent of both HIV positive and HIV negative women attested to this by acknowledging that organisations that were

<sup>117</sup> These activities included: sensitisation, advocacy and training on gender equality, gender-based violence, the Devolution of estate Act, and women's empowerment. They had also facilitated redress for gender-based violence, particularly rape and domestic violence; supporting livelihoods through agriculture and micro-enterprise; resolving disputes, and promoting peace and unity and improving rural infrastructure such as rehabilitating and constructing feeder roads.



promoting women's rights had successfully resolved many cases (Annex 4).<sup>118</sup> While most of these cases may not have dealt specifically with women's land rights, they outcomes offer the hope that with the implementation of the women's land rights project, many positive outcomes of cases protecting women's land rights could also be registered in future.

### 3.5. The role of women in decision-making structures relevant to land rights

The level of participation of women in structures that deal with or that can impact on women's land rights is a marker of the extent to which women can influence decisions on land and other properties. In all three study countries, women's participation in such key structures is glaringly lacking.

In Guatemala's rural areas, key decision-making entities with a potential to influence indigenous women's land rights include the Community Development Council (COCODE); the Associative Community Enterprises (ECAs); and Water Committees. Indigenous women are slightly represented in all three. COCODEs were introduced to the Guatemalan polity as part of the 1996 Peace Accord that ended 36 years of civil war. Running parallel to the traditional electoral flow chart of governors and mayors, the COCODEs are designed to decentralise power and allow greater community participation.<sup>119</sup> The baseline data indicated that indigenous women's participation in the COCODEs is considerably limited. In all the 79 indigenous communities that were part of the study, only 38 per cent of women participated in COCODEs within their communities. But promisingly, out of data collected from 41 communities, 18 communities (51.8 per cent) had indigenous women that were participating as COCODE Board of Trustees members. However, the number of communities that had women in other positions of decision-making (like treasurer, secretary, chairperson, women's committee members, and etc.) ranged from 1 to 5 (2.4 per cent to 12.2 per cent). This meant that indigenous women were generally not well represented in the day to day running of COCODEs.

Guatemalan women's participation in ECAs was also considerably low, taking into account the detail that out

of the 79 study communities in Guatemala, only 6 (7.6 per cent) had women in in the Boards of Trustees of their communities' ECAs. ECAs are peasant cooperatives in Guatemala that aim to improve the social and economic welfare of its members by promoting the efficient use of land, labour, and capital by its members, including through agro-export. Though 2.7 per cent of the women who participated in ECAs in the study sites had been trained in women's rights, none of them were members of the Board of Trustees. Thus their knowledge was not strategically useful to the ECAs since the women had no concrete opportunity to influence policies and strategies of their ECAs from a women's rights perspective.

The Water Committee in Guatemala is a community organisation of vital importance, since through its negotiations and proceedings, it ensures the supply of water to families within various communities. But notwithstanding that women use water as a resource for most of their daily activities and that water is a subject of conflict, the baseline study found that only 14 per cent of the interviewed indigenous women were participating in Water Committees, where these were available.<sup>120</sup> As a result, decisions related to water were predominantly being made by men. Ensuring that Water Committees were serving women's needs would be critical to women's land rights because apart from using the water in backyard gardening, easy access to water for household use would free their time so that they could concentrate on agricultural production. Reasons presented by indigenous women for their lack of participation in the three structures included: fear of participating in a position of decision-making; underrating their own ability to effectively participate; low education levels; being side-lined by men that did not acknowledge women's rights; oppression by husbands; and having no time to participate. Any interventions to shift the paradigm would therefore have to holistically address these factors.

Interviewed Dalit women pointed out that though they are systematically relegated to observers, it is important that women are involved in decision-making at all levels, as a matter of rights. The main decision-making structure that could potentially advance Dalit women's land rights in India are the *Panchayat Raj* Institutions (Local Governance System). Two key structures under this system are the *Gramasabha* (village decision-making meetings) and *Panchayats* (assemblies/local self-governments), which meet only a few times in a year. The baseline results confirmed that participation of Dalit women in the whole local governance system was

<sup>118</sup> The cases listed above could not be associated with any specific organization because many respondents named more than one participating organization.

<sup>119</sup> Water and Nature Initiative (WANI). n.d. 'Community Development Councils in Guatemala'.

<<http://www.waterandnature.org/en/resources/story-gallery/practical-stories-mesoamerica/iucn-guatemala-grassroots-organizing>>

<sup>120</sup> Some communities did not have this committee because they did not have a piped water system.

very weak. Most of the Dalit women and community leaders noted that only about *20 per cent* (at the maximum) of Dalit women participated in the *Gramsabha*. While this participation could ordinarily be regarded as a small and yet important first step for Dalit women, this is not so because it was disclosed that decisions at the *Gramsabha* were exclusively made by men. The inclusion of women was pure tokenism.

The baseline uncovered that in a move to co-opt the marginalised, decision-making structures like the local *panchayats* (traditional assemblies) and the *gram panchayat* (local self-governments at the village or small town level)<sup>121</sup> had reserved constituencies for women as well as Dalits. However, women who were usually elected were non-Dalits. Even Dalit men who got elected were still incapacitated from participating meaningfully because of structural inequalities. Though few exceptions were observed in areas that were overpopulated by Scheduled Caste/Scheduled Tribes populations, elected Dalit men had more flexibility to participate than Dalit women.

The study revealed that other notable decision-making structures outside the local governance system included the traditional dispute resolution system and the National Rural Employment Guarantee Scheme (NREGS). However, in the traditional dispute resolution system, women were found to only participate as disputants, and men are the patriarchal community leaders in the meetings. And in the NREGS, group leaders were predominantly men, but women were allowed to participate in group meetings. Dalit women found their negligible role in decision-making structures to be unfortunate, and lamented that they were usually exploited by being mobilised as a vote bank during election meetings and campaigns. They were able to detect factors that contribute to their exclusion from decision-making structures, and these included: economic dependency, lack of information, regressive traditional practices that are against women, influence of in-laws, male supremacy and lack of property rights. The women were justified in connecting issues of property with their status in decision-making structures because according to the data, Dalit women's lack of property grossly limited their worth, opportunities and independence. They therefore could not easily gain recognition as authentic decision makers so long as they remained second or third class citizens.

<sup>121</sup> A *gram panchayat* can be set up in villages with minimum population of 300. Sometimes two or more villages are clubbed together to form group-*gram panchayat* when the population of the individual villages is less than 300.

The baseline study in Sierra Leone focused on structures relevant to the enforcement of the Devolution of Estate Act, and first measured women's levels of knowledge of such structures. About *95 per cent* of the interviewed women were able to correctly name district councils, the local courts and chiefs as structures that facilitate the implementation of the law. Both HIV positive and HIV negative women reported being aware that the structures generally resolve land cases, share land appropriately among parties, and allocate land for farming. None of the respondents identified the High Court as the topmost structure for the enforcement of the Act. The High Court has powers to arbitrate disputes under the Act, order the sale of proceeds of an estate, and appoint receivers. The Act can only provide full protection for women or militate against the violation of the Act when people are aware of the full measure of the law and where to seek the highest redress.

About *74 per cent* of the women who shared their thoughts on the composition of the structures that enforce the Devolution of Estate Act felt that the structures were male-dominated. Where a few women were part of the structures, the overwhelming opinion was that such women often played the role of "advisers," as opposed to "decision makers." Given the limited participation of women in structures that promote women's land rights, both HIV positive and HIV negative women proposed changes that they would like to see in women's participation in these structures. About *60 per cent* of the women would like to see women more represented in these structures. However, the rest of the women proposed more strategic changes related to decision-making (executive and voting rights) and leadership (head of committees) roles. Thus in all the three study countries, the women's rights agenda cannot run away from the reality that the true empowerment of poor and excluded women can only begin in earnest when they are able to actively participate in crucial decision-making structures as a critical mass.

### **3.6. The state of support and knowledge of key gatekeepers**

As aforementioned, "key gatekeepers" in this report refer to traditional leaders, government officials (not just institutions), and men in communities within which poor and excluded women live. Findings from Sierra Leone were more descriptive of the levels of support from traditional leaders and government officials, while that from India provided some picture on the state of men's support. Dalit women in India saw Dalit men as

one of the biggest obstacles to their enjoyment of land rights. They argued that despite the marginalisation that they faced from “upper” caste populations, even amongst Dalit populations, men generally discouraged the active participation of their women. Men’s general reaction to women that displayed any effort to participate in community discussions would be: “*keep quiet! what do you know?*” Women respondents concluded that men enjoyed enslaving women in all aspects, and their suppression of women’s voices (including in issues of land) was their way of avoiding women’s empowerment and an end to such enslavement. Further, in relation to land management, they felt that Dalit men did not have confidence in their women’s capacities to own and manage land on their own.

The baseline data in Sierra Leone was also collected from government officials and traditional leaders as gatekeepers in women’s land rights matters, and showed that the situation was not hopeless with regards to their knowledge, though more needs to be done. There was a widespread view amongst both government officials and traditional leaders that the Devolution of Estate Act is relevant to influencing changes in women’s social and economic situation. About *73 per cent* of the traditional leaders that demonstrated awareness of the Act reported that the law was being implemented in their communities. Out of the traditional leaders who were asked if they had used the laws themselves, *20.6 per cent* admitted that they had never applied it. About *51.7 per cent* of those that claimed to have used the law stated that they had asked families to partition land between males and females. Another *31 per cent* had not used it directly, but had instead appealed to Community Development Committees to also give land to women.

These findings from gatekeepers that are usually custodians of customary law illustrate that traditional leaders in Sierra Leone were becoming more conscious of the relevance of statutory laws and its role in improving women’s disadvantaged situations. It just remains to be seen whether the women’s land rights project will prompt the direct application of the law by a majority of the traditional leaders. The study in Sierra Leone also took an interest in the levels of the actual knowledge of women’s land rights that the gatekeepers possessed. Though *92 per cent* of interviewed government officials claimed to know the most recent legislation affecting women’s land rights, when asked to name the legislation, only *69 per cent* isolated the Devolution of Estate Act.

As to knowledge levels of traditional leaders, *53 per cent* recognised the Devolution of Estate Act as the law that

protects women’s right to land. However, *6 per cent* of the traditional leaders expressed ignorance of the fact that women had rights to own property, even though they randomly knew of the existence of the Devolution of Estate Act. And only *28 per cent* and *7 per cent* of interviewed traditional leaders interviewed named the Registration of Customary Marriage and Divorce Act and the Domestic Violence Act respectively. Like in the case of women respondents, this gap signals the need to balance information dissemination regarding all the Gender laws of Sierra Leone in order to comprehensively pursue the protection of women’s land rights.

With regards to structures that were relevant to supporting women’s land rights, government officials were able to provide a comprehensive: land holders, local and magistrate courts, the Ministry of Lands Housing and Country Planning (MLHCP), paramount chiefs and community headmen. On their part, traditional leaders identified the chieftdom development committee and the village development committee as key structures that settle disputes among families, resolve community land disputes and grant leases on community land. Just like women respondents, none of the gatekeepers mentioned the High Court.

### 3.7. Conclusion

According to the baseline findings, poor and excluded women in Guatemala, India and Sierra Leone well recognise that land rights are the foundation of their full citizenship, livelihoods, and empowerment. In Guatemala and Sierra Leone, customary land bears a particular significance for women who are beneficiaries of the project, because it is the type of land that is mostly available in rural areas where they reside. The relevance of customary land to poor and excluded women is that it is often allocated to community and/or family members at no cost and investments largely focus on achieving agricultural productivity. Strengthening the governance of customary land tenure systems so that they discard patriarchal tendencies and allow women to access and exercise control over land on the same footing as men is therefore fundamental. This measure also has to be complemented by dynamic and strategic efforts to ensure that rural women build their capacity to claim their land rights.

The findings in Sierra Leone showed that the number of women who were able to access and control land through being directly allocated customary land still remained below average at baseline stage. In Guatemala, two situations were prevalent: either men



were exercising exclusive control over the use of land, or some households (also below average) allowed joint decision-making between spouses. It was very rare for women to have exclusive control over land, with the exception of divorced or widowed women. These findings illustrate that the majority of poor and excluded women who operate in customary land tenure regimes are in need of interventions that would guarantee them access to and control over land in their own right. While joint decision-making over customary land between spouses is also beneficial to women, married women's position will remain fragile in so long as they exclusively depend on their husband's land. Divorce or death may immediately strip them of the land rights that they may have enjoyed by virtue of marriage.

The statutory tenure system, whereby land can be owned in private capacities, applies in the areas where Dalits in India reside, as well as in some [provincial] commercial areas of Sierra Leone. However, the baseline findings revealed that in practice, only very few women had private ownership of land under this system. Thus, control over land under statutory tenure also remained a pleasure for a few women, and totally eluded Dalit women in Tamil Nadu, who did not own any land at the time of the study. The possibility for Dalit women in India to own statutory land is not far-fetched, since various administrative arrangements have been put in place to ensure that Dalits acquire certain land. But in practice, the results have not been as desired. Beyond overall lack of empowerment, the ownership of land by Dalit women is mostly foiled by competing land rights between Dalits women and men, given the oppression that Dalits as the "lower" caste generally face in India.

The lack of a comprehensive gender-sensitive approach to the land rights struggles of the Dalit community has resulted in the women being mostly side lined. Interventions to visibilise the injustices that Dalit women are facing in the enjoyment of their land rights therefore demand deliberate and systematic conscientisation efforts both at household, community and policy levels. Focus on both Dalit men and women as specific groups that have their gender specific insecurities is imperative. In Sierra Leone, though some few rural women own statutory land, this is not as a result of a deliberate programming. Rather, low economic and social empowerment levels of women determine whether or not women can afford to buy statutory land in their own names. Since the majority of women in Sierra Leone live within customary land tenure systems, project interventions in the country have to strike a good balance between strengthening women's ownership of land, and supporting women's

control over land—depending on the tenure system that is most relevant to women's localities and needs.

Overall in all three countries, the most important aim is to ensure that once women gain control or ownership of land, their land becomes optimally productive. Regardless of the weak position of women in accessing, controlling and/or owning land in the three countries, the presence of pockets of women who are already enjoying such rights in some of the project sites brings optimism that with appropriate interventions, incremental gains could be achieved at a larger scale. However, women can effectively drive changes to their own conditions if they possess the knowledge of relevant laws, policies and programmes that: a) could save their situation, and b) increase women's oppression. Women can also be better positioned to achieve milestones in promoting their land rights if they adequately infiltrate decision-making structures that are willing to give women leaders a platform to influence reforms towards land-related injustices against women. Even community spaces that do not smother women's voices are equally important for ordinary women, because they allow them to freely join in the improvement of their own situation.



It is also central that poor and excluded women fully become aware of and participate in structures that can potentially support their battle for increased land rights. What cannot also be undermined is the critical need for the support of gatekeepers like men, government officials and traditional leaders, who usually determine the extent to which women's land rights are enjoyed in various communities. Currently, the study has exposed significant gaps in all these areas, as well as some opportunities. Chapter 4 therefore focuses on the key trends that display barriers and opportunities that could impact on the implementation of the women's land rights project in the three study countries.

## Chapter 4

# Key trends: Barriers and opportunities to promoting women's land rights

By using the project's envisaged Results as a framework, this part contains a summarised, but analytical and comparative synthesis of all key findings that would potentially sabotage or promote women's land rights in Guatemala, India, and Sierra Leone. Attention is on the three projected Results that have an exclusive national bearing (Results 1 to 3): increased capacity of women's groups to develop and lead advocacy on rights to land; increased participation of landless women's movements in policy and legal framework development at local and national level; and increased awareness of rights and use of the justice system.

### 4.1. Increasing the capacity of women's groups to develop and lead advocacy on rights to land (Result 1)

The adequate empowerment of women's groups is necessary because they would take the lead in mobilising women to ensure that they are the active agents of their own change. It is only when each study site has a critical mass of knowledgeable women leaders that meaningful action can start happening on the ground. For women's groups to gain the desired capacity, it is important to be aware of the following barriers and opportunities as revealed by the country baseline studies.

#### 4.1.1. Barriers related to Result 1

##### *Weaknesses in measuring women's capacity levels*

There was no baseline data in the three study countries to shed light on the full extent to which women leaders that would be involved in the project had prior trainings in advocacy, leadership as well as other land-related matters. The project would therefore benefit from purposeful knowledge assessments with targeted women leaders in various modules that would be addressed, and the meticulous recording of training records throughout the project.

##### *Gaps in the existence of organised and knowledgeable women's groups*

The baseline findings in Guatemala showed that though CUC and AMR are very strong organisations, their members were not well organised as far as sound knowledge on advocacy related to women's land rights was concerned. Without such knowledge, it was difficult for the women members to coherently support local peasant farmers in their communities to defend their land rights. In India, Women Action Groups were not well spread in all project sites in order to increase pressure on land rights issues for landless Dalit women. This was also the case for Sierra Leone, where there was still need for new informal networks of HIV positive rural women farmers in three districts where the Voice of Women would be advocating for the advancement of women's land rights. Just like in Guatemala, increasing the technical and even financial capacities for the Women Action Groups in India and the informal networks of HIV positive women in Sierra Leone would be a prerequisite to building a critical mass of women who can spearhead advocacy for women's land rights.

##### *Gender-insensitive land-related structures*

Despite their empowerment, advocacy by women's groups for increased women's land rights could be frustrated by the gender insensitiveness of key

structures that make land-related decisions as their full mandate or part of their mandate. The gender insensitivity of various structures has been exhibited by the very low participation of women, as well as the lack of gender responsive strategies in the operation of such structures. With regards to women's feeble participation, all three study countries have failed to make women a key part of decision-making structures that have the potential to influence the course of women's rights in various communities. In Guatemala, women's participation in the influential Associative Community Enterprises, Water Committees, and Community Development Councils, and Community Development Councils was only at *7 per cent*, *14 per cent*, and *38 per cent* respectively. Water Committees manage the supply of water to families within various communities; and COCODEs were instituted to decentralise power and allow greater community participation.

In India, Chapter 3 has demonstrated the disregard to gender issues and women's participation in key structures like the *Gramsabha and Panchayats*. With its important role of being a village decision-making meeting, it is disappointing that decisions at the *Gramsabha* were exclusively made by men. The maximum passive participation of women at this forum was *20 per cent*. Even in the *gram panchayat*, which are local self-governments at the village level, Dalit women had no voice. Dalit women also did not have any positions within traditional structures of dispute resolution. In Sierra Leone, district councils, the local courts and chieftdom structures were dominated by men, despite their relevance in facilitating the implementation of the Devolution of Estate Act. The rare women that were part of these structures tended to be regarded more as "advisers," than "decision makers."

At operational level, unresponsiveness to gender equality was detected in the strategies of some land-related structures in Guatemala and India. For instance, the FONTIERRAS (Land Fund), which was established as part of Guatemala's Peace Accords, is on record as limiting its focus to family farming and household heads, usually male. There was also an omission to specifically target women in aspects related to technical assistance and credit under the Fund. And in India, despite the special allocation of land to Scheduled Caste/Scheduled Tribes to address the broad challenges faced by landless Dalits, the fact that Dalit men enjoy a massive advantage over Dalit women speaks volumes about the lack of gender-sensitive strategies within institutions charged with allocating the land. If things were otherwise, the State of Tamil Nadu would not be lacking any single woman with a land title or with a family joint title. And in Andhra Pradesh, women would

not individually own only *17 per cent* of the lands in the hands of Dalits; and only *1.3 per cent* of such land as joint owners.

#### **4.1.2. Opportunities related to Result 1**

##### ***Women's expressed desire to enjoy land rights***

The committed participation of women's leaders in interventions aimed at increasing the capacity of women's groups to develop and lead advocacy on land rights would only be possible if women themselves have a strong conviction that they are fighting for a legitimate cause. From the baseline results, this conviction could not be questioned. Poor and excluded women in all three study countries were certain that their empowerment, dignity and prosperity hinged on the change of discriminatory mind-sets and practices by gatekeepers within their communities, so that they could be allowed the liberty to fully enjoy their land right just like men. Further, women were not content with merely having inheritance rights, but they explicitly preferred to enjoy their land rights at all times, regardless of their marital status. The fact that poor and excluded women undoubtedly articulated the value of land to their lives, particularly if they were in a position to own and/or exercise control over land, signals that women are aware of their oppression, and would not hesitate to grasp an opportunity to prompt change.

##### ***Presence of women who are already excising land rights***

The fact that all study sites with the exception of Tamil Nadu in India had some women that claimed to already own and/or exercise control over land (solely or jointly) suggests that the enjoyment of women's land rights is possible. Though the number of women in this position was usually low, their existence is an important factor that could motivate women's groups to whole heartedly embrace the task of leading advocacy efforts. Tamil Nadu could particularly be inspired by the State of Andhra Pradesh, where Dalit women were observed to have already achieved some small gains.

#### **4.2. Increased participation of landless women's movements in policy and legal framework**



## development at local and national level (Result 2)

For landless women's movements to be able to effectively participate in the development of policy and legal frameworks that could strengthen women's land rights, they need to possess sufficient technical knowledge of laws and policies that exist or do not exist; and knowledge of the benefits or disadvantages that women have due to the situation. Further, landless women's movements should have appropriate knowledge of avenues for influencing changes in policy and legal frameworks. The barriers and opportunities that relate to estimated Result 2 that existed at the time of baseline studies are outlined below.

### 4.2.1. Barriers related to Result 2

#### *Illiteracy among poor and excluded women*

The success of any advocacy interventions towards law and policy reform by landless women's movements largely depends on the sense of commitment and ownership that women have in all processes that are undertaken. Illiteracy erodes women's confidence to articulate their position (including in campaigns or petitions), as well as to participate in the planning of advocacy actions and discussion forums where the women have to interact with policy and decision makers. Illiteracy was noted to be a particularly notorious problem for poor and excluded women in two of the study countries—Guatemala and India. In Guatemala, 68.7 per cent of the women were noted to be illiterate, and the majority of these were indigenous women.

In India, the Dalit women's illiteracy rate was established to be as high as 76.24 per cent. In Tamil Nadu alone, 90 per cent of the Dalits, particularly women, were illiterate. There is therefore a high probability that even movements of landless women would be flooded with illiterate women who would be faced with the hard task of negotiating for their land rights in male dominated systems that can influence law and policy reform. In Sierra Leone, the baseline findings uncovered that 38 per cent of the women in the study sample were illiterate. Though this seems much lower compared to the situation in Guatemala and India, the reality is that without well calculated project strategies, this group could be left behind in advocacy actions by movements of landless women to shape the development and/or

implementation of laws and policies in support of women's land rights.

#### *Deficiencies in women's knowledge of policies and laws*

Movements of landless women could efficiently participate in law and policy development circles if they have firm knowledge about why they want certain land-related laws and policies to be developed or implemented better in order to improve the situation of women's land rights. This implies that women that form the movements would have to comprehensively understand the contents of relevant laws and policies that are beneficial to them, that have gaps, or that are completely non-existent. The baseline study illustrated that large numbers of women in Guatemala and India were usually unknowledgeable of national legal and policy frameworks that apply to women's land rights.

In India, it was clear that there was widespread knowledge of land-related legislation that protected Dalit's land rights in general, and not so much about frameworks that could uplift the status of Dalit women. Women's knowledge in Sierra Leone was heavily tilted towards the Devolution of Estate Act (dealing with inheritance) than the other two pieces of legislation that formed part of the country's Gender Laws—the Registration of Customary and Marriage and Divorce (22 per cent) and the Domestic Violence Act. However, knowledge of the other Acts is equally important because the improvement of women's land rights requires a comprehensive approach that educates women on the full legal framework that is available to safeguard their rights, including land. With the advantage of all this knowledge, landless women's movement would be in a stronger position to make well informed contributions to relevant processes seeking to influence policy and law development or implementation in pursuit of women's land rights.

#### *Multi-layered oppressive environments*

For movements of landless women to be able to effectively conduct advocacy actions towards influencing land-related laws and policies, they would need to be driven by a big force of concerned women, and this could be jeopardised by the multiple barriers that women claimed to face within their communities. The baseline findings uncovered that in all three study countries, factors that impeded women from participating in advocacy actions included economic dependency, absence of information, lack of permission from spouses, discriminatory traditions, male



supremacy, low self-esteem, lack of self-worthiness, and lack of political will. All these barriers cannot be ignored if movements of landless women are to conduct their advocacy vibrantly and successfully.

#### **4.2.2. Opportunities related to Result 2**

##### ***Existence of structures for influencing laws and policies***

The baseline studies in Guatemala and India visibilised the existence of several structures that could be the potential advocacy targets for landless women's movements seeking to substantially impact on the development or implementation of laws and policies relevant to women's land rights. For instance, Guatemala was noted as having an inactive Gender Equity Unit of the Land Registration Department, which was not discharging its responsibilities of ensuring that the Land Fund was supporting specific actions to improve women's ability to participate in income generating activities. Further, the participation of the Office for the Defence of Indigenous Women, the National Women's Forum, and the National Update Committee<sup>122</sup> in functions of the SEPREM<sup>123</sup> was opportunities for the project to influence anticipated legal and policy related developments in favour of women's land rights.

India was also advantaged in having existing structures that could serve as entry points for advocacy efforts by movements of landless Dalit women. These included the local governance system comprising the *Gramasabha* and *Panchayats*. The fact that the Constitution of India already provides for the reservation of seats for women in the local bodies of *Panchayats* and Municipalities for women is also opportune for advocacy efforts that could seek to ensure the participation of Dalit women, so that they could influence decisions to shift the position of landless Dalit women at local level. The baseline findings also demonstrated that other already existing spaces through which movements of landless Dalit women could influence policy and legal direction on the issue of women's land rights. These include: *Jama Bandhi* (Land Action Days); land-related weekly and quarter yearly grievance days; and the Annual Land Tribunal Days.

<sup>122</sup> Which includes representatives from networks and organizations of rural women, entrepreneurs, peasants, political parties, and representatives from the linguistic communities of the Mayan populations, as well as *Garifuna* and *Xinca* groups.

<sup>123</sup> The leading organ for the formulation, implementation, evaluation and updating of policies that would propel women's progress.

In Sierra Leone, it was identified that the Ministry of Land and Housing, Environment and Country Planning, could be lobbied for the development of a comprehensive land law that could protect women's land rights under all circumstances.

##### ***Substantial awareness of the Devolution of Estate Act***

In Sierra Leone, it is momentous that, at the time of the baseline study, many women (both HIV positive and HIV negative) already possessed some knowledge of their inheritance rights under the Devolution of Estate Act, and they understood the promise that the law holds for their livelihoods. Such knowledge could inspire movements of landless women to robustly engage in advocacy efforts aimed at accomplishing the practical realisation of the rights being conferred by law. The fact that a good number of interviewed traditional leaders were also aware of the law, and were applying it both directly and indirectly, provides optimism that advocacy by movements of landless women to ensure the implementation of the law may not meet heavy resistance from the cultural gatekeepers.

#### **4.3. Increased awareness of rights and use of the justice system (Result 3)**

For women's land rights to be seriously promoted, it is essential that poor and excluded women be widely reached with awareness interventions, and should have access to an effective justice system.

##### **4.3.1. Barriers related to Result 3**

###### ***Lack of systematic awareness of women***

Though the baseline data did not establish statistics of women that had already been reached with awareness interventions, qualitative evidence indicated that women's awareness of their land rights had not been systematically achieved. This is why in Guatemala, indigenous women hardly possessed knowledge of national laws that could promote their cause. In India, not only was there an absence of organisations that were exclusively addressing women's land rights, but most land campaigns had focused on Dalits' land rights. It was not surprising therefore that Dalit women had no tangible knowledge of their specific land rights as



women. In Sierra Leone, though significant number of women that were interviewed had knowledge of the Devolution of Estate Act, a large majority (86 per cent) stated that there had not been any activity focused on women's land rights within their own communities.

### ***Negligible land claims by women***

Women's awareness of land rights can best be verified through their use of the justice delivery system to claim their rights that are being infringed. In the study, there was no evidence from Guatemala and India that indigenous women and Dalit women respectively were making land claims within the justice system. In Sierra Leone, it was discovered that at the time of the baseline, only 29 per cent of the interviewed women had claimed their rights under the Devolution of Estate Act. However, since the Act is only applicable in inheritance matters, it is understandable that not all women could have suffered a violation. However, more women needed to be forthcoming in making land claims in non-inheritance matters, including with regards to land allocation by traditional authorities.

### ***Awareness gaps within the traditional justice system***

Currently, the prevailing patriarchal tendencies that guide the allocation of customary land and oppress women in Sierra Leone suggest that comprehensive awareness of women's land rights amongst traditional leaders is needed. Customary laws are often applied harshly, and although women can theoretically own land, they often need their husbands' permission. It was therefore worrying that up to four traditional leaders confessed during the baseline that they had never heard that women have a right to property. This challenge may also affect India, where it was learnt that traditional structures of dispute resolution were male dominated, and women simply attended as disputants. And more broadly, all the three study countries had no data that suggested the extent to which the various other arms of their justice systems were being utilised by women seeking to make land claims. However, the relevance of such avenues to women also lies in their capacity to comprehend women's land rights issues and mete out necessary justice.

### ***Low awareness levels by men***

In all the three study countries, there was lack of evidence of levels of awareness by men of women's land rights. However, there are all indications from Chapter 3 that a good proportion of men were

unsupportive of the agenda, thus symbolising their lack of awareness of women's land rights. Men's awareness is very critical because their support or sabotage could greatly influence the extent to which the justice system is utilised by, and is responsive to women.

### ***Lack of reading skills***

This may be a barrier to women's awareness in instances where information for use by women is repackaged in various written forms. Information needs to be disseminated in a way that makes it accessible and comprehensible if it is going to benefit a majority of the women, and not just the literate women (who are very few amongst the poor and excluded women of Guatemala and India).

## **4.3.2. Opportunities related to Result 3**

### ***Proven channels of raising awareness***

Findings from Sierra Leone have verified that for most women, reliable modes of obtaining knowledge about relevant laws have been the radio and community awareness. This information could be helpful in the development of systematic awareness-raising strategies for women and other community stakeholders.

### ***Presence of special commemoration days for women***

International or national commemoration days provide a perfect avenue for mobilising the public at a large scale, and rallying them to support a cause like women's land rights. All the marginalised populations in the three study countries have these days, including the International Day of Women, Rural Women's Day, World AIDS Day, or Indigenous Day (for Guatemala).

### ***Existence of organisations that could facilitate access to the justice system by women***

Apart from ActionAid's partners in this women's land rights project, Chapter 3 has highlighted the existence of many community-based organisations (CBOs) that could facilitate women's land claims within country level justice systems, particularly in India and Sierra Leone. There is evidence that the organisations in Sierra Leone are already actively involved in facilitating the resolution



of women's cases. Though land-related cases have not been in bulk, their role and presence is essential for ensuring that, as a consequence of the project, many women begin to use the justice delivery system.

#### **4.4. Conclusion**

The exposure of barriers to the promotion of women's land rights in Guatemala, India and Sierra Leone is an important step because these could shape project interventions to ensure its success. The observation of

various opportunities provides an assurance that the grounded reality is not hopeless, and that ActionAid, its project partners, and landless poor and excluded women in the three countries should strengthen their resolve to instigate positive changes in the area of women's land rights. As will be discussed in Chapter 5, the strategies that have been lined up to address most of the barriers and take advantage of existing opportunities display that, so far, the resolve is steadfast.

## Chapter 5

# Approaches used by the project to advance women's land rights

The women's land rights project has country specific strategies that were designed to improve each country's situation, while staying focused on the need to realise common estimated Results. This Chapter highlights some of the strategies that Guatemala, India and Sierra Leone will employ under each of the three Result areas. The evaluation of the project would equally pay attention to the achievement of these strategies.

### 5.1. Strategies for increasing the capacity of women's groups to develop and lead advocacy on rights to land (Result 1)

Strategies under projected Result 1 were developed to build the capacity of landless women's movements and women's farmer groups so that they could provide effective leadership for their membership; organise support actions to protect and uphold the rights of both individuals and groups; and influence local and national policies and legal frameworks dealing with land rights to promote and protect women's equal rights to land. Leadership training would enable women to take a stronger role within structures relevant for the promotion of women's land rights in the three study countries. Achievement of Result 1 is therefore the bedrock for the realisation of Results 2 and 3. Key strategies include the development of training manuals, training of women leaders, and creating women's structures.

#### 5.1.1. Development of training manuals

For trainings that would be conducted for groups of women, all three countries planned to develop training

manuals that would employ a women's land rights perspective to cover the topics of law and policy frameworks on land rights, as well as relevant administrative processes; leadership; negotiating skills; and advocacy techniques. Each woman that would be trained under the project would be issued a copy of the manual, though the manual would not be disseminated to the general public. The strategy to give each trainee a manual is particularly useful as the women would be expected to train other women in their localities. Manuals that could work best for women with simple or no literacy skills are those that are highly participatory, and use Participatory Rural Appraisal (PRA) Methodologies.

#### 5.1.2. Training of women leaders

It is intended that an aggregate of 760 women from all three study countries would be trained in topics covered by the training manual. The idea is to build a cadre of women leaders who could champion women's land rights in each project site within their countries. It is planned that India would have the largest group, whereby 600 Dalit women from 600 Women's Action Groups would be trained, so that each woman could support one Women's Action Group. Women's Action Groups are usually part of Village Action Committees, which support community members on land issues, such as petitioning officials, lobbying local government, awareness-raising, and popular campaigning on land issues (such as Dalit rights to *panchami* land, government waste land, and etc.). In Guatemala, 90 women leaders from the grassroots membership who would be trained would come from the North, South and West regions (30 each). Each of these women would support a local group of women peasant farmers. In Sierra Leone, 70 women from the three target

districts would be trained so that each could support an informal group of rural women.

### **5.1.3. Formation of new structures for women**

At the baseline stage, India did not have the entire 600 Women's Action Groups that are necessary for the execution of the project in both Andhra Pradesh and Tamil Nadu. Thus, the project would ensure that all 600 groups will be in place. In Sierra Leone, the project would facilitate the formation of three new informal networks of HIV positive rural women farmers in Tonkolili, Bo and Moyamba, so that each of the seven project districts where the project would be implemented should have a network (Voice of Women already has networks in four<sup>124</sup> of the seven districts where the project would be implemented).

## **5.2. Strategies for increasing the participation of landless women's movements in policy and legal framework development (Result 2)**

Strategies under estimated Result 2 would enable increased participation of rural women in advocacy work at local and national levels. They would also galvanise more effective support of individual or group actions on land issues at local level. The women leaders trained through activities under Result 1 would proceed to mobilise their groups/organisations for advocacy and campaigning work on important policy and legal issues in their regions or at national level. They would raise the profile of women as campaigners in their own right. However, the capacity of mobilised women to be astute campaigners would also depend on their awareness under Result 3. Thus, the successful realisation of Result 2 would depend on the fruitful execution of Results 1 and 3. Planned strategies under Result 2 include the development of advocacy plans, holding meetings and seminars, staging petitions and mass campaigns, supporting women to reclaim land access, and research.

### **5.2.1. Development of advocacy plans**

The formulation of advocacy plans was planned for Guatemala and Sierra Leone. The difference was that advocacy plans in Guatemala would be developed at a larger scale compared to those in Sierra Leone. In Guatemala, approximately 30 women's groups in each of the three regions participating in the project would develop a regional advocacy plan with support of ActionAid's project partners in the country. The project would help each regional group to identify a local level land rights issue that is relevant to a number of individual cases, and develop an advocacy plan around this. In Sierra Leone, advocacy plans would be formulated by the women's groups and informal networks in three districts in order to support local cases pursuing women's land rights. Thus, the advocacy plans in Sierra Leone would be specific to the issue of facilitating land claims by women, but also only in selected districts. In this regard, there is a linkage between envisaged Result 2 and 3, because the latter entails interactions with the justice system.

### **5.2.2. Holding advocacy meetings and seminars**

This strategy is specific to Guatemala, where advocacy actions relating to laws and policies are planned to be achieved through seminars and meetings. Six regional seminars (two per region) would be held in years two and three, and these would bring together partners, landless peoples and peasant farmer groups, government officials and other CSOs and networks working on land rights. The advocacy would concentrate on the lack of legal rights for women as land users in their own right; the high costs and delays in registering land; and the lack of technical and financial resources available to small farmers, particularly women. Two meetings targeted at national government level would be organised—one on the Land Fund, and the other to lobby for the approval of the Law on Integrated Rural Development. Advocacy work on the Land Fund would include a campaign to reactivate the Gender Equity Unit of the Land Registration Department so that the Gender Equity Policy of the Land Fund Policy is implemented. The enactment of the Law on Integrated Rural Development would play an important role in enabling women farmers to retain and use land that they do have access to.

<sup>124</sup> Western Area, Kambia, Bombali and Kono.

### 5.2.3. Staging petitions and mass campaigns

India and Sierra Leone plan to carry out advocacy campaigns, but India's plans are more extensive. In Sierra Leone, one advocacy campaign would be conducted to track the implementation of the Gender Laws, particularly the Devolution of Estates Act. The results would be presented to the government, with recommendations for changes and improvements.

In India, advocacy actions would be focused on developing petitions, holding mass advocacy campaigns, and a State level consultation. Approximately 12 petitions in support of Dalit women's land rights would be presented at *Jama Bandhi* (Land Action Days). These days are organised by Indian state authorities in different locations on different days to enable groups to submit petitions on land issues and provide important opportunities for campaigning on land issues. The Women's Action Groups and their leaders would track land issues in their villages and communities, collect evidence and organise petitions to bring up at *Jama Bandhi* in their areas.

Dalit women would also participate in two mass advocacy campaigns on women's land rights (one in Andhra Pradesh and one in Tamil Nadu). These campaigns would include a focus on the implementation of the Andhra Pradesh Land Reforms (Ceiling on agricultural holdings) Act of 1973, and the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act of 1970. Though these laws were designed to fix ceilings on surplus land and distribution to landless families, there remain overwhelming numbers of cases where *panchami* land, allotted to Dalit communities, is not made available. All Women's Action Groups would therefore be mobilised at local and district levels.

District level consultations would be held, where direct testimonies of selected Dalit women who have experienced difficulties over access to or control of land would be given in order to prompt discussions. Afterwards, all districts in Andhra Pradesh and one in Tamil Nadu would on the same day organise mass petitions and present these District Revenue Collectors. The final step of the campaign would be a three day State level public hearing (one in Andhra Pradesh and one in Tamil Nadu) in the final year of the project. This would involve landless women, representatives from Action Groups, civil society movements and State officials. It is hoped that these campaigns would generate the momentum for advocacy work to reform land laws in favour of women.

### 5.2.4. Supporting women to reclaim access to land

This advocacy action is peculiar to Andhra Pradesh and Tamil Nadu in India, and the objective would be to provide an interface between Dalit women and local government officials, i.e. Mandal Revenue Officers (who preside over land-related weekly grievance days) and Revenue Divisional Officers (who preside over land-related quarter yearly grievance days). The interface also occurs at the Annual Land Tribunal Days. Such activities would result in land being made available for individual women. The project's aim is to ensure that at least 3,000 hectares of extra land are made available to approximately 6,000 Dalit women beneficiaries by the end of the project.

### 5.2.5. Research

Guatemala and Sierra Leone scheduled two research interventions that would support the increased participation of landless women's movements in advocacy regarding laws and policies. In Guatemala, the project would facilitate the printing and dissemination of a research report on the status of indigenous landless women under the implementation of the Peace Agreements. This research was already conducted by ActionAid Guatemala, and its dissemination would produce further evidence to policy makers on the need to take solid action to enforce the Peace Agreements in favour of indigenous landless women. The research action in Sierra Leone would concentrate on an analysis of what pieces of land-related laws that exist now in order to generate practical recommendations for a comprehensive land law that would sufficiently and holistically protect women's land rights. The research findings would be used as the basis for at least one lobby session organised with the Ministry of Land and Housing, Environment and Country Planning in the third year of the project.

## 5.3. Strategies for increasing awareness of rights and use of the justice system (Result 3)

There is a direct correlation between strategies under projected Result 1 and 3, because the expectation is that women leaders who would have participated in capacity-building and leadership training would return to their communities to organise and facilitate awareness-raising activities and campaigns on issues

regarding women's access to and control over land. The capacity of the women leaders to effectively conduct the awareness-raising activities would be considered by the project to be both an important outcome and a measure of the success of the training itself. The three main strategies for realising Result 3 with similarities and variations across the three study countries are awareness-raising sessions, public mobilisation, and production of Information, Education, and Communication (IEC) materials. However, there seems to be an omission in devising strategies regarding the use of the justice system.

### 5.3.1. Awareness-raising sessions

There are some variations in the way Guatemala, India, and Sierra Leone plan to approach their awareness-raising sessions, though in the end all three plan to reach a specific number of targets within various communities where the project would be implemented. In Guatemala, it is expected that with the support of partner staff, the 90 women leaders would organise community meetings, as well as monthly meetings at the local and regional levels. The agenda would be policy and legislative issues concerning women's access to and control over land. Each woman would systematically be expected to interact with approximately 100 people over a period of two years. In India, all the 600 women leaders who would have been trained by the project would be supported by partner staff to share their knowledge with their communities by organising evening village meetings, because this is the time when people are back home from work and are available.

Sessions in India would cover basic land rights issues for Dalit women, how to use the justice system for redress and success stories. Each woman would be expected to engage with 50-100 people in her community in systematic awareness-raising sessions over a period of two years. Through the use of folk drama, all the 70 women leaders trained by the project in Sierra Leone would, with the support of project staff, concentrate on increasing knowledge of the Gender Laws, specially the Devolution of Estates Act. Men, women and traditional leaders would be the targets. Sierra Leone considers it important for men to understand the terms of the Act and how it protects women's rights, as this would work towards minimising acts of violence against women over land issues. Each woman leader would be expected to involve about 50 people in her community over a period of two years. The awareness-raising strategies in Sierra Leone were therefore clearer on how to reach out to community level gatekeepers, and the use of folk

drama is more likely to resonate with illiterate communities.

### 5.3.2. Production of Information, Education and Communication (IEC) materials

All countries organised to generate IEC materials in order to boost awareness of women's land rights amongst different audiences. Guatemala was deliberately sensitive to low literacy levels amongst indigenous women and intended to prepare and print an information pamphlet about the justice system using easy to read language and drawings. The two partners would also produce a series of short radio broadcasts designed to increase awareness of land rights. These would be aired by local radio in each of the three project regions over a six month period during both the second and third year of implementation. India had specific plans to produce and distribute a pamphlet, while Sierra Leone also arranged to produce a variety of IEC materials for distribution, including 10 flex banners that could be unfurled at meetings and workshops.

### 5.3.3. Public mobilisation

Awareness-raising through public mobilisation under Result 3 was distinctively arranged by Guatemala. As a way of raising awareness on a large scale, the country project partners would organise public mobilisation activities (parades, marches, and rallies) on important dates for indigenous and peasant women. These include International Women's Day (8 March); Indigenous Day (9 August) and Indigenous Resistance Day (12 October).

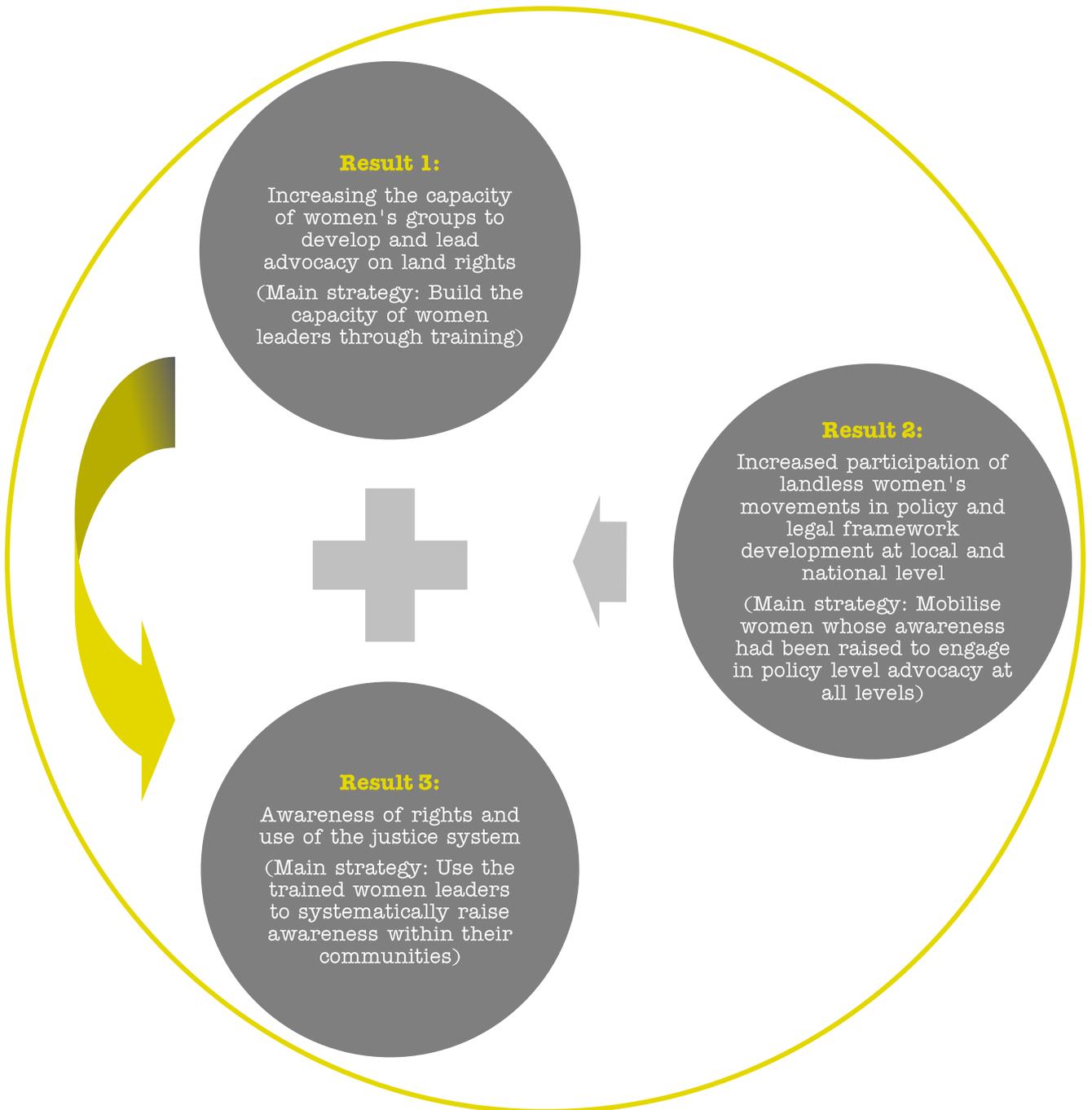
## 5.4. Conclusion

The strategies lined up by Guatemala, India and Sierra Leone to respond to women's land rights challenges could potentially overcome almost all the barriers identified in Chapter 4. However, strategies to comprehensively address the need for illiterate women to be fully integrated into the project still need to be pondered upon. Nevertheless, there are strong efforts to ensure that awareness messages are tailored to suit the needs of illiterates, i.e. through the use of radio in Guatemala, and folk-drama in Sierra Leone. Overall, there is a tight connection between planned strategies under the various envisaged Results—because

achievement of Result 1 (building capacity of women leaders) would enable the fulfilment of Result 2 (landless women-led advocacy) and Result 3 (large scale awareness-raising within communities). And together,

the discharge of Results 1 and 3 would empower a critical mass of landless women to commendably steer advocacy interventions under Result 2 (Figure 3).

**FIGURE 5.**  
Linkages between the project strategies under Results 1 - 3



## CHAPTER 6

# Conclusion and recommendations

### 6.1. Conclusion

Indigenous women in Guatemala, Dalit women in India, and rural women affected by HIV and AIDS in Sierra Leone need actual realisation of their land rights. This would be achieved through the implementation of land-related laws and policies that are progressive; the review or reform of retrogressive ones; and the enactment of missing gender-sensitive laws and/or policies that could turn the tide where the enjoyment of women's land rights is concerned. In doing so, various global and continental land governance frameworks that seek to safeguard the land rights of marginalised populations would be made relevant at local and grassroots levels.

The fulfilment of women's land rights is not a mere obligation of States and other duty-bearers, but a palpable necessity for the poor and excluded women, who recognise that without land, they cannot attain their vision of full citizenship, sustainable livelihoods, and empowerment. Without control over land (whether exclusively or jointly), women will continue to fall prey to poverty, hunger, and life without dignity. Women from the project communities assert that control over land should not just be a privilege for a few women, but should be a right for all women regardless of the circumstance of their birth or their HIV status.

In societies where land is largely governed by collective arrangements like in Guatemala and Sierra Leone, women would immensely benefit from being allocated land which they can control autonomously. In societies where the statutory tenure system prevails like in India and parts of Sierra Leone, poor and excluded women's control over land can actually be achieved or strengthened if they are able to own land in their private capacities. Whether indigenous, Dalits or HIV positive, poor and excluded women are ready to lead their own struggle for land rights. However, they cannot adeptly fight for their land rights if they continue to:

- have little knowledge of relevant laws, policies and programmes relevant to women's rights;
- be excluded from pertinent decision-making structures;
- be passive participants in decision-making structures that do not prioritise women's rights including rights to land;
- have their voices deliberately stifled by men in community gatherings;
- have limited awareness of structures that are central to their claims for land rights; and
- be subjected to oppressive gatekeepers that are not aware of, or do not support women's land rights.

The baseline studies found that all three study countries had positive experiences and milestones in surmounting some of these obstacles. Even the fact that such barriers were revealed through the baseline studies is significant in itself, because it would allow for realistic interventions to overcome them. In sum, the strategies that were developed to address the challenges of women's land rights in Guatemala, India, and Sierra Leone are highly relevant to addressing most of these barriers. What remains now is the monitoring and evaluation of the project implementation.

### 6.2. Recommendations

The following thirteen recommendations are made with a view to strengthen the projects' strategies and implementation in all three countries:

### **1) Disseminate the country baseline studies as part of awareness and advocacy interventions**

The country baseline studies contain rich information that could benefit not just the poor and excluded women, but also various duty-bearers and gatekeepers, who are the prime target of the project's advocacy efforts. It therefore needs to be systematically disseminated to trigger in-depth reflection of various country situations by different stakeholder groups.

### **2) Develop strategies to support women's use of the justice system**

Currently, though Result 3 is aimed at both increasing women's awareness of their rights and the use of the justice system, strategies that have been devised are skewed towards awareness-raising. Since the making of land claims by women through the justice system is a strong indicator of their awareness, it is therefore imperative that equally strong strategies are designed to support the landless poor and excluded women to use the justice system—whether at traditional or judicial levels.

### **3) Learn from other projects that have balanced knowledge and literacy building**

Given the high illiteracy levels of poor and excluded women, particularly in Guatemala and India, there is need to learn how the WOLAR (Women's Land Rights) Project being implemented by ActionAid in the SADC region has succeeded in marrying women's awareness-raising and capacity-building with literacy skills-building. By building women's knowledge through the REFLECT methodology, countries like Malawi have ensured that illiterate women farmers ultimately emerge with reading, writing and arithmetic skills, too. Such literacy skills have proven to be vital in advocacy initiatives being driven by women from the grassroots level. They have also supported women to productively use the land which they have gained ownership of and/or control over, as a result of the project. Some women have gone to independently pursue agribusiness ventures to strengthen their income base.

### **4) Strategically engage gatekeepers**

The male dominated decision-making structures in land matters at government, community, and household levels usually oppress women's rights because they do not know any other alternative ways of treating women—as they themselves have been socialised in these oppressive environments. They therefore need to be the focus of systematic awareness interventions in their own right – not just when they are interacting with women who are claiming their land rights. Women's advocacy would run more smoothly if they could lobby gatekeepers with whom they share common knowledge and vision.

### **5) Strive for comprehensive awareness of women**

Women's knowledge-building can best be comprehensive if it focuses on a full package of issues that play different roles in impairing the enjoyment of women's land rights. Some topics that could add value to planned awareness interventions include gender, constitutional rights, family laws, HIV and AIDS, domestic violence, access to extension support, markets and credits, and agro-processing. This broad view of issues that have a direct linkage to women's land rights would substantially help them both as they campaign for their land rights, as well as to sustainably safeguarding land rights that they would have gained through the project.

### **6) Consider support towards increasing the productivity of women's land**

Women's ownership and control over land is not an end in itself. It is only when their land is productive that poor and excluded women can be meaningfully empowered to fight hunger, and to live a life of dignity. Women who already have already succeeded in gaining ownership and/or control over land still need skills in sustainable agriculture, and to be linked to various stakeholders that may be promoting sustainable farming within their communities. For example, in Sierra Leone, one good starting point would be to link the women's land rights project with ActionAid Sierra Leone's livelihood and wealth creation projects in the agricultural sector. More specifically, women in the country highlighted their need of support for farming inputs. Women in Guatemala already indicated that they would appreciate sustainable farming support by

having trainings related to medicinal plants and fruit trees, credits, egg-laying, rearing hens, pigs and cattle.

### **7) Strengthen women's participation in existing women's groups or provide support to form their own groups**

Women who are part of women's forums in the form of organisations, groups or informal networks are more easily targeted through their networks, than having to reach out to individual women. Further, women are likely to actively acquire more knowledge when they are with their peers, than when they are simply part of a general community-awareness space (which may suppress their active participation). The project therefore needs to take deliberate steps to ensure the active participation of women in women's groups that have been formed for the purposes of increasing women's knowledge, and consolidating advocacy efforts.

### **8) Creatively look for opportunities to include women in decision-making structures/ carry out advocacy for inclusion of women in decision-making structures**

In order to increase women's voices on land issues within their communities, the project could advocate for the establishment of gender-sensitive land committees that can support the mandate of traditional leaders and heads of families in countries like Sierra Leone. Increasing women's control over land requires that they play key decision-making roles in land issues within their families and communities.

### **9) Develop awareness materials in user-friendly formats**

It is important for the IEC materials to not only be simple, but also be in the vernacular languages of the various communities. Sometimes, budgetary limitations may lead to the temptation to develop the materials in one national language, but this greatly disadvantages targeted communities that may only be very familiar with different dialects.

### **10) Advocate for the alignment of inheritance customary practices and statutory law**

In Sierra Leone and Guatemala, where customary practices regarding inheritance of land continue to contradict statutory law, there is a need to conduct intensive advocacy in order to ensure that women universally enjoy consistent rights in inheritance matters. Though there was no specific data on how Dalit communities in India were applying the Hindu Succession Act, there is also a need to monitor practices on the ground to ensure that women do not continue to be oppressed by patriarchal traditions.

### **11) Advocate for changes to Gramasabha operations**

With specific reference to India, there is need for the *Gramasabha* to be conducted more regularly, and for an environment to be created where women are allowed to participate freely. Officials should not get influenced by political pressures, but should act in an impartial and unbiased manner that respects justice and the rule of law.

### **12) Develop effective monitoring tools**

The baseline studies may not have carried solid statistics regarding women that have no or mere access to land, levels of literacy amongst women that would be involved in the project, full extent to which women have received various trainings, and so on. It is therefore incumbent upon the project to devise monitoring tools to enable the close tracking of the implementation of each strategy that would be employed. Where necessary, women leaders that would support in the implementation should be properly trained in the use of monitoring tools. Effective monitoring tools need to be meticulously disaggregated by sex, religion, residence, education, marital status and any other variables that may be appropriate to a given community. Thus a "one size fits all" approach to the development of monitoring tools should be avoided.

### **13) Address research gaps**

Some of the information that would be useful for this project, and that is missing from this baseline report,

needs to be supported by further research. This includes information on:

- The extent to which Dalit women in India and Guatemala are indirectly able to access land—either through their husbands or families;
- The proportion of Dalit women in the project sites in India, particularly Andhra Pradesh, who actually own land. This would complement the available information on the proportion of land owned by women;
- Sex-disaggregated data of land owned by Dalit men and women under the various types of land that is available for Dalits in India;
- Land holding sizes of land by indigenous women in Guatemala, i.e. in the case of divorced or widowed women who are reported to have direct control over land.

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# ANNEX

## Annex 1: Project Expected Results and Strategies

Expected Results	Strategies/Main Activities		
	Guatemala	India	Sierra Leone
<b>Result 1:</b> <b>Increased capacity of women's groups to develop and lead advocacy on land rights</b>	<ul style="list-style-type: none"> <li>• Development of training manual for women's leadership training</li> <li>• Training of 90 women leaders in leadership, politics, and advocacy</li> </ul>	<ul style="list-style-type: none"> <li>• Formation of women's action groups and identification of women leaders</li> <li>• Capacity-building of 600 women leaders</li> </ul>	<ul style="list-style-type: none"> <li>• Training for 70 women leaders</li> <li>• Movement building and networking with informal women's groups</li> </ul>
<b>Result 2:</b> <b>Increased participation of landless women's movements in policy and legal framework development at local and national level</b>	<ul style="list-style-type: none"> <li>• Development of advocacy plans based on regional level case studies</li> <li>• Follow up on the implementation of the Guatemala Peace Agreements and their impact on indigenous rural women</li> <li>• Advocacy work on the Land Fund and Law of Integrated Rural development</li> </ul>	<ul style="list-style-type: none"> <li>• On-going support for reclaiming access to land</li> <li>• Advocacy on Jama Bandhi or land days</li> <li>• Mass campaigns on women's rights to land at district level including, reform of the Land Acts</li> </ul>	<ul style="list-style-type: none"> <li>• Development of advocacy plans on the implementation of the 2007 Gender Laws</li> <li>• Research and advocacy on a specific law on women's land rights</li> </ul>
<b>Result 3:</b> <b>Increased awareness of rights and use of the justice system</b>	<ul style="list-style-type: none"> <li>• Awareness-raising sessions on policy and legislative issues</li> <li>• Pamphlet about the justice system</li> <li>• Radio broadcasts</li> <li>• Public mobilisation activities</li> </ul>	<ul style="list-style-type: none"> <li>• Systematic awareness-raising sessions</li> </ul>	<ul style="list-style-type: none"> <li>• Awareness-raising sessions on Gender Laws</li> </ul>
<b>Result 4</b> <b>Creation of an inter-regional alliance of women's movements and groups</b>	<ul style="list-style-type: none"> <li>• Two international workshops</li> <li>• Exchange visits</li> <li>• Set up an email list for leaders of movements</li> <li>• Organise activities simultaneously on Rural Women's Day</li> </ul>		



### Result 5

**Increased knowledge and empirical evidence of the linkages between access to and control over land and women's empowerment, which is disseminated regionally and internationally (e.g. through promising programming and campaigning approaches)**

- Research to establish the link between economic justice, land rights and women's empowerment
- Documentation and dissemination of Case study documenting the project's experiences.

## Annex 2: Organisations supporting women's rights amongst indigenous women of Guatemala in the project sites

Name of the organisations	Description
Amigas del Sol	Community based
Asociación Barrillense de Agricultura Integral (ASOBAGRI)	Community based
Asociación de Desarrollo Humano (ADH)	Community based
Asociación integral municipal de Comunidades del Altiplano (ASIMUCA)	Community based
Asociación para la Promoción y el Desarrollo de la Comunidad (CEIBA)	Community based
Associative Community Enterprises (ECA)	Community based
Caritas Mauriceñas	International and Community based
Change Agents	Community based
Committee for Peasant Unity	Community based
Community Development Council (COCODE)	Community based
Consejo Campesino del Altiplano (KABAWIL)	Community based
Consejo se Municipios el área Mam (CMM)	Community based
Coordinadora Nacional Indígena y Campesina (CONIC)	Community based
European Commission (EC)	International and Community based
Fundación Maya	Community based
Guillermo Toriello Foundation	Community based
Health Area	National, public
Human Rights	National, public
Land Fund	National, public
Land Platform	Community based
Mama Maquin	Community based
Maya Mam Agriculture Development	Community based
Mercy Corps	International
Mi Familia Progresá	Community based



Oikos	Community based
Presidential Secretariat for Women (SEPREM)	National, public
Tierra Nueva	Community based
Women's Defence Office	National, public
Women's Office	Municipal
Women's Pastoral	Community based

### **Annex 3: Organisations involved in women's rights issues in Sierra Leone's project sites**

- 50/50 Group of Women
- ActionAid Sierra Leone
- Chiefdom Administration
- Community Development Committee
- Community Development Committee of Mogbailmoko
- Disadvantaged People Community Embetterment Effort (DIPCEE)
- District Councils
- Fambul Tok International
- Forum for African Women Educationalists (FAWE)
- Human Right for All
- Immigrative Women for Justice
- Land Owners Association
- Makump Youth Association
- Mano River Women's Peace Network (MAWOPNET)
- Nafaya Community Development Programme
- Ndegbomei Group
- Ndevuyama Association
- Network Movement for Justice and Development
- Nursing Women Association
- Peace Women
- Sierra Leone Police
- Timap for Justice
- Voice of Women
- Women for Better Sierra Leone (WAVES)
- Women's Network, Moyamba

#### **Annex 4: Types of cases that were successfully resolved by various organisations addressing women's land rights in Sierra Leone's project sites**

- 50/50 Group facilitated the recognition of women as stakeholders
- A widow claimed her right over her husband's house from her step child
- Conviction of rapists
- Fair distribution of property among children
- Bringing justice to families
- Domestic violence minimised
- Support to a woman to claim her husband's property
- Rehabilitated street children, including girls
- Overcoming gender-based violence in Bauya
- Family Support Unit active in protecting women's rights
- Reallocated land to rightful owners
- Violators of women's rights and domestic violence disciplined

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