

**ACCESS TO LAND FOR HOUSING
BASED ON SECURITY OF TENURE AND
EQUAL LAND RIGHTS IN AFRICA**

**HABITAT FOR HUMANITY'S
RECOMMENDATIONS FOR THE NEW
AFRICA-EU PARTNERSHIP IN THE
FRAMEWORK OF THE NEW EU-ACP
AGREEMENT**



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Contents

- Executive Summary and Recommendations.....4
- 1. Why security of tenure and equal land rights are essential for development outcomes in Africa?5
 - Secure tenure.....5
 - The continuum of land rights.....6
 - Examples of the continuum in practice in Southern and East Africa.....7
 - Women and land.....8
- 2. Global and regional commitments to action.....11
 - Global commitments to action.....11
 - AU commitments to action.....12
 - EU commitments to action.....13
- 3. Habitat for Humanity's land related work in Africa.....14
 - A. Solid Ground campaign to promote access to land for shelter14
 - B. Best practices in Africa from the HFH network.....14
 - C. Habitat for Humanity publications on land.....17
- 4. Recommendations for the Africa-EU regional partnership in the new EU-ACP Agreement.....18

Executive Summary and Recommendations

As the negotiations between ACP countries and the EU started to develop a new partnership beyond the Cotonou Agreement, Habitat for Humanity International, an international, non-governmental organization, driven by a vision that everyone deserves a decent place to live, engaged in the policy dialogue at an early stage and published a first policy paper to formulate recommendations for the Foundation of the new EU-ACP Agreement. Now it seemed timely to put forward the following stipulations to be included within the Africa-EU regional partnership agreement. These recommendations are focusing on security of tenure and land rights for housing:

- The Africa-EU Partnership Agreement must acknowledge that affordable, adequate and accessible **housing** has a transformative impact on the lives of vulnerable and marginalized people. The Partnership Agreement must support the creation of appropriate, affordable and accessible **housing finance** products available for investment in affordable and incremental housing in all its forms.
- The Africa-EU Partnership Agreement must acknowledge the importance of achieving **security of tenure** for all and recognize a **plurality of tenure types**. A lack of land tenure security also leads to the formation of slum settlements with up to 60 percent of urban dwellers in Africa living in informal settlements alone. Without land, there can be no housing and housing is the key to the stability and progress for communities. Particular attention must be given to **security of land tenure for women** as a key to their empowerment, including through effective administrative systems. Women must be well represented in decision making bodies that oversee the creation of land and housing policies at all levels of government. Governments also have a responsibility to provide information and education to women about their land rights
- The Africa-EU Partnership Agreement should look to approaches and tools that demonstrate strong, inclusive management frameworks and accountable institutions (such as the Voluntary Guidelines on the Responsible Governance of Tenure) that deal with **land registration and governance** to help improve resilience and tenure security. Tenure regularization and the integration of informal settlements into formal land markets also enable local governments to raise revenue from taxes and fees, which can in turn be used to finance the provision of improved services, improving local governance overall.

1. Why security of tenure and equal land rights are essential for development outcomes in Africa?

Secure tenure

Tenure arrangements in Africa are varied. While customary tenure is common across almost all countries in Sub-Saharan Africa, it has also been significantly adapted over time and it is not possible to describe or communicate one unitary conceptualisation of custom. The rich and varied forms of tenure are complex and exist across rural and urban spaces and across a de facto spectrum, which aligns with actual practice to de jure statutory recognition. High urbanisation rates are creating an urgent need for the recognition of more informal and responsive approaches and titling systems. This in turn is premised on the need for far more receptive administrative systems.

Security of tenure is vital for the families and communities to enjoy the full spectrum of housing rights and benefits with a special emphasis on their land rights. Undeniably, it is an essential pre-condition for overcoming poverty around the world. Land tenure represents the relationship between people — as individuals or groups — and land. This relationship may be defined legally, customarily, informally or socially. Ultimately, security of tenure is the right to feel safe in one's own home, to control one's own housing environment, and is the right of individuals to not be arbitrarily and forcibly evicted.¹ Lack of secure tenure often lies at the heart of poverty housing, depriving residents of even the most basic physical, economic and psychological security that comes with adequate shelter. Tenure policies and laws define how access to the housing environment is allocated, transferred, controlled and managed

Rights to land are not just a source of economic production, but also a basis of social relationships and cultural values and a source of prestige and often power.² Lack of secure tenure contributes to inequalities in land, housing and livelihoods, as well as social exclusion, the violation of human rights, food insecurity, forced evictions, corruption and land grabbing.³ A lack of land tenure security also leads to the formation of slum settlements globally,⁴ with up to 60 percent of urban dwellers in Africa living in informal settlements alone. Moreover, land documents underpin the many instruments cities use for management planning; the implementation of spatial planning, delivery of services, infrastructure and revenue are linked to land documentation. They are, therefore, fundamental to deliver land administration systems.

When families perceive their tenure to be secure, they are more likely to invest in home and neighborhood improvements.⁵ These improvements — including improved building materials and basic services — can serve as a springboard to even greater development and asset accumulation through increasing property values within communities. However, existing laws and regulations often relate to more formal forms of tenure, such as ownership and lease holding, and therefore cater to the communities that can access formal means of income, credit and savings. This results in the exclusion of individuals who are considered marginalized or vulnerable, and who are most likely to lack security of

¹ United Nations Human Settlements Programme (UN-Habitat). *Enhancing Urban Safety and Security: Global Report on Human Settlements 2007*, (London: Earthscan, 2007): 115.

² Food and Agriculture Organization of the United Nations. *Land Tenure and Rural Development*, (Rome: FAO, 2002): 2.6.

³ Du Plessis, Jean & Augustinus, Clarissa & Barry, Michael & Lemmen, Christiaan & Royston, Lauren (UN-Habitat). *The Continuum of Land Rights Approach to Tenure Security: consolidating advances in theory and practice*. (Washington DC: World Bank Land and Poverty Conference, 2016).

⁴ Parby, Jonas Ingemann; Lozano Gracia, Nancy; Mason, David; Lall, Somik V.; Dasgupta, Basab; Young, Cheryl (World Bank). *Stocktaking of the housing sector in Sub-Saharan Africa: challenges and opportunities (Vol. 2)*. (Washington DC: World Bank, 2015).

⁵ Payne, Geoffrey, Alain Durand Lasserre and Carole Rakodi. *Social and economic impacts of land titling programmes in urban and peri-urban areas: International experience and case studies of Senegal and South Africa*. (Final publication to Norway, Sida, GLTN and UN-Habitat, 2008).

tenure. Laws that are not inclusive or considerate of the variety of needs within a population can compound the harm caused by insecure tenure, as it further impedes access to goods and services. Without security of tenure, access to networked infrastructure provided by a municipality, such as clean drinking water or sanitation services, is not possible in many communities.

Lack of tenure security can be a barrier for families in accessing financing mechanisms and capital. A common purpose for taking out a bank loan is for home improvement, but without secure collateral, it can be challenging for families to access formal financial markets.⁶ Tenure security supports enabling environments, which encourage private and public investment, allowing for governments to build the tax base and advance land-value-capture mechanisms. Tenure regularization and the integration of informal settlements into formal land markets also enable local governments to raise revenue from taxes and fees, which can in turn be used to finance the provision of improved services, improving local governance overall.⁷

The continuum of land rights

Land tenure is frequently understood in binary terms: formal or informal, legal or extra-legal, secure or insecure, de facto or de jure; however, in practice, a wide and complex spectrum of appropriate, legitimate tenure arrangements exists between these extremities. It is estimated that customary tenure is adhered to by over 2 billion indigenous people throughout the world.⁸ These can be documented as well as undocumented, formal as well as informal, for individuals as well as for groups, including pastoralists and residents of slums and other settlements, which may be legal or extra-legal. The extent of the actual security of such arrangements depends on local regulatory, institutional and governance contexts, in addition to social norms and customs.

The continuum of land rights is a concept for understanding and administering this rich complexity of land rights on the ground. It offers a powerful alternative approach to simply focusing on the titling of individually held private property. Tenure types should be attuned to the social, cultural and economic needs of local communities and responsible land administration authorities.

The continuum promotes recognition and can help increase security by focusing attention on intermediate steps to achieve goals of equitable, secure tenure rights. This offers land actors and governments an innovative approach to the realization of tenure security, through recognizing, recording and administering a variety of appropriate and legitimate forms of land tenure. A range of land actors around the world are increasingly following this approach aimed at achieving tenure security for all. Importantly, tenure can take a variety of forms and ensures that formal forms of tenure are not seen as the only goal in developing secure tenure policies. It is acknowledged that registered freehold — where the owner of the land has no time limit to their period of ownership — “should not be seen as the preferred or ultimate form of land rights, but as one of a number of appropriate and legitimate forms... The most appropriate form depends on the particular situation: customary rights, for example, may be superior to registered freehold in certain situations.”⁹ See the following chart, which summarizes the various forms within the continuum:¹⁰

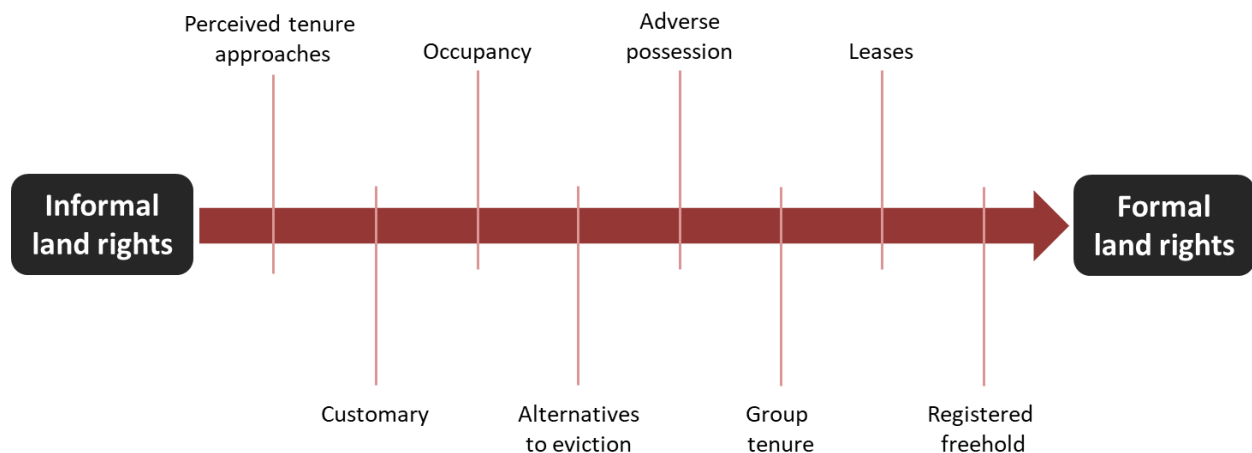
⁶ Payne, Geoffrey, Alain Durand Lasserve and Carole Rakodi. Social and economic impacts of land titling programmes in urban and peri-urban areas: International experience and case studies of Senegal and South Africa.

⁷ Payne, Geoffrey, Alain Durand Lasserve and Carole Rakodi. Social and economic impacts of land titling programmes in urban and peri-urban areas: International experience and case studies of Senegal and South Africa.

⁸ Mark Freudenberger, (USAID). The Future of Customary Tenure: Options for Policymakers. (via Landlinks, 2013).

⁹ United Nations Human Settlements Programme (UN-Habitat) and Global Land Tool Network (GLTN). “Handling Land: Innovative tools for land governance and secure tenure.” (Nairobi, Kenya: UN-Habitat and GLTN, 2012): 12.

¹⁰ Presented by Mark Napier, CSIR at the Partnership for Action conference: <http://solidgroundcampaign.org/partnershipforactionpresentations>



Continuum of Land Rights (UN Habitat GLTN, 2012)

From an operational perspective, a continuum of land rights exists when the whole spectrum of formal, informal and customary rights is catered to within a land governance system. Additionally, a continuum of land rights exists when a range of rights in a country constitutes legally enforceable claims, which can be asserted and defended in a forum such as a court.¹¹ The means of achieving different forms of tenure can vary greatly. Achieving security of tenure can come from a politician with the will to issue a proclamation against eviction, a city or government extending basic infrastructure and services to informal settlements or the issuing of state-backed titles to every individual homeowner in an informal settlement. Legal literacy training and writing wills can also be an effective means of improving tenure security. There are examples of a spectrum of rights that do not constitute freehold title and would rather be described as social tenures that are local, informal and unofficially determined. In the case of Kenya, sales letters and allotment letters are not registered documents of title and yet constitute documentary evidence of tenure security. In many parts of South Africa, customary property rights are constituted in a matrix of social relationships that regulate access to, and control of, land and other resources. These rights are centered in extended family relationships that ensure succession of property over generations, and they spread outwards to include various levels of community land uses, authority and leverage. Many of these “layered” relationships persist even after the formal title deeds have been issued.¹²

Examples of the continuum in practice in Southern and East Africa

In Kenya, efforts are underway to provide greater recognition to communities inhabiting land in communal and customary settings, which hold, use and transact lands under their own, typically customary norms, and whose lands remain un-surveyed and untitled. The Kenyan Community Land Act enables each community to secure a single collective title over all or part of its lands, and lawfully govern this property. This includes regulating traditionally ‘private’ possession of plots within the community domain, as allocated to individual families for settlement or farming purposes.

¹¹ United Nations Human Settlements Programme (UN-Habitat) and Global Land Tool Network (GLTN). “Handling Land: Innovative tools for land governance and secure tenure.”

¹² Kingwill, Rosalie. “Land and Property Rights: ‘title deeds as usual’ won’t work.” (Cape Town, South Africa: Institute for Poverty, Land and Agrarian Studies, 2017).

Zambia has a dual tenure system consisting of leasehold (Statutory) and customary tenure. The term of leasehold is limited to a maximum of 99 years. Other terms of leases include 14-year leases, which are provisional, 30-year leases for resettlement schemes and a 30-year occupancy license for housing improvement areas. Land records were recently upgraded to Occupancy Licenses issued by local authorities. In Lusaka it is estimated that over 60% of holdings are informal. It is estimated that 90% of the rural population subsist on customary tenure.

In the case of Malawi, a marital right to land exists as both a witnessed and documented right to land. It strengthens security as it accords legitimacy to the role of family relations in land use and ownership. Malawi also provides de facto recognition to witnessed rights to land due to the communal nature of land use and the role of traditional leaders in facilitating access to land. Witnessed rights can also be documented further strengthening land rights. Freehold rights characterise private land and the government has ownership of public land in the public interest.

Women and land

Around the world, women are routinely, systematically denied equal rights to access, use, inherit, control, and own land. According to recent research, women in half of the countries in the world are unable to assert equal land and property rights even where legal protections are in place.¹³ This means that women and their children also miss out on the vast advantages that come with property rights, putting their health, safety, economic security and political rights in jeopardy.

According to an audit conducted by the Kenya Land Alliance in 2018, it was found that 103,043 titles were issued to women representing a mere 10.3 percent, while 865,095 titles representing 86.5 percent went to men. In terms of hectares, out of 10,129,704 ha of land titled; women received 163,253 ha representing only 1.62 percent, while men got 9,903,304 ha representing 97.76 percent. This picture is common across many other countries in Sub-Saharan Africa.¹⁴

In sub-Saharan Africa, women comprise 48.7 percent of the agricultural labor force, but only 15 percent of agricultural landholders.¹⁵ Unequal access to land, shelter, inheritance and credit are among the many factors driving the “feminization of poverty,” a term given to the increasing gap between men and women caught in the cycle of poverty.¹⁶ Women disproportionately face barriers to financial access that prevents them from participating in the economy and from improving their lives. When women have no collateral, in the form of land, they are denied access to loans that in turn affect their enterprises from growing further constraining women from breaking out of poverty.

Secure land rights are a central factor in ensuring adequate, stable housing for women and their families. In addition to proving a healthier environment, overall, secure property rights give women greater influence over household income and decision making, which has been shown to reduce household poverty and benefit the family. Children whose mothers own land are up to 33 percent less likely to be severely underweight¹⁷ and 10 percent less likely to be sick.¹⁸ Women’s land ownership has also been

¹³ Women in Half the World Still Denied Land, Property Rights Despite Laws <https://www.worldbank.org/en/news/press-release/2019/03/25/women-in-half-the-world-still-denied-land-property-rights-despite-laws>

¹⁴ Kenya Land Alliance Women Land Rights Project <http://www.kenyalandalliance.or.ke/women-land-property-rights/>

¹⁵ Land Tenure and Women’s Empowerment, USAID 2016, Fact Sheet: <https://www.land-links.org/issue-brief/fact-sheet-land-tenure-womens-empowerment/>

¹⁶ Rabenhorst, Carol S. and Bean, Anjali (2011) Gender and Property Rights: A Critical Issue in Urban Economic Development. The International Housing Coalition and the Urban Institute. p. 2. available at: www.issuelab.org/resource/gender_and_property_rights_a_critical_issue_in_urban_economic_development

¹⁷ Allendorf, K. (2007). Do Women’s and Rights Promote Empowerment and Child Health in Nepal. World Development, 35(1), 1975-1988. Chicago.

¹⁸ Memon, N., van der Meulen Rodgers, Y., & Ngyuyen, H. (2014). Women’s Rights and Children’s Human Capital in Vietnam. World Development, 54, 18-31.

linked to better child nutrition and better adherence to preventative care and medical care.¹⁹ When women in the household have land rights, the family devotes more of their budget to education²⁰ and the children have higher levels of educational attainment.²¹ Granting secure property rights can also reduce the likelihood of child labor by 28 percent.²²

Access to property is one of the most important factors in protecting women from violence.²³ Improved property rights, in combination with other assets, give women the strongest position against domestic violence.²⁴ Globally it is estimated that up to 70 percent of women will face gender-based violence in their lifetimes, however women who own land are up to 8 times less likely to experience domestic violence.²⁵ Along with providing protection from domestic and gender-based violence, secure property rights can provide women more bargaining power in navigating sexual relationships, including long-term relationships.²⁶

Studies have shown that when women have secure rights to land, they have an increased ability to travel to the market, health center and places outside of the community including work outside the home.²⁷ More equitable property rights are positively associated with women having leadership positions in the private sector²⁸ and increased household bargaining power.²⁹ Women with strong property and inheritance rights have been shown to earn up to 3.8 times more income.³⁰

Secure property rights, particularly ownership rights, give women an avenue to wealth savings that is extremely difficult or nonexistent for most non-land owners. Where women's property and inheritance rights are stronger, women's individual savings are up to 35 percent greater.³¹ Credit from financial institutions, nongovernmental institutions, women's savings groups and private sources are more available to women who can use their land and/or housing as collateral to support a loan. In Rwanda, women having land titles was correlated with a 12 percent increase in women taking out loans.³² Access to credit helps women invest in and improve their homes and businesses.

¹⁹ Allendorf, K. (2007). Do women's land rights promote empowerment and child health in Nepal? *World Development*, 35(11), 1975–1988.

²⁰ Doss, C. (2006). The effects of intra-household property ownership on expenditure patterns in Ghana. *Journal of African Economies*, 15(1), 149-180).

²¹ Katz, Elizabeth, and Juan Sebastian Chamorro. 2002 "Gender, Land Rights and the Household Economy in Rural Nicaragua and Honduras." Paper prepared for USAID/SADIS CRSP, Madison, Wisconsin.

²² Field, Erica (2007). Entitled to Work: Urban Property rights and Labor Supply in Peru. *The Quarterly Journal of Economics*, 122(4), 1561-1601.

²³ USAID Commentary by Cynthia Caron citing Friedemann-Sanchez (2006) and Panda and Agarwal, 2005; see also Bhattacharya et al, 2009.

²⁴ USAID Commentary by Cynthia Caron citing Friedemann-Sanchez (2006).

Argwal, B. & Panda, P. (2007), India. Toward freedom from domestic violence: the neglected obvious. *Journal of Human Development*, 8(3), 359-388.

²⁵ General Assembly (2006) In-Depth Study on All Forms of Violence against Women: Report of the Secretary General. A/61/122/Add.1. 6 July 2006; World Health Organization (2005) Summary Report, WHO Multi-Country Study on Women's Health and Domestic Violence Against Women, Initial results on prevalence, health outcomes and women's responses; and Violence Against Women, UNiTE to End Violence Against Woman, Fact Sheet: http://endviolence.un.org/pdf/pressmaterials/unite_the_situation_en.pdf

²⁶ Grabe, Shelly. (2010). Promoting Gender Equality: The Role of Ideology, Power, and Control in the Link between Land Ownership and Violence in Nicaragua. *Analyses of Social Issues and Public Policy*, Volume 10 Issue 1. <https://spssi.onlinelibrary.wiley.com/toc/15302415/2010/10/1>

²⁷ Meinzen-Dick, Ruth Suseela; Quisumbing, Agnes R.; Doss, Cheryl R.; and Theis, Sophie. 2017. Women's land rights as a pathway to poverty reduction: A framework and review of available evidence. IFPRI Discussion Paper 1663. Washington, D.C. <http://ebrary.ifpri.org/cdm/ref/collection/p15738coll2/id/131359>

²⁸ World Bank Group. 2018. *Women, Business and the Law 2018*. Washington, DC: World Bank.

²⁹ Deere, C. D., Oduro, A. D., Swaminathan, H., & Doss, C. (2013). Property rights and the gender distribution of wealth in Ecuador, Ghana and India. *The Journal of Economic Inequality*, 11(2), 249–265.

³⁰ Peterman, A. (2011). Women's Property Rights and Gendered Policies: Implications for Women's Long Term Welfare in Rural Tanzania. *The Journal of Development Studies*. 47(1), 1-30.

³¹ Peterman, A. (2011). Women's Property Rights and Gendered Policies: Implications for Women's Long Term Welfare in Rural Tanzania. *The Journal of Development Studies*. 47(1), 1-30.

³² Land Tenure and Women's Empowerment, USAID, Fact Sheet: <https://www.land-links.org/issue-brief/fact-sheet-land-tenure-womens-empowerment/>

Secure property rights can shape social status, political power and decision making within communities. With this security, women engage more readily and with greater impact in civic and political decision-making with increased confidence in decision-making. Secure property rights are also socially and politically empowering for women. Women with land have more negotiating power and are better able to challenge traditionally subordinate positions in the community and households. Women with secure property rights may be empowered to participate more effectively in community-level organizations, making those institutions more likely to respond to women's needs. In general, when women are aware of their rights, they are more equipped to undertake leadership positions at household, community and society levels.

2. Global and regional commitments to action

Global commitments to action

The importance of tenure security's impact on the safety, wellbeing and development of individuals globally has been gaining recognition by global actors in recent decades. Global and regional agreements have begun to explicitly point to tenure security as a priority in achieving positive development outcomes and realizing gains in equity, rights and wellbeing. The international community has also repeatedly recognized the vital role of women's land rights in reducing poverty and achieving sustainable development goals.

In 1979, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) called on States to eliminate discrimination against women, including establishing the same rights for spouses regarding the ownership, acquisition, management and disposition of property.³³

In 1991, the United Nations Committee on Economic, Social and Cultural Rights commented on the Right to Adequate Housing, recognizing the importance of security of tenure in Article 11 of the Covenant on Economic, Social and Cultural Rights. It stated that, "tenure takes a variety of forms... notwithstanding the type of tenure; all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats."³⁴

In 2011, the Committee on World Food Security endorsed a set of far-reaching global guidelines aimed at helping governments safeguard the rights of people to own, manage and access land, fisheries and forests to secure their nutritional needs. The result was the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGTs). The Guidelines promote secure tenure rights and equitable access to land, fisheries and forests as a means of eradicating hunger and poverty, supporting sustainable development and enhancing the environment, focusing on access to these resources as a key condition for sustainable livelihoods.³⁵

The United Nations' 2030 Agenda to achieve the Sustainable Development Goals, or SDGs, incorporated the importance of smart housing and land policies as a catalyst for achieving positive and sustainable development outcomes. Goal 11 has a specific target on housing: By 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade of slums. The specific indicator, 11.1.1, seeks to measure the "proportion of urban populations living in slums, informal settlements or inadequate housing." Additionally, under Goal 1, Indicator 1.4.2 highlights the importance of the security of tenure in achieving poverty reduction by prioritizing the measurement of the "proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure." Goal 5, which seeks to "achieve gender equality and empower all women and girls," includes indicators measuring the countries with legal frameworks guaranteeing women equal land rights and the proportion of agricultural population, by sex, with secure rights to land.³⁶

³³Office of the United Nations High Commissioner for Human Rights Office, "Women and land, property and housing," www.ohchr.org/EN/Issues/Women/WRGS/Pages/Land.aspx

³⁴United Nations Committee on Economic, Social and Cultural Rights (CESCR). "General Comment No. 4: The Right to Adequate Housing" (Art. 11 (1) of the Covenant). (New York: UN, 1991): 23.

³⁵An important recognition within the Guidelines, is that that the process of establishing policies and laws around land and tenure should be "participatory, gender sensitive and strive to make provision for technical and legal support to affected communities and individuals" and that states should acknowledge "the emergence of informal tenure" as a result of "large-scale migration."

³⁶United Nations, "Transforming our world: the 2030 Agenda for Sustainable Development", Sustainable Development Knowledge Platform, <https://sustainabledevelopment.un.org/post2015/transformingourworld>

The New Urban Agenda, signed by more than 170 countries at the Habitat III meeting in Quito, Ecuador in 2016, has specific provisions to “foster the progressive realization of the right to adequate housing as a component of the right to an adequate standard of living.” This is in addition to promoting “increased security of tenure for all, recognizing the plurality of tenure types,” and “to developing fit-for-purpose and age, gender and environment-responsive solutions within the continuum of land and property rights... strong, inclusive management frameworks and accountable institutions that deal with land registration and governance.”³⁷

AU commitments to action

Insecure and inequitable land tenure are some of the root causes of poverty, insecurity and conflict in Africa. It is, therefore, essential to work towards addressing land and property rights for housing. This has been long recognized by several AU level documents; in the following section, we are just listing the most important milestones from the last 15 years.

Both the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), 2003 and the Solemn Declaration on Gender Equality in Africa, 2004 called for action to address gender inequalities, including women's unequal access to land.³⁸

In 2009, African Heads of State and Government endorsed the Framework & Guidelines (F&G) on Land Policy following the adoption of the “Declaration on Land Issues and Challenges in Africa.”³⁹ The F&G calls for the systematic planning, provision of housing — or shelter — and service delivery in order to provide planned communities affordable and legally secure land and housing rights and access to basic services irrespective of tenure and structure status.⁴⁰

The Land Policy Initiative⁴¹ is a joint programme of the tripartite consortium consisting of the African Union Commission (AUC), the African Development Bank (AfDB) and United Nations Economic Commission for Africa (ECA). Its purpose is to enable the use of land to lend impetus to the process of African development.⁴²

In 2010 at the Third African Ministerial Conference on Housing and Urban Development (AMCHUD 3), a paper was adopted “Land in the context of sustainable urbanization” which states: “There is a need to develop new land policies and overhaul land governance and administration systems. Land policy is a means to achieve political ends (equity), economic ends (efficiency) and environmental ends (sustainability).”⁴³

The African Union Agenda 2063 strategic framework for the socio-economic transformation of Africa aims to “provide opportunities for all Africans to have decent and affordable housing in clean, secure and well-planned environments, including effective land tenure and improving livelihoods of slum dwellers” (para 72.B).⁴⁴

³⁷ United Nations via Habitat III Conference. “New Urban Agenda.” (Quito, Ecuador: United Nations, 2016).

³⁸ African Union, United Nations Economic Commission for Africa, and African Development Bank Framework and Guidelines (2009), Framework and Guidelines on Land Policy in Africa; Land Policy in Africa: A Framework to Strengthen Land Rights, Enhance Productivity and Secure Livelihoods, Addis Ababa, 8-9.

³⁹ African Union. “Declaration of Land issues and challenges in Africa.” (Sirte, Libyan Arab Jamahiriya: African Union Thirteenth Ordinary Session, 2009)

⁴⁰ African Union (AUC), African Development Bank (AfDB), and Economic Commission for Africa (ECA) Consortium. “Framework and Guidelines on Land Policy in Africa.” (Addis Ababa, Ethiopia: AUC-ECA-AfDB Consortium, 2009).

⁴¹ <https://www.uneca.org/alpc>

⁴² Habitat for Humanity is member of the LPI-Civil Society Platform

⁴³ http://mirror.unhabitat.org/downloads/docs/amchud/amchud3bakg_e.pdf

⁴⁴ African Union Commission. “Agenda 2063: The Africa we want.” (Addis Ababa, Ethiopia: African Union Commission, 2015): 2.

EU commitments to action

In the last 15 years, there has been a growing recognition also at the EU side: there are quite a number of EU policy documents, which include strong references to land rights and women's land rights.

In 2004, the European Commission published both a Communication and Guidelines to EU Land Policy in development context⁴⁵ recognizing that "Changes to legislation, the distribution of property rights, and administrative structures are likely to have long-term consequences, positive or negative, for political, economic and social development and environmental management". It highlights that "Equal rights for both women and men to hold and use property are a cornerstone of social and economic gender equality."

In 2014 the European Parliament published a "Report on the role of property rights, property ownership and wealth creation in eradicating poverty and fostering sustainable development in developing countries"⁴⁶, which not only gives a perfect summary of previous global and EU commitments but emphasizes that "besides individual land titling, a variety of alternative tenure options, including building on customary tenure systems to legally secure rights to house plots, farmland and natural resources, should be recognised, as advocated by UN-Habitat". It "stresses the international obligations of States to ensure minimum economic social and cultural rights, which include the obligation of governments to ensure that land management is not discriminatory, in particular with regard to women and the poor, and that it does not violate other human rights".

In 2017 the "EU adopted the New European Consensus on Development" in which it states that "In line with the UN's New Urban Agenda, they will promote sustainable land use planning, equitable management of land markets" and The EU and its Member States will support improvements in governance relating to ...to equitable access to land tenure, particularly for women".⁴⁷

⁴⁵ Commission Communication of 19 October 2004 entitled 'EU Guidelines to support land policy design and reform processes in developing countries' (COM(2004)0686): <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52004DC0686&from=EN>; EU Land Policy Guidelines: Guidelines for support to land policy design and land policy reform processes in developing countries' adopted by the Commission in November 2004: https://ec.europa.eu/europeaid/sites/devco/files/methodology-eu-land-policy-guidelines-200411_en_2.pdf

⁴⁶ <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2014-0118&language=EN>

⁴⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2017:210:FULL&from=EN>

3. Habitat for Humanity's land related work in Africa

A. Solid Ground campaign to promote access to land for shelter

Habitat for Humanity's International campaign, Solid Ground⁴⁸ was launched on 8 March 2016 with the express resolve to highlight the fundamental relationship between land and housing identifying four sub-themes, namely secure tenure and gender and land rights as central concerns of the campaign along with informal settlement upgrading and disaster resilience. In Africa, the campaign was implemented in Cote d'Ivoire, Kenya, Lesotho, South Africa and Zambia.

Working with governments at all levels, development partners and communities we seek to promote stronger recognition and protection of land rights for communities with a special emphasis on women. Programmes also focus on building stronger land governance approaches and strengthened institutions at community and local government levels to address land management systems. In all our programmes, we seek to adopt inclusive and participatory approaches through a people-centered methodology to ensure that a responsiveness to addressing the needs of communities we serve.

HFHI EMEA engages locally and participates in sub-regional and regional platforms where we advocate for land and property rights and adequate housing. Unique perspectives showcase our work on various issues, including urban-rural linkages, informal settlement upgrading, policy implementation strategies, unique study circle methodologies, micro finance and market development as well as WASH innovation. In 2017 we organized the conference "Partnership for Action: Improving Land Governance and Management in Africa"⁴⁹ and in 2018 we joined the Civil Society Platform on Land Rights in Africa, a consultative structure related to the AU Land Policy Initiative referred above.⁵⁰

B. Best practices in Africa from the HFH network

Zambia: Community study circles ensure gender equitable access to land ownership

In Zambia, where the national government has existing policies addressing housing and land rights, there are no mechanisms for monitoring and implementing such policies. Although most existing land laws in Zambia, including the constitution, ascribe to equality between men and women, generally the public is unaware of such provisions. This is because once the land policies are adopted and land laws passed, not only are there inadequate mechanisms for tracking land application, title issuance and land use at the community level, but there is no avenue to sensitize the public on the changes and impacts, in particular women's land rights.

As Habitat for Humanity Zambia began addressing Zambia's affordable housing issues with Habitat's usual building model, they discovered the huge challenge tenure insecurity posed in urban and peri-urban areas. In fact, most residents of Chipulukusu and Twapia, two informal settlements in the city of Ndola, have been living without any form of land security — legal document of proof of ownership from the state as security — meaning they have no guarantee of tenure.

⁴⁸<http://solidgroundcampaign.org/>

⁴⁹<http://solidgroundcampaign.org/partnershipforactionpresentations>

⁵⁰<https://www.uneca.org/stories/lpi-supports-establishment-civil-society-platform-land-policy>

As a leading organization working to increase access to decent and safe housing, Habitat Zambia recognized the gap in monitoring and implementing such policies and facilitated establishing a community-led solution, called study circles, which directly engage and empower communities to lead the initiatives needed to properly implement and monitor land and housing policies. Habitat Zambia has arranged their advocacy activities around three objectives: building knowledge and support of women's land rights; implementing equitable land rights and creating tracking mechanisms of land rights. Study circles comprise of a group ranging from 7-16 people, including men and women, with a common goal to build consensus and raise consciousness of issues, around gender or otherwise, affecting the community; essentially providing a pulse on the community, which ultimately drives the policy or system changes proposed by the local Habitat. Through study circles, women's participation in the community has increased.

Since engaging in housing and land policies, Habitat Zambia has seen great impact. They were able to promote the need for a land titling system, advise the local government and develop the new land title issuance program based on the community participatory and evidence-based approach. Through the land title issuance program, 3,000 land record cards were issued to both men and women, providing secure tenure for 15,600 people. Additionally, the Ndola municipality and the power utility company ZESCO also followed through to putting in place road networks and power lines for beneficiary communities.

Lesotho: Advocating for women's property and inheritance rights

Without access to land, access to adequate shelter for people living in Lesotho remains an unrealized goal. In 2016, Habitat Lesotho conducted a desk review to determine the legal and social barriers to secure tenure, including gender discrimination, affecting access to land for shelter. Two preliminary findings were identified: informal settlements are growing because communities cannot afford to live in planned sites, where costs to provide basic services to the planned site increase the cost of living, resulting in low-income families moving to informal settlements where basic services are not available and fear of eviction by the government are higher and while women can legally rent and own property in Lesotho, there is a significant implementation gap due to cultural norms and a lack of information distribution regarding women's rights.

Habitat for Humanity Lesotho is actively working to address access to adequate housing in three primary ways: advocate for issues that address land ownership and security of tenure for low-income families in Lesotho; identify, examine and prioritize constraints faced by low-income families in acquiring land for housing in Lesotho and develop clearly articulated policies on land allocation and ownership rights in Lesotho, particularly women's ownership rights.

According to their study, women in Lesotho are disproportionately impacted by tenure insecurity one challenge being 20 percent of Lesotho's population access land through inheritance. Customary and civil law marriages may include "marriage in community of property", in which all assets and debts are shared between spouses or "marriage out of community of property", in which an ante nuptial agreement sets out terms of possessions of assets, which greatly impacts property and inheritance rights in Lesotho. In the latter case, "marriage out of community of property", women have decreased tenure security which could result in disinheritance, or loss of property rights following the death of their spouse. Therefore, Habitat Lesotho has found that land laws must be created and implemented in conjunction with marriage laws, and property and inheritance rights. Lesotho's National Housing Policy, which would further protect women's land rights, has been in draft form since 2015.

In addition to advocating for the adoption of the National Housing Policy which would increase women's land rights, Habitat Lesotho has formed impactful partnerships across civil society, private and public

sectors, namely with the Ministry of Local Government to form the National Advocacy Team, in order to build knowledge and support of women's land rights. Through this partnership, Habitat Lesotho worked to train Basotho women on inheritance rights and as a result, over 800 women gained leases. Habitat Lesotho partnered with the Lesotho Federation of Women Lawyers, or FIDA, to train 20 paralegals in will writing, resulting in 14 women heads of households creating wills. Additionally, Habitat Lesotho worked to build public support by producing radio shows with six major radio stations around women's land and property rights. In a texting campaign, Habitat Lesotho partnered with Econet Telecom Lesotho to spread information on the importance of registering a legal will to approximately 500,000 people.⁵¹

Cote d'Ivoire: Creating a system at local level to issue land certificates

Habitat for Humanity Côte d'Ivoire recently made it possible for 5,541 land documents to be issued, bringing the total number of people with increased land tenure impacted by Habitat Côte d'Ivoire up to 98,922 in under two years. Because of Habitat Côte d'Ivoire's advocacy through the Solid Ground campaign, close to a hundred thousand people have the assurance that in the midst of increased land conflicts throughout the country—due to population growth, migration and increased housing and agricultural land scarcity—their land and homes are secure. Increased land tenure allows people to invest more in their homes and communities; it is the first step in applying for building permits from the government or loans from the bank. Moreover, women, who had previously been excluded from land ownership both through legal and customary means, are seeing increased opportunity through land rights. So how is Habitat Côte d'Ivoire accomplishing this?

Effective land administration systems are paramount to governments' abilities to grant secure land tenure to their citizens. Although Côte d'Ivoire's national government made land documentation a priority in legislation in 1998 and 2013, local governments generally lack the land administration systems and capacity to implement these laws. Not only do people experience serious delays in the application processes for land titles and building permits, but also there has been no database keeping track of these documents once they are issued.

Habitat Côte d'Ivoire is working closely with local authorities and the broader community to build a simple and effective system to issue land certificates. Habitat Côte d'Ivoire helped local leaders set up a land registration system and is supporting the registration process and collection of the necessary supporting documents from applicants. Throughout the past year, Habitat Côte d'Ivoire has seen steady progress in the numbers of land certificates issued.

Habitat Côte d'Ivoire's approach is contingent on community participation to get the word out about the new system. They have initiated an awareness campaign in which volunteers walk door to door, explaining both the purpose and steps community members can take to obtain land documentation. Habitat Côte d'Ivoire also organized an awareness raising event in the small city of Didayaokro with over 450 people in attendance, in which school pupils and women in the community shared speeches, songs and skits on the importance of land documentation and inheritance rights for women. Through increased awareness and information, both local leaders and community members have become dedicated to working for secure tenure.

Habitat Côte d'Ivoire is working to increase tenure security through several other participatory initiatives. For instance, they are conducting a baseline study of land tenure in rural communities by equipping study participants with smartphones to collect land data, which will be used to establish a mapped database.

⁵¹ For further information, please see: <https://landportal.org/library/resources/women's-access-land-and-housing-lesotho>

From this, they are creating a guide around rural land, looking at best practices for involving all stakeholders in the land documentation process. Habitat Côte d'Ivoire is also in the process of creating an interregional, multi-stakeholder coalition to monitor and promote human rights related to land.

Habitat Côte d'Ivoire's highly participative advocacy approach uniquely brings people together: from local authorities to community members to civil society. Habitat Côte d'Ivoire's advocacy approaches can and should, be replicated throughout Côte d'Ivoire and beyond.

C. Habitat for Humanity publications on land

In addition to implementing field projects and advocacy initiatives, Habitat for Humanity has been also engaged in continuously support our land related work with several publications. In drafting this current policy paper, we heavily relied on the following HFHI documents:

- Level the Field: Ending Gender Inequality in Land Rights, 2016⁵²
- Tenure Security, Land & Property Rights in an Urban Context, 2017⁵³
- Placing Housing at the Centre of Achieving Development Outcomes in the African, Caribbean and Pacific Regions. Habitat for Humanity's Recommendations for the New EU-ACP Partnership Agreement, 2018⁵⁴
- Secure Tenure and Land Issue Brief, 2019⁵⁵
- Gender and Land Issue Brief, 2019⁵⁶
- Women's Access to Land and Housing in Lesotho, 2019⁵⁷

⁵²<https://www.habitat.org/sites/default/files/shelter-report-2016.pdf>

⁵³https://www.habitat.org/sites/default/files/Tenure_Security_Land%26Property_Rights_in_an%20Urban_Context_emea_2017.pdf

⁵⁴<https://www.habitat.org/sites/default/files/documents/Recommendations%20for%20the%20EU-ACP%20Partnership%20Agreement%20-%20Housing%20at%20the%20center.pdf>

⁵⁵http://solidgroundcampaign.org/sites/default/files/secure_tenure_issue_brief.pdf

⁵⁶http://solidgroundcampaign.org/sites/default/files/solid_ground_gender_and_land_issue_brief.pdf

⁵⁷<https://landportal.org/library/resources/women%E2%80%99s-access-land-and-housing-lesotho>

4. Recommendations for the Africa-EU regional partnership in the new EU-ACP Agreement

The **New Urban Agenda** provides clarity regarding the importance of addressing the needs of urban contexts in achieving the SDG. Specifically, it included provisions to “foster the progressive realization of the right to adequate housing as a component of the right to an adequate standard of living.” This is in addition to promoting “increased security of tenure for all, recognizing the plurality of tenure types,” and “strong, inclusive management frameworks and accountable institutions that deal with land registration and governance.”

With the adoption of the new **European Consensus on Development**, the EU committed, for the first time in its external cooperation, to promote inclusive sustainable urban development to address urban inequality with a focus on those most in need, including those living in informal settlements and slums. (para 60.)

Habitat for Humanity International proposes the following stipulations to be included within the Africa-EU regional partnership agreement. These recommendations are focusing on security of tenure and land rights for housing:

- The Africa-EU Partnership Agreement must acknowledge that affordable, adequate and accessible housing has a transformative impact on the lives of vulnerable and marginalized people. The Partnership Agreement must support the creation of appropriate, affordable and accessible housing finance products available for investment in affordable and incremental housing in all its forms.
- The Africa-EU Partnership Agreement must acknowledge the importance of achieving security of tenure for all and recognize a plurality of tenure types. A lack of land tenure security also leads to the formation of slum settlements with up to 60 percent of urban dwellers in Africa living in informal settlements alone. Without land, there can be no housing and housing is the key to the stability and progress for communities. Particular attention must be given to security of land tenure for women as a key to their empowerment, including through effective administrative systems. Women must be well represented in decision making bodies that oversee the creation of land and housing policies at all levels of government. Governments also have a responsibility to provide information and education to women about their land rights.
- The Africa-EU Partnership Agreement should look to approaches and tools that demonstrate strong, inclusive management frameworks and accountable institutions (such as the Voluntary Guidelines on the Responsible Governance of Tenure) that deal with land registration and governance to help improve resilience and tenure security. Tenure regularization and the integration of informal settlements into formal land markets also enable local governments to raise revenue from taxes and fees, which can in turn be used to finance the provision of improved services, improving local governance overall.

About Habitat for Humanity International

Driven by the vision that everyone deserves a decent place to live, Habitat for Humanity International is an international NGO that helps individuals and families achieve the strength, stability and self-reliance through decent and affordable shelter. With a presence in nearly 70 countries, our work includes incremental housing support services; basic services such as water and sanitation, security of tenure, resilient and sustainable construction; inclusionary financing; community development; and policy advocacy. Habitat for Humanity has programs and offices in 15 ACP countries and in 10 EU member states. Habitat for Humanity is member of both CONCORD and VOICE. Habitat for Humanity actively contributed to the EU position on Habitat III and to the new European Consensus on Development.

Habitat for Humanity International led a global expert working group (the Housing Policy Unit) on housing and represented civil society in the primary platform for stakeholder engagement—the General Assembly of Partners—for Habitat III and the New Urban Agenda. (NUA). Habitat for Humanity directly engaged with UN decision-makers, including in the formal negotiations in New York City, driving media impressions and mobilising a global network to take action. Habitat for Humanity had also a leadership role in the World Urban Campaign, and the Global Land Tool Network (all referenced for their valuable contributions in the NUA, para 128.). Habitat for Humanity International is also member of the Cities Alliance Habitat III Joint Work Program.

Learn more at www.habitat.org/emea.

About Build Solid Ground

Build Solid Ground is project aimed to increase engagement of the citizens in actions addressing global housing and land rights issues in the context of increasing urbanization. This project is a part of Habitat's global advocacy campaign to improve access to land for shelter [Solid Ground](#).

To learn more about the project, please contacts us at buildsg@habitat.org.

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