

Realizing Women's Rights to Land in the Law



Food and Agriculture
Organization of the
United Nations



working for Zero Hunger

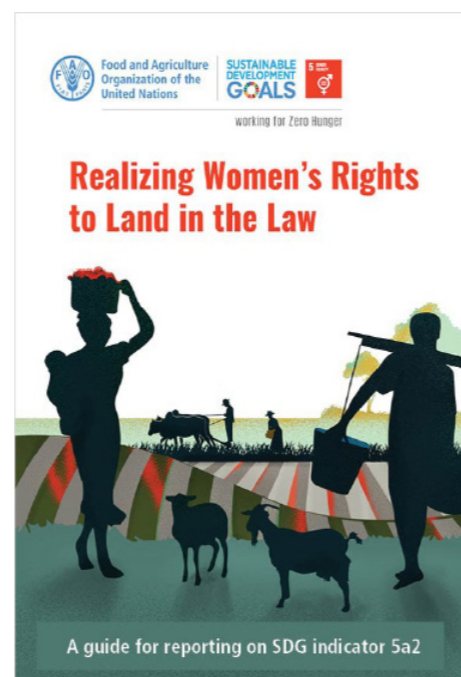
A guide for reporting on SDG Indicator 5.a.2

Goal 5 of the Sustainable Development Goals (SDGs) "Achieve gender equality and empower all women and girls" recognizes the fundamental role of women in achieving poverty reduction, food security and nutrition. Target 5.a aims to "Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws".

As the designated custodian for Target 5a, FAO has developed a methodology to support countries in monitoring and reporting on progress in the status of women's land rights protection. Progress in Target 5.a is measured through two indicators that focus on ownership and/or control over land.

Read the full document at:

www.fao.org/3/I8785EN/i8785EN.pdf



Realizing Women's Rights to Land in the Law

Information note on SDG Indicator 5.a.2



For more information

www.fao.org/sustainable-development-goals/en/
www.fao.org/gender

Contact

SDG-gender-and-land@fao.org

Introduction

Closing the gender gap with regard to access and control over economic and productive resources, including land, is essential to ensuring that women participate in, contribute to and benefit from broader processes of development. Likewise, greater gender equality contributes to economic efficiency and the achievement of key development outcomes.

Sustainable Development Goal (SDG) Target 5.a aims to “Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws.” Progress on this target is measured through two indicators, which focus on ownership and/or control over land.

The focus on land reflects the recognition that land is a key economic resource. It is a fundamental input for agricultural production; it can be used as collateral for accessing financial resources and extension services or joining producer organizations; and it can generate income directly, if rented or sold. Secure control and ownership of land also contributes to women’s empowerment, increasing their bargaining power within the household and improving their chances of accessing a wide variety of economic opportunities.

The indicators of Target 5.a

Progress is measured by two land indicators:

Indicator 5.a.1

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

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

Indicator 5.a.2

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

Indicator 5.a.1 focuses on statistics related to land ownership and/or control. It shows the inequalities in women’s and men’s ownership and control over land and helps to monitor progress towards more secure and gender-equitable land tenure. Indicator 5.a.2 focuses on the legal aspects of land tenure and measures the actual adoption of legal reforms that ensure women’s rights to land. Both indicators are closely linked and help us to understand gender inequalities in land ownership and/or control in practice and in the law.

Data disaggregated by sex enable policy-makers to assess whether legal and policy reforms are needed to guarantee women’s equal rights to land ownership and/or control. The analysis of legal frameworks, through Indicator 5.a.2, helps to identify the causes and bottlenecks of gender disparities in control over land, thus assisting in the interpretation of data collected under Indicator 5.a.1.

A spotlight on indicator 5.a.2

Since Indicator 5.a.2 is not directly measurable, six alternative variables (known as proxies) have been identified that allow us to indirectly track progress on the indicator. These proxies were selected because they relate to some of the principal constraints that women face in owning and/or controlling land.

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

Many women around the world do not own or control their family land. Women’s property rights are particularly at risk when they separate, divorce, are abandoned or become widows. Without the inclusion of the name and rights of women on the land registration document, their property rights can be insecure. This is often because of gender-biased norms and practices.

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

Rules for managing commonly held land can be just as important as formal ownership. The management rights include the power to mortgage, lease or sell property. When such actions are taken unilaterally by a husband or male partner, they can leave women and children homeless and without the means of subsistence. Including a consent requirement in the legal framework is an important way to protect women from arbitrary or unfair actions by their spouses or partners, and to ensure more equal control over the family home.

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

Inheritance is often an important way for women to secure independent land rights. Cultural and legal norms that deny daughters and spouses the right to inherit have a significant impact on women’s opportunity to acquire land independent of their civil status. Measures to support the inheritance rights of women and girls and to tackle discriminatory inheritance norms, alongside effective implementation and enforcement measures, are therefore key to ensuring women’s equal ownership and control over land.

How will countries report under this indicator?

A six-band classification system was established to determine the extent to which the legal frameworks of countries support the realization of women’s land rights (Fig 1). Countries are classified according to the total number of proxies found in the relevant national laws.

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

Many countries have recently adopted policy and legal reforms to promote gender equality in terms of access to land and other productive resources. However, these reforms have often not resulted in an increase in women’s ownership and control over land. One of the many reasons for this is the lack of adequate financial resources to implement programmes specifically devoted to advancing women’s land rights. One measure that has been adopted by some countries to overcome these challenges is to establish specific funding mechanisms to support women’s ownership and control over land.

Proxy E – In legal systems that recognize customary land tenure, does the law explicitly protect the land rights of women?

In some parts of the world, customary tenure systems operate alongside the formal law. Often, women in these customary contexts can only access land through their relationship with a male relative, such as a father, brother, husband or son. The formal recognition of those customary land tenure systems can reinforce discrimination and exclusion of women as landowners or landholders. To avoid such outcomes, explicit provisions that protect the land rights of women should accompany any legal provision recognizing customary rights.

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

Evidence demonstrates that women are often excluded from participating in land administration and management institutions at all levels, and have limited capacity to influence decision-making. A lack of women’s representation in land governance institutions tends to lead to biased results in land registration processes, hinders women’s land claims, and overlooks women’s rights on common lands, among other impacts. To avoid these negative outcomes, national policies and laws should adopt specific measures to ensure women’s meaningful representation in land management and administration institutions.

Fig 1. Classification of a country based on the number of proxies in primary law or primary and secondary law

Result of country assessment	Classification
None of the six proxies are present	The legal framework shows no evidence of guarantees of gender equality in land ownership and/or control
One of the proxies present	The legal framework shows very low levels of guarantees of gender equality in land ownership and/or control
Two the proxies present	The legal framework shows low levels of guarantees of gender equality in land ownership and/or control
Three of the proxies are present	The legal framework shows medium levels of guarantees of gender equality in land ownership and/or control
Four of the proxies are present	The legal framework shows high levels of gender equality guarantees in land ownership and/or control
Five proxies are present where Proxy E is NOT applicable*	The legal framework shows very high levels of guarantees of gender equality in land ownership and/or control
Five or six proxies are present where Proxy E is applicable	

* Proxy E does not apply in those countries where customary law or customary land is not recognized by statutory law. Therefore, a separate scale is needed for countries where Proxy E is applicable, because they will be assessed based on six proxies rather than five.

What happens next?

In November 2017, Indicator 5.a.2 was upgraded to Tier II status by the International Expert Group on the SDGs. This means that the indicator is considered to be conceptually clear; it has an internationally-established methodology and standards are available, but data are not regularly produced by countries. Countries can therefore begin to report in 2018. FAO will submit the first global report on progress under the indicator in January 2019 to the UN SDGs Secretariat.

To assist member countries to monitor and report under this indicator, FAO has prepared detailed guidelines to be used by the relevant national institutions and a capacity development programme to be implemented at the country level. Furthermore, an e-learning programme that provides a comprehensive picture of the indicator and the monitoring and reporting process is available at the FAO e-learning platform:

<http://www.fao.org/elearning/#/elc/en/course/SDG5A2>