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IMPROVING LAND TENURE SECURITY FOR WOMEN

A *WOMEN FIRST* APPROACH

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ABOUT OUR PARTNERS

Women and Rural Development Network (WORUDET)

WORUDET was formed by a group of women activists in 2003 to help women in northern Uganda recover from the conflict. Today it works to create a community that is inclusive for women, men and children by addressing social injustices such as gender-based violence, negative cultural and discriminatory practices and by promoting socio-economic opportunities.

Associates Research Trust Uganda (ARU)

Associates Research Trust Uganda was set up in 2003 to undertake action, scholarly and evaluative research on contemporary questions of policy and practice relating to land tenure, natural resource use and management, agriculture and livelihoods. Since then, Associates has developed unparalleled reputation as an independent research and knowledge creation center in Uganda. In 2010, it was acknowledged as the leading research institution supporting the development of policy over land and natural resources in Uganda by the Ministry of Lands, Housing and Urban Development.

www.aresearchug.org

ABOUT LANDESA CENTER FOR WOMEN'S LAND RIGHTS

Founded as the Rural Development Institute, Landesa has partnered with governments on reforms that have provided secure land rights to more than 100 million families since 1967. When families have secure rights to land, they can invest in their land to sustainably increase their harvests and reap the benefits—improved nutrition, health, education, and dignity—for generations.

The Center for Women's Land Rights

An initiative of Landesa, the Center for Women's Land Rights champions the untapped potential of women and girls to transform their communities. With secure rights to land, women and girls can improve food security, education, health, and economic development for themselves and their families.

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FOREWORD

Much of the time, when we think of who has what rights to land, we think in terms of the household or the community. We look at laws and we analyze a situation from this perspective, and then we ask, "And what about women, and other vulnerable groups?" Usually we want to know whether women have the right to inherit land or have the right to have their name on land titles. We want to know whether customarily women have fewer or lesser rights than they have in the formal law. And these are important and good questions. But very often we don't reach these questions in a project until all the other planning and thought has been completed. Helping women gain access to secure land rights is extra, a secondary part of a larger project that focuses on the household or community.

This toolkit starts with the question of what rights do women have to land in the Acholi region of Northern Uganda. It begins by asking how women's land tenure can be strengthened within the customary tenure system that gives power over land to men, both within the household and in the community. In this context, how can women move toward secure rights to land, and what indicators will we use to determine whether such movement is occurring? We have developed a framework for answering these questions. The framework is applicable to women all over the world and in every land tenure regime. Simply, a woman's land rights are more secure when they are: legitimate; unaffected by changes in her social status; granted for an extended and definitive period of time; enforceable; and when exercising them does not require an additional layer of approval that only applies to women.

This toolkit also begins with the view that women in all communities know what they want and need in terms of their land rights, and that with information, guidance, and support from one another, they can develop a plan to get what they want and need. And we have seen evidence that this is true over the year we have been working with women in Acholiland.

We hope this toolkit will be useful in whole or in part for development practitioners who want to help strengthen women's land rights. We do know that the best way to strengthen women's land rights is to focus on women's land rights, and we hope this toolkit will help you do that.

Sincerely,

Renee Giovarelli

Senior Attorney and Advisor
Landesa Center for Women's Land Rights

TABLE OF CONTENTS

TABLE OF CONTENTS (continued)

The Problem

Women's Land Rights In Customary Tenure Systems

How can women's land tenure be strengthened within customary tenure regimes?

Co-existing customary and statutory land tenure systems are the norm across Africa. Women's land rights are at the nexus of these two systems; often, statutory laws provide protections to women that do not exist in customary law. Yet, not only is customary law more influential in many rural areas, but it is also gaining statutory recognition across the region.

This creates a problem. While there is much to be gained from recognizing both customary tenure regimes and women's land rights in statutory law, the two are not easily reconcilable. In most customary tenure regimes women's land rights are secondary to—and weaker than— those of men.

To begin to address this problem, women's land tenure security must be understood broadly, and women must be empowered to be agents of change for themselves, their families and their communities for improved tenure security to endure.

In many customary tenure systems across sub-Saharan Africa, both men and women have rights to ancestral land. Men gain rights by membership in a lineage, and their rights last for life. In contrast, women gain rights through a relationship with a male of that lineage (often her father or husband).

This means that women's rights to land are weaker than those of men. These rights may change in scope or duration when relationships change because of marriage, separation, death, or because the husband marries a new wife. Women's rights to land may be contingent on other cultural practices and norms attached to those relationships, such as payment of bride price at marriage or bearing a male heir. Women may have more difficulty than men enforcing rights because of a lack of information among customary leaders, communities, and the women themselves; limited access to decision-makers; or their lower social status within the community. Further, a woman may have less influence over how her rights to land are exercised because of her subservient role in the household.

These formal frameworks provide important safeguards for women's land rights, protections that challenge and often contradict customary rules. Local and cultural leaders face the challenge of understanding and reconciling these dual systems as they carry out their respective land administration functions. In this context, limited awareness, acceptance and enforcement of women's land rights under each framework, and negative norms and cultural perceptions about women's right to own land pose significant barriers to progress towards achieving equality and economic development in the region.

In this context, understanding and working within customary systems to protect women's rights to land is critically important. In many customary tenure systems across sub-Saharan Africa, both men and women have use rights to land. They can cultivate

the land and produce crops for their livelihoods. However, the right to dispose of land by both women and men is subject to the approval of the clan, even though a family may regard itself as "owners" of the land. Use rights, ownership, control, and transfers are all subject to the superior right of the family, group, clan or community. The transfer of land upon the death of the right holder is done according to the customary laws of inheritance which are patrilineal.

Women, and especially women without a male relative to support them, often find themselves in a particularly vulnerable position. Compared to their male relatives, women may have less access to land, may have fewer rights to the land they can access, and their land rights may be less secure. In the majority of these customary systems, land is regarded as men's property. Typically, land rights are bequeathed to a male heir, who has the right to decide how the land will be used. Also, because husbands pay bride price, women are regarded as part of the man's acquired property and cannot inherit land. In the unlikely case that a female inherits from her father, it is only use rights that are inherited; such use lasts only for as long as she remains unmarried and it cannot devolve to her heirs. Generally, women do not have the right to sell land unless they purchased that land in their own names, which is a rarity.

These problems, though complex, are solvable.

The emerging formal and customary frameworks for land administration across sub-Saharan Africa contain provisions which, if properly applied, could significantly improve women's land tenure security. However, ignorance of what those rights entail under both the formal and customary systems, as well as resistance on the part of some men and local leaders, prevents these protections from being realized in practice. Women, communities, and leaders profess uncertainty about what rules apply concerning land, and many who think they are applying customary rules correctly are not. To overcome these obstacles, this project developed a model approach to address these issues by empowering women to understand and resolve their land issues through supported engagement with their families, communities, and formal and customary institutions.

THE
SOLUTION
IS POSSIBLE.

This model's starting point is the belief that women's land rights on customary land can be made more secure through an approach that starts with women. The conceptual basis for assessing women's land tenure security, and for designing specific interventions to strengthen their land tenure security, is the Women's Land Tenure Security Framework. This is introduced on the next page, and is developed throughout the toolkit.

The Model engages at three levels to strengthen women's land tenure security: engagement with project groups; individual engagement with project participants; and engagement with the communities, particularly with local and cultural leaders. Community Based Facilitators (CBFs) – local volunteers who are supported by a local organization – serve as focal points for this engagement, and are the principal points of contact between the project team and project participants and their communities. Recognizing that dealing effectively with customary systems requires flexibility and awareness of the local context for land governance, this approach works to identify, strengthen, and realize those aspects of the customary system that are protective and supportive of women's land rights, while supporting women, communities, and leaders to identify and remedy practices that are out of line with custom, formal legal protections, and principles of equity and justice.

Though implementation is grounded in a thorough assessment of the local realities for women, the Model is designed to be flexible, so that it can accommodate new information and understanding, and adapt to unforeseen opportunities and needs as they arise. This iterative and participatory process ensures that women's experience, needs, and aspirations guide the development and implementation of project activities.

Women's Land Tenure Security Framework

The Women's Land Tenure Security Framework provides a nuanced foundation for assessing and addressing women's land tenure security. Effectively addressing the elements of insecurity requires a clear understanding of what those elements are; the Framework defines how women's access to and control over land can improve, breaking the issue down into discrete elements that can be addressed through pragmatic, implementable interventions.

THE FRAMEWORK:

A WOMAN'S ACCESS TO AND CONTROL OVER LAND CAN IMPROVE IF:

(a) She gains access to more land;

(b) She gains access to land of higher quality or in a better location;

(c) She gains additional rights to a plot of land to which she already has access; or

(d) Her land rights become more secure.

This Model works to strengthen women's land tenure security by assessing barriers to and opportunities for realizing each of the above elements. Because women's rights to land are complex and are often difficult to articulate, the Framework breaks down the concept of secure land rights for women into five dimensions.

A WOMAN'S LAND RIGHTS ARE SECURE IF:

(a) They are legitimate;

(b) They are unaffected by changes in her social status;

(c) They are granted for an extended period of time;

(d) They are enforceable; and

(e) Her ability to exercise them does not require an additional layer of approval that only applies to women.

This Framework provides the conceptual basis for the Model; each of the various activities and methods described in this Toolkit works to directly or indirectly address the dimensions of insecurity described in the Framework that are relevant to the local context. We will revisit the Framework, and discuss how to use it to develop your planned activities, in **Engage [page 74]**.

THE EMPOWERMENT APPROACH:

STARTING WITH WOMEN

The Empowerment Approach starts with women.
It begins by understanding the context in which women interact with land, and by assessing women's particular challenges, needs, opportunities, and aspirations. The approach is tailored to the people whom it aims to affect, through pragmatic and effective strategies that will support lasting improvements for women. Throughout their implementation, these strategies are reviewed and adapted to the evolving needs and opportunities that the context presents.

The Empowerment Approach begins with the decision to work with women to improve their land tenure security, and is made up of four components: Plan, Engage, Reflect, and Share. The Model will direct your team through each of the stages in a series of concrete steps, leading you through to the conclusion of the project and sharing of project results.

Starting With Women: What Does It Mean?
The Model is a process and a set of tools and methods to empower women to assess the barriers to their land tenure security, to identify potential solutions to these challenges, and to take steps to overcome the obstacles that they face in order to realize their aspirations related to land.

CONCEPT:
A THREE–TIERED APPROACH

In the customary setting, land issues are community issues. A woman's access to land depends on her status in the family, on the customary institutions and processes that determine rights to land in her community, on perceptions about women's rights to land, and on women's awareness of and ability to realize their rights as members of a community. Starting with women means working at each of these levels to identify and address these elements of women's land rights.

The Model, therefore, works on three interrelated and mutually reinforcing levels of project engagement:

• Engagement with groups of women;

• Engagement with individual women; and

• Engagement with communities, particularly with local and cultural leaders.

ENGAGEMENT WITH WOMEN INDIVIDUALLY

ENGAGEMENT WITH WOMEN IN GROUPS

ENGAGEMENT WITH COMMUNITIES, PARTICULARLY WITH LOCAL AND CULTURAL LEADERS
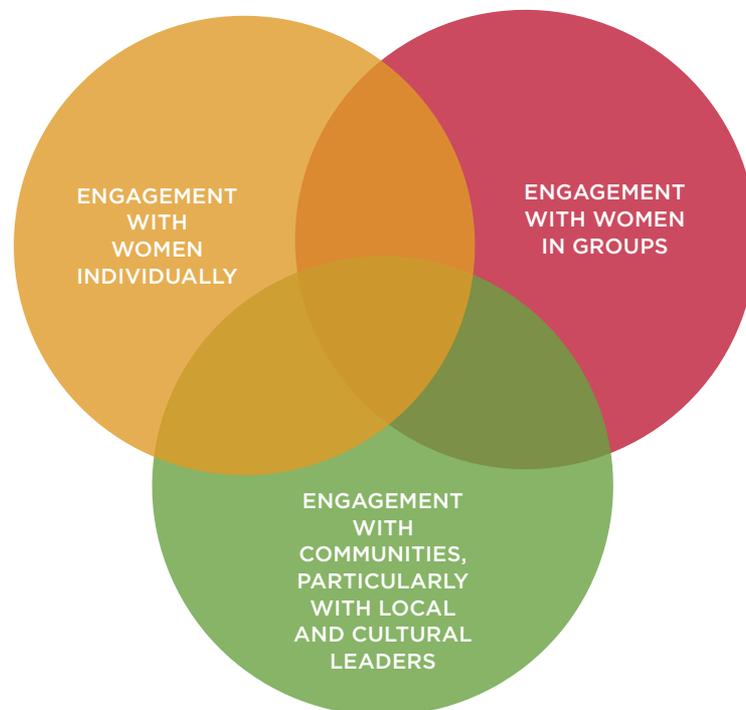
Through multi-tiered engagement, the Model addresses awareness, perceptions, knowledge, and institutional blockages to improving women's land tenure security under custom.

Group Engagement

Group activities form the core of the Model approach. In a cultural context in which women are rarely given an opportunity to speak, group discussions, training and group outreach activities provide an important and otherwise unavailable forum for women to gain confidence as participants in public dialogue and discussions. With the direct support of the Community Based Facilitators (CBFs), women in the groups receive training, share experiences and discuss strategies for overcoming obstacles in their own efforts to realize their rights to land. This process teaches the women about the content of their rights, and – importantly – empowers them with the confidence and skills to meet future challenges on their own. To support these processes, women receive training on their rights under customary and formal law, as well as public speaking and advocacy training. Individual women also receive support from the group, in thinking through, and addressing, their land tenure security aspirations.

Individual-level Engagement

Through the CBFs, individual women work to identify specific challenges to their tenure security, and to develop plans to resolve them through customary, formal, and alternative processes. CBFs play a crucial supportive role to the women, many of whom are speaking up in their own defense for the first time in their lives. In individual work with CBFs, each woman formulates action steps to overcome her particular issues, which she then carries out in collaboration with the CBF. Women share their individual experiences with others in their groups.

Community-level Engagement

Women's empowerment is an important component of the Model, but on its own is insufficient to ensure that their rights are realized in practice. Land tenure systems are important parts of a culture, so to some degree, improving women's land tenure security requires community change. Thus, for women's rights under custom to be realized, community members – including elders and cultural leaders – must be aware of, and supportive of, women's land rights.

The importance of working directly with community and clan leaders cannot be overstated. Customary institutions are adaptive in nature – the rules and structures can change to accommodate new ideas, needs, and changing realities that arise. This adaptability presents an opportunity for strengthening women's rights. Toward this end, the Model prioritizes community sensitization, capacity building and outreach to local leaders, and direct engagement with key stakeholders in efforts to resolve specific women's land issues.

WHO CAN USE THIS TOOLKIT?

This Model envisions various contexts and potential users, and is designed to be adapted to empower women facing a range of challenges to realizing their land rights. The Toolkit can help anyone aiming to understand and address women's land issues in the customary context, and was designed with four types of users in mind:

1. Land Rights NGOs seeking to add women's land rights programming to their activities

2. Women's Rights NGOs seeking to add a land rights focus

3. International NGOs seeking to support local interventions to strengthen women's land rights

4. Land practitioners seeking to understand how to realize formal protections for women in the customary context

The Model was developed by an international NGO, in close collaboration with an in-country monitoring and evaluation partner, and a local implementing partner. It is therefore written from the perspective of a non-local NGO. It is intended to be a resource for a range of potential users: local, national and international.

HOW TO USE THIS TOOLKIT

This toolkit includes a step-by-step guide to designing, implementing, and evaluating a project that works with women to improve their land tenure security. It will provide you with the considerations and tools that you will need to adapt the approach to your local situation, to implement it, to reflect upon the project's effectiveness and to share successes and lessons learned from the process. Along the way, Case Studies drawn from an implementation of the Model in Acholiland, Northern Uganda will be used to illustrate how implementation looks in practice. You will also see Tips and Insights for each step, as well as a Checklist to help guide you as you work through each section of the Toolkit.

METHOD — Each method is a detailed step within the process. Follow along with each method to complete a task from start to finish.

TIP — Practical information to help you put the Toolkit ideas and methods into action.

CASE STUDY — Examples of how the ideas and methods presented in a Step of the Toolkit have worked in practice.

INSIGHT — Lessons learned from past projects that used the Toolkit.

TOOLBOX — A collection of tools that will help you to implement the steps in the Toolkit.

CHECKLIST — Checklists appear at the end of each section to help guide you through each step in the process.

PLAN

A planning process that is responsive to the local context and particular aspirations of women participants.

ENGAGE

Implementation of the model.

REFLECT

Frequent reflection upon the effectiveness and appropriateness of the approach.

SHARE

Sharing the results, insights, and stories of the women and communities affected by the project.

DESIGN
1. IDENTIFY BARRIERS AND OPPORTUNITIES
2. BUILD A TEAM
3. IDENTIFY SITE
4. IDENTIFY PROJECT GOALS, OUTCOMES, ACTIVITIES, ROLES, RESPONSIBILITIES
5. IDENTIFY SUPPORTERS AND STAKEHOLDERS

PREPARE
1. RECRUIT VOLUNTEERS
2. ORIENT AND TRAIN
3. CONDUCT OUTREACH AND ENGAGEMENT/ENROLL
4. FORM GROUPS
5. INTERVIEW/ENGAGE STAKEHOLDERS

PLAN FOR ENGAGEMENT
1. ASSESS
2. VALIDATE
3. ACTION STEPS
4. CURRICULUM/PLAN

ENGAGEMENT WITH GROUPS
1. EQUIP
2. CONVERGE
3. ACT

ENGAGEMENT WITH INDIVIDUALS
1. SUPPORT
2. FACILITATE
3. REFER

ENGAGEMENT WITH COMMUNITIES
1. IDENTIFY
2. TRAIN
3. MEET
4. MENTOR
5. COMMUNITY AWARENESS RAISING

1. MONITOR
2. EVALUATE
3. REVIEW AND ADJUST

1. ASSESS THE CONTEXT
2. PLAN YOUR COMMUNICATIONS STRATEGY
3. DEVELOP AND IMPLEMENT COMMUNICATIONS MATERIALS
4. MONITOR AND EVALUATE THE EFFECTIVENESS OF COMMUNICATIONS ACTIVITIES

FOUR MAJOR COMPONENTS OF THE MODEL

TOOLBOX

The Toolbox is a collection of tools that will help you to implement the steps in the Toolkit. These materials are available for download at:

www.landesa.org/toolkit

PLAN
Prepare
- Job description for CBFs
- CBF self-assessment
- Sample SH analysis

ENGAGE
- Sample questionnaire for baseline assessment
- Logic Framework
- Focus Group Discussion Guide
- Sample one-pager for validation with women
- Quarterly review meeting agendas
- Example implementation plan
- Sample Assertiveness Training Curriculum
- Sample drama training curriculum
- Format for women's group meeting minutes
- CBF Reporting Format
- Sample action points for women's groups
- Land issue tracking template
- Sample list of stakeholders
- Sample radio message

REFLECT
Monitor
- Format for meeting minutes
- CBF FGD Guide
- Women's Needs Assessment Guide
- Template for Women's Journals

Evaluate
- Women's Baseline Survey
- Women's End of Project Survey
- End of Project FGD and Interview Guides

SHARE
- Sample list of stakeholders
- Field Recording Guidelines
- Interview Consent Form
- Communications Officer Job Description