



Legislating to guarantee the rights of rural women in Africa

“States Parties should adopt effective laws, policies, regulations, programmes, administrative procedures and institutional structures to ensure the full development and advancement of rural women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.”

General Recommendation No. 34 on the Rights of Rural Women (Committee on the Elimination of Discrimination against Women, 2016, para. 19).



BACKGROUND

Agrifood systems are a major employer of women globally and constitute a more important source of livelihood for women than for men in many countries (FAO, 2023a). However, inadequate legal and customary laws and practices have historically hindered their ability to access and control land and natural resources. Half the countries reporting on Sustainable Development Goal Indicator 5.a.2 have weak legal protections for women’s land rights.

The majority of African women live in rural areas. Women comprise over 46 percent of the rural agricultural employment in sub-Saharan Africa, and 32 percent in North Africa. Their contribution is even higher when accounting for other activities including food processing, marketing and food businesses (FAO, 2023a). African rural women engage in all forms of agricultural

work and other activities, as inter alia farmers, gatherers, processors, traders fisherfolk, wage labourers and handicrafts. This is in addition to the almost sole responsibilities women take for household chores.

Despite high numbers and crucial contributions, rural women suffer double discrimination at many levels: as women and because they live in rural areas. This legal brief aims to highlight the existing gender inequalities in Africa, present the relevant international and national legal frameworks that aim at promoting the rights of rural women, and provide a checklist for parliamentarians in Africa for legislative, budgetary and oversight measures in support of the realization of the rights of rural women.

MANIFESTATIONS OF GENDER DISPARITIES

Gender inequalities in rural settings manifest themselves in different ways. The following figures describe gender inequalities documented in Africa:

- Rural women are over-represented in poor and extremely poor households (World Bank Group, 2018).
- The work of rural women remains unrecognized, as many of them classified as inactive in traditional employment surveys engage in work that is invisible to official statistics. This work includes unpaid labour and household production.
- In Africa, 37 percent of employed women were poor in 2018, compared to 30 percent of employed men (ILO, 2019).
- The wage gap between male and female employees in African countries is generally higher than the global average of 16 percent (ILO, 2018). Rural women also face particularly rigid restrictions on access to social protection.
- Gender inequalities persist in terms of access to productive resources, key assets and markets. The gender gap in land productivity between female- and male-managed farms of same size is 24 percent (FAO, 2023a).
- Only 26 percent of Africa's households are headed by women, which have fewer assets, more labour constraints, and face more risks of poverty and hunger (FAO, 2023a).
- Food insecurity affects women to a much greater extent than men; as do problems of overweight and obesity (FAO *et al.*, 2021).
 - In 2021, the prevalence of moderate or severe food insecurity in Africa was 58 percent (twice the global level). There are 9.6 million more women experiencing food insecurity compared to men in Africa (FAO, 2023a).
 - Prevalence of anaemia in women aged 15 to 49 years is 38.9 percent in Africa, compared to 29.9 percent in the rest of the world (FAO, 2023a).
- Rural women suffer from various forms of violence, which reflects the persistence of traditional attitudes towards female subordination in many rural communities. They must also overcome numerous obstacles to access protection policies against violence, as these tend to have an urban bias.

Despite these gender disparities, women make crucial contributions to agricultural value chains, especially where there are fewer gender inequalities.

Sustainable Development Goal Indicator 5.a.2

Indicator 5.a.2 under Sustainable Development Goal (SDG) Target 5.a on women's access to ownership and control over land, measures the "proportion of countries where the legal framework (including customary law) guarantees women's equal rights to land ownership and/or control". The official reporting methodology uses the following six proxies to track progress on Indicator 5.a.2:

- Is the joint registration of land compulsory or encouraged through economic incentives?
- Does the legal and policy framework require spousal consent for land transactions?
- Does the legal and policy framework support women's and girls' equal inheritance rights?
- Does the legal and policy framework provide for the allocation of financial resources to increase women's ownership and control over land?
- In legal systems that recognize customary land tenure, does the law explicitly protect the land rights of women?
- Does the legal and policy framework mandate women's participation in land management and administration institutions?

Source: FAO. 2021. *Realizing women's rights to land in the law. A guide for reporting on SDG indicator 5.a.2.* Rome.

INTERNATIONAL AND REGIONAL FRAMEWORKS

The human rights of women in general, and rural women in particular, have been recognized in both international and regional legal instruments. These instruments recognize the right to equality and non-discrimination,

oblige States Parties to guarantee men and women equality in the enjoyment of civil, political, economic, social and cultural rights and provide specific protections for the rights of rural women, including working women.

Key international instruments for gender equality and women's empowerment in agrifood systems in Africa

International human rights instruments:

- The Universal Declaration of Human Rights (1948)
- The International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966)
- The Convention on the Elimination of All Forms of Discrimination against Women (1979)
- The International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989)
- The United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (2018)

In addition to regional human rights instruments, policy documents adopted by the African Union and regional economic communities not only reflect the hard commitments entered into through treaties with respect to women's rights, they also aim at guiding states in their efforts to protect the rights of rural women in various sectors.

The global 2030 Agenda for Sustainable Development adopted in 2015 promotes a transformative agenda for gender equality, and the empowerment of women in agriculture and food systems.

In 2016, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) issued [General Recommendation No. 34 on the Rights of Rural Women](#), which emphasizes the right to participate in rural development and its benefits; the right to health-care services; the right to economic and social life; and the right to education. The Recommendation also emphasizes the right to employment; the right to political and public life; the rights relating to land and natural resources, including water, seeds, forests and fisheries; and the right to adequate living conditions, including the right to food and nutrition for rural women.

It also underscores the need to remove legal obstacles that undermine the rights of rural women, and to make

Key Regional instruments for gender equality and women's empowerment in agrifood systems in Africa

African human rights instruments:

- The African Charter on Human and Peoples' Rights (1981)
- The Protocol on the Rights of Women in Africa (2003)
- The African Charter on the Rights and Welfare of the Child (1990)

Policy instruments adopted by the African Union (AU):

- Agenda 2063: The Africa We Want (2013)
- The African Union strategy on Gender Equality and Women's Empowerment (GEWE) (2018-2028)
- The Malabo Declaration on Accelerated Agricultural Growth and Transformation for Shared Prosperity and Improved Livelihoods (2014)

Policy instruments adopted by African regional economic communities:

- Southern African Development Community Protocol on Gender and Development (2008)
- The East African Community Gender Equality and Development Bill (2016)
- Supplementary Act Relating to Equality of Rights between Women and Men for Sustainable Development in the ECOWAS Region (2015)

progress toward substantive equality. This requires taking temporary special measures that provide preferential treatment to women with a view to closing the gender gap and accelerating the achievement of de facto gender equality (Kenney, 2022).

Gender equality in the PAP quasi-legislative process

The Pan-African Parliament (PAP) is an advisory and consultative organ of the African Union created, with the mandate to propose and formulate model laws. The PAP recently adopted a model law on Food and Nutrition Security in Africa with important provisions for gender equality. The PAP is now in the process of formulating four new model laws on gender equality, climate change, soils and cooperatives. Gender equality is an important consideration in the development of all new model laws for the PAP. Model laws act as a catalyst for legal reform in Africa, providing an authoritative framework for national legislative bodies to strengthen laws and regulations in accordance with the guidance issued by the PAP.

CONSTITUTIONAL AND LEGISLATIVE PROGRESS IN PROTECTING THE RIGHTS OF RURAL WOMEN IN AFRICA

The constitutional protection of the rights of rural women is the highest legal protection that can be accorded to them. Most African constitutions integrate provisions on the right to equality between men and women and/or non-discrimination based on sex. Some constitutions, such as those of Botswana, Ethiopia, Kenya, South Africa and Zambia have more advanced provisions, including

special measures for de facto equality. Many countries have developed more specific legal frameworks guaranteeing the rights of rural women, through laws that are thematically dedicated to gender equality and through sectoral legislation. The following two tables present some examples of dedicated and sectoral legislation that protect the rights of rural women.

SPECIFIC LEGISLATION FOR THE PROTECTION OF THE RIGHTS OF RURAL WOMEN IN AFRICA

Type of protection	Country and title of legal instrument (law or other)	Aim/purpose
Women's rights	Sierra Leone Gender Equality and Women's Empowerment Act (2023).	The law enshrines improvements to women's access to finance, employment opportunities, equal pay, maternity leave, and (critically) political representation.
Special support for women to access finance	Cabo Verde Resolution No. 139/2020 establishing a Micro Entrepreneurship Promotion Programme. Kenya The Kisumu County Enterprise Fund Act (2018).	To encourage micro entrepreneurship and contribute to the economic inclusion of women through self-employment, and special access to loans and technical assistance, including in the farming sector entrepreneurship.
Support to rural women	Angola Presidential Decree No. 138/12 on the National Programme to the Support of Rural Woman (2012). Nigeria National Commission for Women Act (1989).	To promote the participation of rural women in the socio-economic development process and to stimulate and motivate them towards achieving better living standards.
Temporary special measures to improve the status of women	Ethiopia Proclamation No. 240/2001 for the establishment of the Ethiopian Women's Development Fund. Mali Law No. 2012-002 establishes a Support Fund for Women's Empowerment and Children's Well-being and Development. Decree No. 2012-083-P-RM on the operational modalities of the Support Fund.	To develop women's entrepreneurship, agricultural productivity and organizational and management skills, and to provide financial, material and technical support to women's income-generating activities.
Preventive actions	Morocco Labour Law of 2003.	To prohibit gender-related discrimination in recruitment (Article 9).

Source: FAO. 2023. FAOLEX Database. In: FAO. Cited 28 April 2023. www.fao.org/faolex

SECTORAL LEGISLATION PROTECTING THE RIGHTS OF RURAL WOMEN IN AFRICA

Sector	Type of protection	Country and law	Requirement
Land	Ensure women's representation in various bodies involved in land management, administration and adjudication.	Rwanda Law No. 53/2010: Establishing the Rwanda Natural Resources Authority and Determining its Mission, Organization and Functioning. Presidential Order No. 54/01: Land Commissions. Law No. 37/2016: Organisation, jurisdiction, competence and functioning of an Abunzi Committee.	Requires that at least 30 percent of the Board of Directors of the Authority, members of the Commission and members of the Dispute Resolution Committee should be women.
		Liberia Land Rights Act (2018).	Recognizes that all members of a community have equal rights to the use and management of the Community Land, regardless of gender. The membership of the Community Land Development and Management Committee must consist of equal representation of the following three stakeholder groups: men, women and youths.
Forestry		Ghana The Forestry Commission Act (Act No. 571 of 1999).	The membership of the Forestry Commission must comprise of at least one woman.
		Liberia The Community Rights Law (2009) with respect to forest lands.	At least one member of the Community Forestry Management Body, which manages day-to-day community forestry resources, must be a woman.
Water		South Africa The National Water Act No.36 of 1998.	Requires corrective actions to redress past gender discrimination in the use of water resources, including in issuing a general authorization or a water license.
Environment		South Africa National Environmental Act (Act No.107 of 1998).	Recognizes the vital role of women in environmental management and development, and requires the promotion of women participation therein.
Fisheries		Cabo Verde National Gender Strategy for the Fisheries Sector 2022-2026.	The Strategy recognizes the participation of women, in particular female fishmongers, in the fisheries sector, while developing women's economic empowerment and the autonomy of fisherwomen's decision making. It also encourages the creation of mechanisms for increasing access to finances and empowerment of companies led by women in this sector.

Source: FAO. 2023. FAOLEX Database. In: FAO. Cited 28 April 2023. www.fao.org/faolex
 Compiled on the basis of national legislation currently in force.

CHECKLIST FOR PARLIAMENTARY ACTION

National parliaments, committees, parliamentarians, and their networks have a key role to play in strengthening the effective protection of rural women's rights. This institutional domain is responsible for passing legislation, oversight of legislative and budgetary processes, allocating budgets to implement laws and policies, holding governments accountable, and fostering intersectoral dialogue for the protection

of the rights of rural women. In addition, regional networks of lawmakers are playing an increasing role in enhancing agendas for guaranteeing human rights.

To strengthen the progress made in pursuit of gender equality and rural women's empowerment, the following actions are suggested, among others:

- ✓ Recommend that parliamentarians who are interested in advancing SDG2 and SDG5, approach the parliamentary networks existing in their country or combine efforts to form such networks.
 - ✓ Foster inter-parliamentary cooperation and exchange of information, including good practices in gender mainstreaming.
 - ✓ Propose legislative and other measures aimed at ensuring the respect, protection and realization of rural women's rights and repeal gender discriminatory laws.
 - ✓ Strengthen gender equality within the working environment of their parliament, relevant networks and that of their main partners, such as the executive branch, civil society and academia.
 - ✓ Promote the development of legislation that guarantees the right of rural women to participate in decision-making; ownership and control of land; access to technical assistance, rural extension, training and technologies; and protection against gender-based violence in rural areas, including physical and patrimonial violence.
 - ✓ Help ensure that sufficient budgetary funding is allocated to strengthen the application of existing laws that protect the rights of rural women; and promote the achievement of substantive equality, including through the creation of funds with such aims.
 - ✓ Ensure parity in the governance mechanisms of parliamentary committees and networks, fostering participation by rural women parliamentarians.
 - ✓ Monitor the reports of the executive branch of government on the implementation of laws and policies that protect and facilitate the rights of rural women and advise them to mainstream the rights of rural women in all their activities.
 - ✓ Participate in global governance mechanisms, such as the World Conferences on Women and the Committee on World Food Security (CFS), underscoring the need for parliaments to legislate in line with SDG2 and SDG5, and contribute to regional and international standards, such as to the ongoing development of the *CFS Voluntary Guidelines on Gender Equality and Women's and Girl's Empowerment in the Context of Food Security and Nutrition* (CFS, forthcoming).
 - ✓ Work through regional parliaments, such as the Pan-African Parliament (PAP), to promote the development of model or framework laws to guarantee the rights of rural women.
 - ✓ Ascertain your country's progress in monitoring the achievement of the SDG2 and SDG5 indicators, especially indicator 5.a.2; and support governments in setting national priorities and targets for achieving full compliance with the six proxy indicators related to the legal guarantee of women's rights to the ownership and/or control of land under the indicator.
 - ✓ Support local governance processes through development planning and budgeting.
- In summary, it is recommended that the gender approach be incorporated in parliamentary work, mainstreaming gender equality into legislation, policies, oversight mechanisms and budgetary decisions, and establishing affirmative actions to reverse the most significant gender gaps. This should contribute to transforming existing negative stereotypes that affects women and supporting their empowerment and ultimately the realization of their rights.

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