

# **Women's land rights in Arab countries**

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# Women's land rights in the SDGs

- **SDG 1: No Poverty** provides that “by 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance”
- **Goal 5: Gender equality** has a Target 5.a: 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

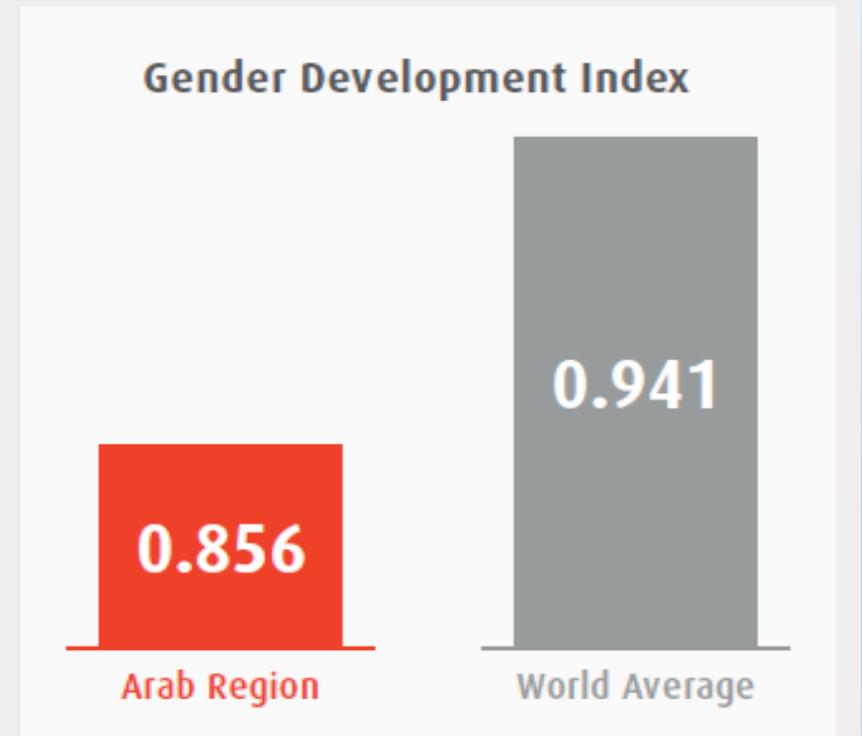
# Gender Gap in MENA countries

The Middle East and North Africa (MENA) region has the lowest score (61.1%) of all regions in the Global Gender Gap Index. The gap has narrowed by 0.5 percentage points since last year and by 3.6 points since 2006. Assuming the same rate of progress going forward, it will take approximately 150 years to close the gender gap in the MENA region, 15 years shorter than what was predicted last year. For now, many women in the region continue to face limitations of basic rights, including for divorce, inheritance, asset ownership, access to justice and freedom of movement. (World Economic Forum, Global Gender Gap Report 2020)

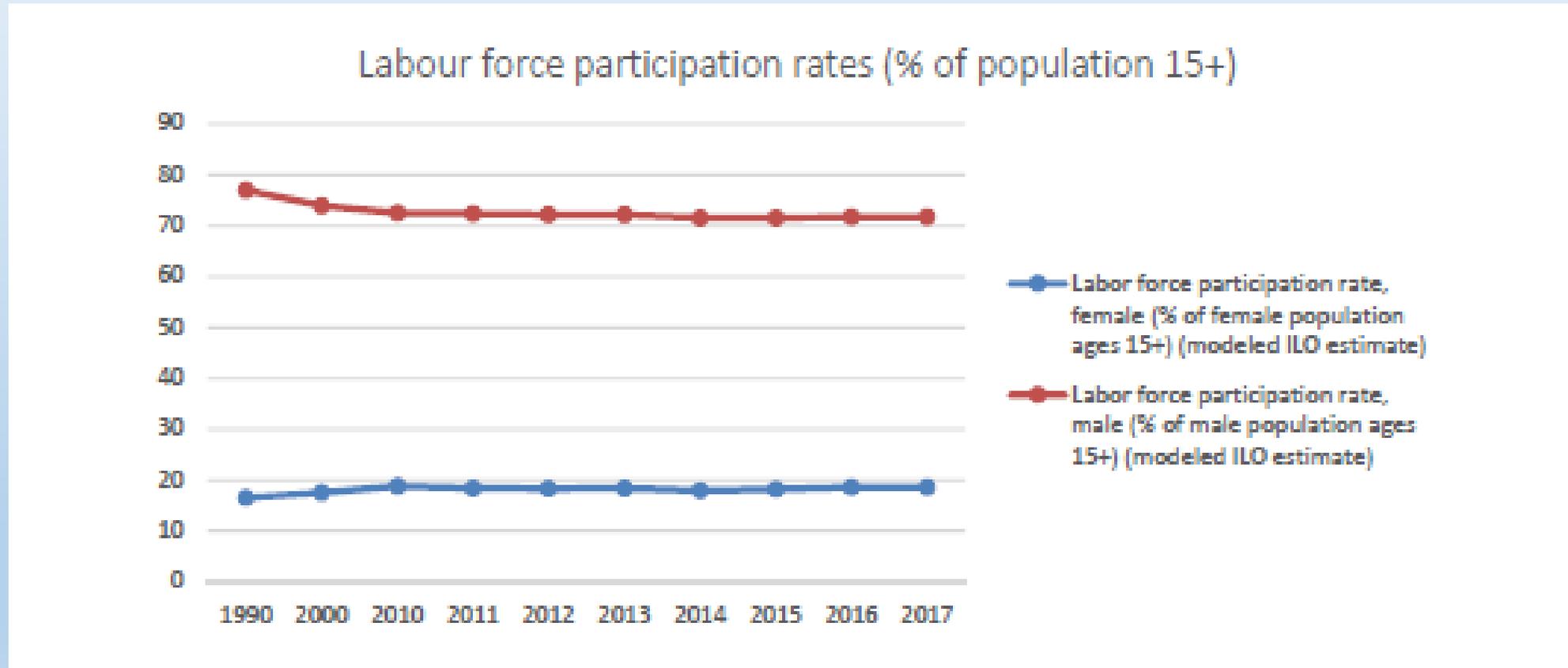
# Gender Development Index (UNWomen)

The GDI measures gender gaps in human development achievements by accounting for disparities between women and men in three basic dimensions of human development—health, knowledge and living standards using the same component indicators as in the HDI (UNDP)

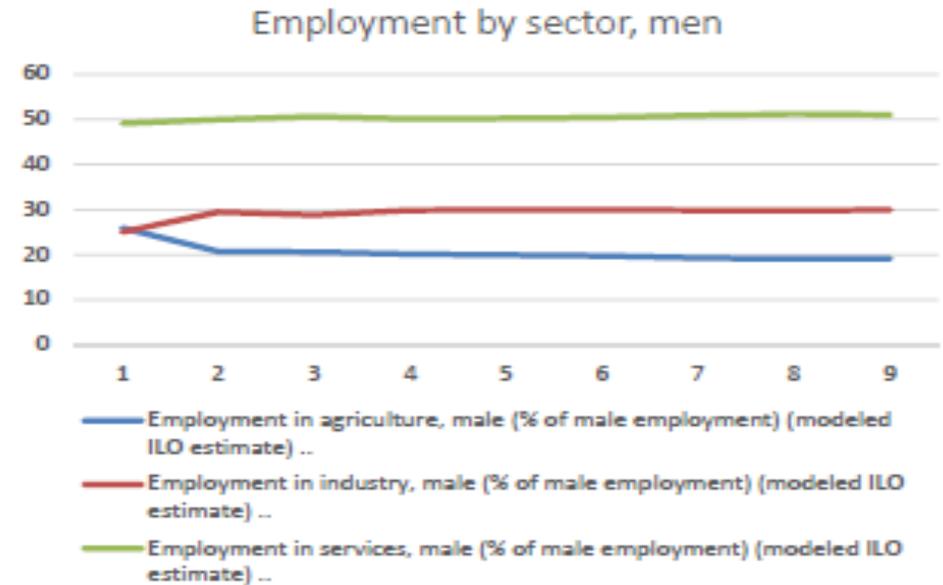
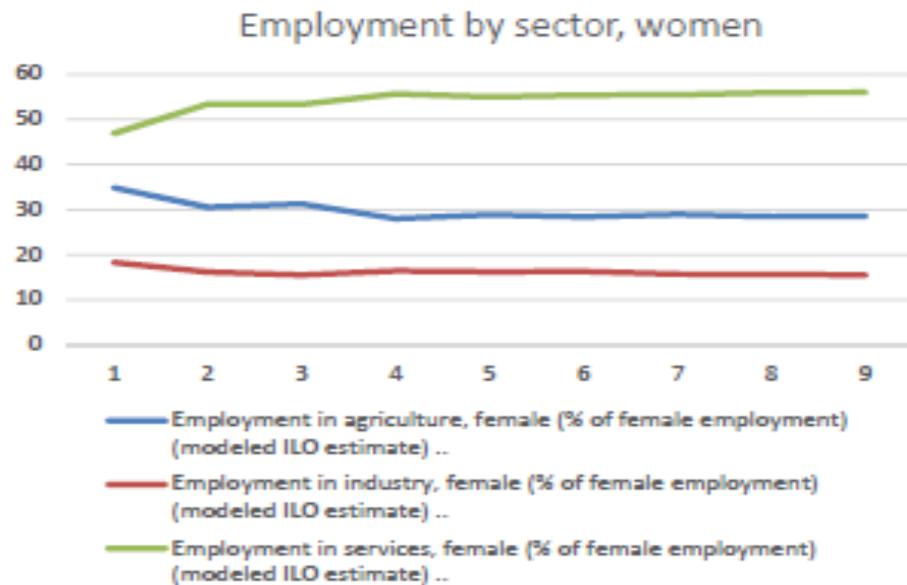
Figure 1. The Arab region scores 0.856 on the Gender Development Index, below the world average of 0.941



MENA region has the lowest women's labour force participation in the world: 24%, compared to 60% in the OECD economies



# Major employment sectors for MENA women: services and agriculture



Source: ILOSTAT database

# Data about women and land in MENA

- The data about this important issue are scarce; however some data have been published by several Arab countries as a result of FAO's World Programme for the Census of Agriculture 2010.
- In this framework, 6 Arab countries have organized such censuses which include data about the number of holders by sex.
- Definition of holder (Eurostat): Holder of the agricultural holding is the natural person, group of natural persons or legal person on whose account and in whose name the holding is operated and who is legally and economically responsible for the holding, i.e. who takes the economic risks of the holding.
- The holder can own the holding outright or rent it or be a hereditary long-term leaseholder or a usufructuary or a trustee.

# FAO's World Programme for the Census of Agriculture 2010

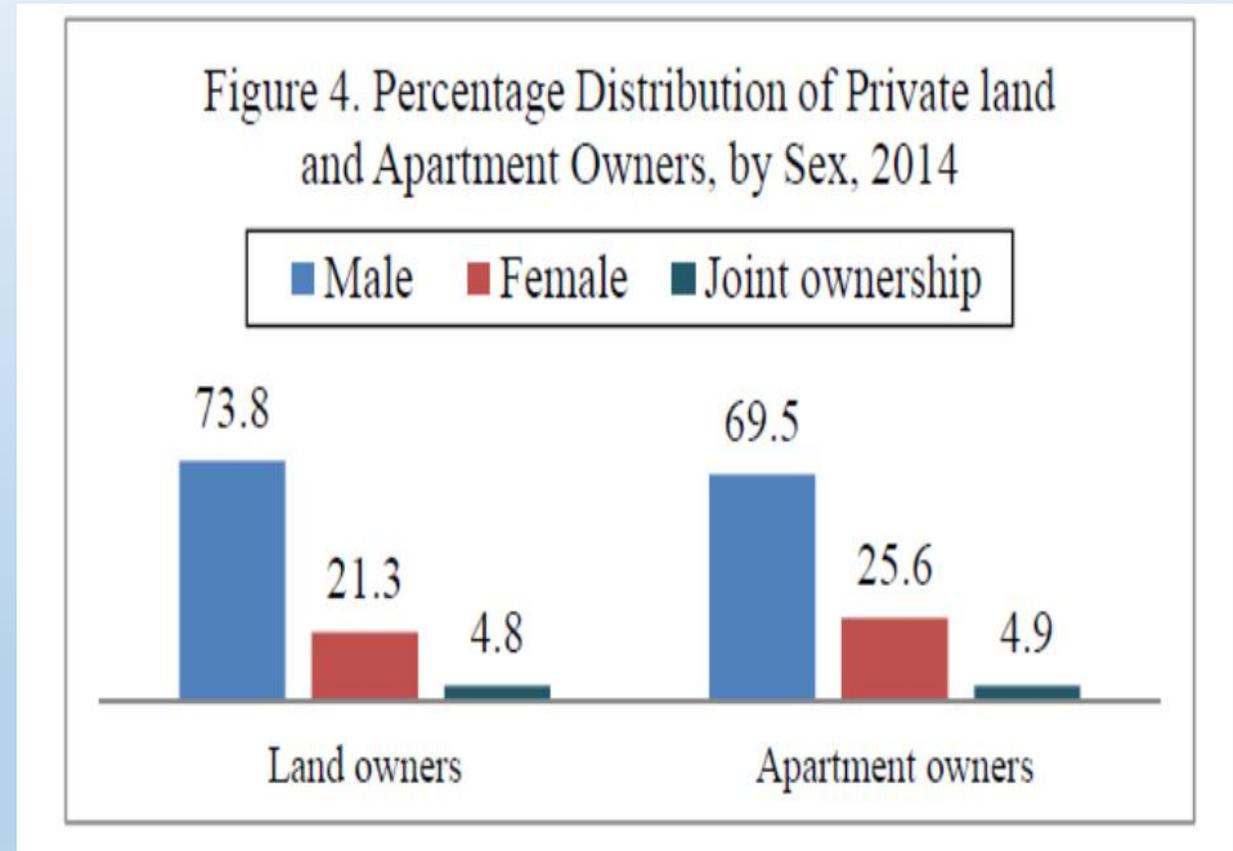
| Country      | Agricultural Census year | Total holders | Total area operated (ha) | Male holders      | Area operated by male holders (ha) | Female holders   | Area operated by female holders (ha) |
|--------------|--------------------------|---------------|--------------------------|-------------------|------------------------------------|------------------|--------------------------------------|
| Egypt        | 2009/2012                | 5401432       | 3765229                  | 5188653<br>(96%)  | 3650535<br>(97%)                   | 212779<br>(4%)   | 114694<br>(3%)                       |
| Lebanon      | 2010                     | 169022        | NA                       | 154457<br>(91,4%) | NA                                 | 14 565<br>(8,6%) | NA                                   |
| Oman         | 2012/2013                | 192039        | 149105                   | 177068<br>(92,2%) | NA                                 | 14753<br>(7,7%)  | NA                                   |
| Saudi Arabia | 2015                     | 284612        | 3125211                  | 280552<br>(98,6%) | 3094798<br>(99%)                   | 4060<br>(1,4%)   | 30412<br>(1%)                        |
| Jordan       | 2017                     | 106346        | 251736                   | 100017<br>(94%)   | 245803<br>(97,6%)                  | 6329<br>(6%)     | 5933<br>(2,4%)                       |
| Algeria      | 2001                     | 3349447       | 8458680                  | 2580463<br>(77%)  | NA                                 | 768984<br>(23%)  | NA                                   |

# Data about women and land

- Concerning Algeria, other sources give different figures:
- Algeria counts a total of 967,864 agricultural holders, including 39,646 by women holders (4.1%). Female holders are present in all surface classes, their proportion is highest (7.3%) in farms with an area between 0.1 and 0.5 ha (Nadia Ait-Zai).

# Data about urban areas

The Head of Gender Statistics Division of Jordan's Department of Statistics has published the attached figure with disaggregated data about ownership of private land and apartments by sex in 2014, with figures that are among the best in the Arab countries. Obviously the urban situation is less detrimental to women than rural areas, where female holders accounted for 6% in 2017.



# USAid diagnosis about Jordan (2020)

- “A small minority of women own land, houses, and apartments or can access bank loans. Department of Statistics 2018 data show that only 16.6 percent of women own land, compared with 48.8 percent of men, and women own only 10.3 percent of land areas, compared with 68 percent for men. In 2017 women owned 23.7 percent of apartments. The perception that women have no need to own resources devalues women’s economic capability; sometimes women may even be shamed for owning more than their husband does. Thus, it is common practice for a woman to pay for an apartment but register it as either “jointly owned” or under her husband’s name.”

# Women and Land in Palestine

- The Palestine Central Bureau of Statistics published a report in 1999 entitled “Property and resources survey” in Arabic. The report summarizes the property situation as follow: About 52% of men and 8% of women, aged 18 and more, fully or partially own a house or a plot of land. Moreover, 68% of women have declared that they had not received their full inheritance share (74.1% in the West Bank and 47.1% in the Gaza Strip). Moreover, 82.6% of women living in rural areas made such a statement, against 61.2% in urban areas and 56.8% in refugee camps.(Mas’h al-mulkiya wal wossoul ila al-masader, 1999)

# Women affected by conflict and HLP rights

- In 2019, 55.3 percent of the world refugees originate from the Arab region – including the Palestinian refugees. In addition, 36.1 percent of the world refugees reside in the Arab region. The spread and amplification of Syria's armed conflict, in particular, have led to a humanitarian crisis with 6.15 million internally displaced persons as of June 2019 (Arab Development Portal).
- Women refugees and IDPs have specific problems, in particular finding shelter, claiming rights about shelter of origin, obtaining joint titling to overcome unilateral risks or widowhood risks, etc.

## 2 definitions

- Land tenure is the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land and associated natural resources. Rules of tenure define how property rights in land are to be allocated within societies, along with associated responsibilities and restraints. In simple terms, land tenure systems determine who can use what resources, for how long, and under what conditions (GLTN trilingual glossary).
- The management and conservation of the natural resource base, and the orientation of technological and institutional change in such a manner as to ensure the attainment and continued satisfaction of human needs for present and future generations. Such development conserves land, water, plant and animal genetic resources, is environmentally non-degrading, technically appropriate, economically viable and socially acceptable (FAO).

# As a conclusion

- Whatever the laws, MENA women's access to land and financial security remains limited in practice. First, the wife often has very limited or no assets. Then, throughout the marriage, property, including the family home, is usually registered in the husband's name.
- Promoting women's access to land and to other economic assets is an integral part of the promotion of women's human rights in the Arab societies, in conformity with the SDGs, and they deserve all our attention.

# اتحاد لجان العمل الزراعي

## برنامج المنطقة العربية حول الإدارة الرشيدة للأراضي دعماً للتنمية الشاملة والسلام والاستقرار



الصلة بين التنمية الاجتماعية والاقتصادية ووصول المرأة للأرض والتحكم بها واستخدامها

الأول من فبراير 2021

رام الله

# النساء ..الفئة الأكثر تهميشا في مجال حيازة الأراضي

- ▶ تشكل المرأة الريفية 25% من سكان العالم، وهي تؤدي الدور الأهم في تأمين وتحسين سبل العيش الريفية وتعزيز المجتمعات المحلية الريفية
- ▶ وفي الشرق الأوسط وشمال أفريقيا، تشكل النساء حوالي 40 % من العمالة الزراعية و 5 % من ملاك الأراضي
- ▶ في فلسطين تقوم المرأة ب 70 % من العمل الزراعي وتملك 6% من الأراضي
- ▶ تتحمل غالبية عبء العمل غير المدفوع الأجر ب
- ▶ معظم عملها في أعمال غير آمنة وخطرة بأجر ضعيف دون حماية اجتماعية.
- ▶ تواجه تمييزاً منهجياً في إمكانية حصولها على الأراضي والموارد الطبيعية
- ▶ تعترف 115 دولة على الأقل بحقوق ملكية متساوية للنساء مع الرجال .أما في العالم العربي، فقد اعتمدت تونس فقط حقوقاً متساوية في الميراث

# المواثيق الدولية التي تحمي حق النساء في امتلاك الأرض والوصول إليها

يحدد **الإعلان العالمي لحقوق الإنسان** مبدأ عدم التمييز، بما في ذلك على أساس الجنس، حيث يعترف الإعلان بالحقوق في الملكية، والغذاء، والسكن، والتعليم.

► يؤكد **إعلان الحق في التنمية (1986)** على الطبيعة الجمعية للحقوق وحق الشعوب في التنمية والسيادة الكاملة على جميع ثروتها ومواردها

► **إعلان ومنهاج عمل بيجين (المؤتمر العالمي الرابع المعني بالمرأة) (1995)** دعى الى تمكين النساء من الحصول على سكن معقول التكلفة والوصول إلى الأرض، وإلى الشروع في إجراء إصلاحات تشريعية وإدارية لمنح النساء وصول متساوي إلى الموارد الاقتصادية، بما في ذلك الحق في الميراث وملكية الأراضي والموارد الأخرى.

► **الإعلان العالمي للأمم المتحدة حول حقوق الفلاحين والعاملين الزراعيين في المناطق الريفية للعام 2018** مادة 4: تذكر المادة 4 بالدور الرئيسي للمرأة في البيئات الزراعية الريفية ، وتدعو إلى عدم التمييز ضد المرأة ، والتوازن السليم بين الجنسين ، ومشاركة المرأة وانخراطها على جميع المستويات

# تمكين النساء من الوصول الى الأراضي ضرورة مجتمعية

- ▶ اداة لتحقيق رفاه الأفراد والأسر والمجتمعات الريفية بأكملها
- ▶ عامل رئيسي لتحقيق الإنتاجية الاقتصادية الشاملة، باعتبار أن الريفيات تشكلن جزءا كبيرا من قوة العمل الزراعية في جميع أنحاء العالم.
- ▶ ملكية النساء للأرض تجعلهن في وضع أفضل للمشاركة والاشتراك والتفاوض مع عائلاتهن وداخل التجمعات السكانية.
- ▶ ملكية النساء للأرض ترتبط أيضاً بارتفاع مستويات التغذية لجميع أفراد العائلة، للأطفال على الأغلب، وبوجود مستويات أقل من العنف على أساس النوع الاجتماعي.

# وصول النساء الى الأرض يؤدي الى تمكينهن اقتصاديا واجتماعيا

- ▶ يكمن التمكين الاقتصادي للمرأة بدعم ثلاثة مجالات رئيسية، وهي:
- ▶ تعزيز الفرص الاقتصادية (مثل توسيع نطاق العمالة، وريادة الأعمال، وتحسين فرص الحصول على التمويل)
- ▶ دعم وصول النساء الى الخدمات القانونية وإيجاد سياسات تمكنهن من الدفاع عن حقوقهن (مثل تحسين سياسات دعم حقوق النساء في الملكية والميراث والأرض)
- ▶ تعزيز صوت النساء ومشاركتهم في عملية صنع القرار الاقتصادي.

# سياقات الانتهاك في المنطقة العربية

دراسة لاتحاد لجان العمل الزراعي وبرنامج الأمم المتحدة **UN-Habitat** والشبكة الدولية لأدوات الأرض GLTN تتعلق بالأرض والنساء والتنمية الاقتصادية والاجتماعية في المنطقة العربية 2021

- ▶ حددت أكثر من 50 سياقًا لانتهاكات حق المرأة في الوصول إلى الأرض : أنشطة المستثمرين الوطنيين / الدوليين ، وخطط الضم ، والنزاع المسلح ، التغيير المناخي ، والاستعمار ، والزواج ، والفساد السياسي ... الخ.
- ▶ العواقب هذه السياقات متعددة ومنها : الإجبار على العمل، وزواج الأطفال ، تصبح النساء أكثر عرضة للإصابة بالأمراض وسوء التغذية، أو الوفاة من أسباب يمكن الوقاية منها، الحرمان بوجه خاص في ما يتعلق بالحصول على الرعاية الصحية، الحرمان من سبل العيش ، العنف الأسري ز الخ
- ▶ النساء في خطر اكبر : هناك فئات من النساء المعرضات بشكل خاص لسلب الملكية مثل النساء (الأقليات الفقيرات و الارامل التي لا يُسمح لها بالبقاء في أرض / منزل الزوجية ؛ المطلقة)،

# التحديات المجتمعية :

- ▶ تؤثر المؤسسات الاجتماعية، كالعائلة ، والتقاليد سلباً على ملكية النساء للأراضي والسيطرة عليها والوصول إليها ، لأنها تروج للتمييز ضد النساء في مجالات الميراث، والنفقة، وفرص العمل
- ▶ -ترتبط العادات ارتباطاً وثيقاً بالتمييز القانوني، حيث أن كليهما يدفعان النساء إلى التخلي عن نصيبهن من الميراث للذكور من أفراد العائلات

# مواجهة المعايير الثقافية التي تقمع النساء اقتصادياً وتنموياً وحقوقيًا

▶ القيم والمعايير الثقافية إلى جانب المؤسسات الاجتماعية الأبوية (مثل مؤسسات الأسرة والزواج - فضلاً عن المعتقدات والتعاليم الدينية) بمثابة قوى دافعة لعجلة القمع السياسي والقانوني والاقتصادي بحق النساء.

▶ هناك عقبات متجذرة في النسيج الاجتماعي والثقافي أهما تتمثل في المفاهيم التالية :

- النساء يعتمدن على الرجال وأن الرجال ملزمون بتوفير احتياجاتهن

- -وان النساء يضحين بحقوقهن مخافة خسارتهم دعم العائلة وكنفها؛ ونتيجة للضغط العائلي والمجتمعي"

- وجوب سيطرة الرجال على القرارات المالية داخل الأسرة.

- المفهوم الشائع بأن " الأنسب للنساء أن يكن ربوات بيوت ولسن بحاجة إلى توليد دخل أو امتلاك أصول"

- فكرة أن "النساء تأخذ أصول الأسرة خارج العائلة عندما تتزوج" تشكل عقبة هامة

- القانون القائم على الشريعة الإسلامية يعتبر أيضا عقبة هامة.

# نضال من اجل الحق في الوصول الى الأرض

- ▶ نسبة صغيرة منهم يدخلن في نزاعات على الأرض وتبقى الغالبية العظمى من هذه النزاعات ضمن نطاق العائلة وتنتهي عادة بإجبار النساء على القبول بواقع الحرمان
- ▶ ومع تعقيد الإجراءات القضائية والرسوم المرتفعة المترتبة على المتابعة القانونية تلجا كثير من النساء الى نظام العدالة غير الرسمي (العشائري)، بعد أن استنفاد المساعي مع ذكور من أفراد العائلة
- ▶ معظم النساء اللاتي سلكت النظام العشائري واجهن نتائج وتداعيات سلبية، حيث كان كبار الشخصيات ينحازون إلى الذكور من أفراد
- ▶ ارتفاع او تزايد العنف الناجم عن النزاعات على الأراضي (في بعض الأحيان تصل الى القتل)

# اقصاء النساء وسكان الريف من المشاركة في عمليات التخطيط:

▶ مركزية أنظمة التخطيط نادرا ما تنظر في إمكانية وصول النساء الى الأرض

▶ انخفاض مستوى اشراك النساء الريفيات في عملية صنع القرار حيث يتم وضع أولويات التدخل وفقا لمصالح مجموعات المتنفذين والنخبة المالية والسياسية

▶ انخفاض تمثيل المرأة في التعاونيات الزراعية، ومنظمات المزارعين والمنتجين، ومنظمات إدارة الأراضي و  
منظمات العمال الريفيين، التي يمكن لعملها المنظم التأثير في سياسات حيازة الأراضي

# تمكين النساء في أمن حيازة الأراضي على مستوى التشريعات

- ▶ **مراجعة التشريعات بشكل تكاملي** وإيجاد التعديلات المطلوبة على القوانين الأخرى ذات الصلة **كالقوانين المدنية، والأحوال الشخصية، وقانون العائلة والزواج، وقانون الأملاك، وقانون الإسكان و/أو الأرض**
- ▶ **التحقق من تمتع النساء بمعلومات وافية ودقيقة لعمليات صنع القرار** حول الأرض والزراعة، ومن مقدرتهن على الاستفادة من عمليات البناء المؤسسي في هذا المجا
- ▶ **اتاحة المجال لمشاركة كاملة للنساء، في عمليات صياغة القوانين، والسياسات، والبرامج، والتحقق من أن حقوق النساء على المستوى الجمعي/الكلي مطروحة بفعالية في مختلف هياكل صنع القرار فيما يتعلق بالأرض والزراعة**
- ▶ **تسهيل أو تأجيل دفع رسوم المحاكم** في قضايا الميراث بهدف تسهيل مطالبة النساء بحقوقهن في الميراث.

# تمكين النساء في أمن حيازة الأراضي على مستوى بناء القدرات

- ▶ العمل مع النساء والرجال والسياسيون وموظفو الحكومة لتعزيز الإلمام بالبعد الجندي لملكية الأرض
- ▶ التحقق من أن ممارسات وعمليات إعداد سندات الملكية والتسجيل معززة ومصحوبة بمبادرات لتثقيف النساء والرجال حول حقوق النساء في الوصول إلى الأرض.
- ▶ إنشاء/ تقوية وحدات دعم متخصصة للعمل مع النساء على تقديم الدعم القانوني، والاجتماعي، والشخصي في حالات الخلاف على الأرض والموارد الإنتاجية.
- ▶ التوعية والتثقيف القانوني/ محو الأمية القانونية و التحقق من استفادة جميع النساء من حملات التثقيف القانوني /
- ▶ تقديم برامج تدريبية للسلطات الدينية والاعتبارية والقضائية في مجال حقوق النساء
- ▶ زيادة الوعي بسلبيات الممارسات الشائعة بشأن الحفاظ على الميراث وتثقيف النساء والرجال بالآثار السلبية المترتبة على هذه الممارسات.

# تمكين النساء في أمن حيازة الأراضي على مستوى التدخلات الزراعية

- ▶ تمكين النساء من الوصول إلى المدخلات الزراعية، بما في ذلك البذور، والأدوات، والمعدات / الموارد اللازمة للزراعة.
- ▶ تطوير برامج من شأنها أن تعزز التمكين الاقتصادي للنساء، وفرص عمل، وأنشطة مدرة للدخل، وادخارات مالية بالإضافة إلى الوصول لخدمات الإرشاد الزراعي والإقراض
- ▶ دعم العمل التعاوني والتعاونيات الزراعية النسوية والشبابية وتعزيز فكرة تملك أو تضمين أراضي الدول للفلاحين والمجموعات الفلاحية فاقدة الأراضي

# تمكين النساء في أمن حيازة الأراضي على مستوى التدخلات الزراعية

- ▶ تسهيل شروط التمويل الزراعي لرفع إمكانات الوصول
- ▶ بناء المهارات الاقتصادية والتجارية اللازمة لإدارة الأراضي وغيرها من الموارد الإنتاجية للنساء
- ▶ توجيه المشاريع التنموية الزراعية لفائدة صغار المنتجين والاسر الزراعية التي تشكل الجزء الأكبر من المجتمع الريفي مثل شق الطرق الزراعية ، و خطوط الإنتاج والتغليف الجماعية و مشاريع التخزين والتبريد
- ▶ حماية المنتجات من احتكار الشركات الكبرى للموارد الطبيعية وعدم الدفع باتجاه تحويل الزراعات الى عاملات زراعيات لدى راس المال
- ▶ تعزيز برامج للتصدي للمخاطر التي تهدد المرأة الريفية نتيجة تغير المناخ، والكوارث الطبيعية، وتدهور الأراضي والتربة، وتلوث المياه والجفاف والفيضانات والتصحر، ومبيدات الآفات والمواد الكيميائية الزراعية، والصناعات الاستخراجية، والزراعة الأحادية المحصول، والقرصنة البيولوجية، وفقدان التنوع البيولوجي.. الخ

شكرا لحسن استماعكم

# The Exclusion of Women from Property in Jordan: Inheritance Rights and Practices

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## Abstract

Only one fourth of Jordanian women entitled to property inheritance receive it fully. The main reason is that land and property are not formally registered. But this is also due to several strategies to exclude women from inheritance. Social pressure is translated into the “exclusion” (*takharruj*) of inheritance rights. This is linked to social norms in favour of male property.

## Keywords

inheritance – Shari’a – land registration – women’s economic rights

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*Without Shari’a law not a single woman would inherit in Jordan!*

JUDGE OF SHARI’A SUPREME COURT, *November 2015*

*Amman (interview with the author)*

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## Introduction

Property ownership is a male domain in Jordan, where women are dependent on men for housing. Although the inheritance rights of women are defended in the constitution based on Shari’a and in customary law, female heirs continue to face pressure from society to renounce their rights to inheritance of land or

apartment in favour of the male heir. A 2010 survey on inheritance practices in Irbid governorate<sup>1</sup> by the Jordanian National Forum for Women<sup>2</sup> revealed that only one quarter of female heirs obtained their full rights, due to several strategies adopted by male relatives to deprive them. In 2014, according to the Jordanian Shari'a court, a third of heirs fully renounced their inheritance rights through the process of *takharruj* (exclusion of their rights). Although the gender of those who requested *takharruj* has not been officially specified, the majority were women, a situation which will be specified below.

This has come about from a society in which there exists a latent belief among women that they should not inherit in order not to harm the status of their brothers. Such a strong social construct has led women to internalize and condone the gender hierarchy of society in which men are privileged over women in matters of inheritance. As a result, according to a DOS ICF study, only 6.8 percent of married women owned their houses and 7 percent owned land in 2012 (DOS ICF 2013, 350 table 13.5). The situation is similar in most Arab countries; the Jordan case study presents no notable exception apart from the fact that Christians have decided to also apply the Shari'a law to inheritance (Jansen 1993).

Another major element to take into consideration: the fact that nearly 60 percent of the housing stock is not registered in Jordan. Out of 1,056,889 new housing units produced between 2004 and 2015, only 432,921 were licensed.<sup>3</sup> This explains the difficulties faced by women in inheriting apartments.

Women's rights activists succeeded in amending the Jordanian Personal Status Law n° 36 of 2010 by working with the Shari'a Supreme Court (*Qadi al-Quda*), the highest religious and legal institution in Jordan. As a result, in 2011, seven amendments to this law were made and Articles 318 and 319 on property and exclusion were introduced. Of the amendments introduced, the most important proposed a mandatory period of three months after the death of the owner before either exclusion or power of attorney (*waqāla*) can be invoked.

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1 The Irbid governorate is located in northern Jordan and has approximately 1.1 million inhabitants.

2 The Jordanian National Forum for Women (JNFW) is a non-governmental organization established in 1995 that seeks to advance and progress the position of women in society throughout Jordan. This is achieved through programs intended to raise awareness of the issues faced by women in Jordan, training and capacity building programmes, offering assistance, and establishing projects that encourage the adoption of principles of equality and equal opportunities in Jordanian society. Furthermore, the organisation strives to find methods of increasing women's participation in decision-making practices and of empowering them in order that they might engage more in public life.

3 DOS Construction Statistics (Ababsa Unpublished data a).

This has resulted in judges asking for better education for women so they are able to defend their rights.

The main argument of this article is that the gender inequality embedded in the inheritance system creates a glass ceiling that hinders the economic and social progress of women in Jordan. With a third of the population being poor,<sup>4</sup> but 62.6 percent of heads of household owning their apartment (DOS 2016, table 2.2), inheritance is a strategic issue. As it deals with capital transmission, it is of major importance for women's empowerment. In this regard, fieldwork was conducted in two popular areas located in East Amman (Wadi Abdoun and Jabal Nuzha) in September and October 2015, including interviews with judges of the Shari'a Supreme Court and interviews with lawyers of women's rights organisations. Original calculations were requested from engineers working in the Department of Land and Survey in October and November of the same year.<sup>5</sup>

The first section of this article focuses on the evolution of the legal framework that governs inheritance and land property in Jordan. The second section examines the pressures exerted on women to waive their inheritance rights. The third section analyses the advocacy work conducted by women's rights organisations within the framework of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

### Women's Islamic Rights to Inheritance

In Jordan, men's and women's rights to inheritance are guaranteed by civil law (*qānūn madanī*) and the personal affairs law (*qānūn al-akhwāl al-sha'sī*), which applies Islamic law. This has been the case since the establishment of

4 According to Jordan Poverty Reduction Strategy (United Nations Development Programme 2013), 36.9 percent of households are considered to be in poverty or floating just above the poverty line and 14.4 percent of the population of Jordan is under the poverty line (67,8 JD of income per month per person).

5 This study was partly published in June 2016 in a World Bank publication commissioned by Dr. Edouard Al Dahdah (Ababsa 2016). The present version includes detailed case studies. The author would like to thank the numerous people who have enabled this research project to be carried out and who have agreed to answer its questions: Dr. Rauf Abujaber; engineer Husam Madanat of the Department of Land and Survey; engineer Atef Shatnawi from DLS (Department of Land and Survey); Mrs. Abeer Dababneh, director of the Center for Women's Studies at the University of Jordan and Mrs. Amal Haddadin, lawyer at the Jordanian National Commission for Women; Mrs. Eva Abu Halaweh, director of Mizan and Dr. Ashraf Al Omari, judge at the Shari'a Supreme Court. The English editing was done by Alexander Peter.

the *Majelle*, the Ottoman Law Code within which there are laws concerning the family. According to this law adapted from the Shari'a, women shall receive half of their brother's share but more if they are inheriting from their husband: a quarter if she had no children and a eighth if she had children. In Jordanian law, this was decided upon by The Jordanian Civil Law (Article 1086) and is stated in the last amendment of the Provisional Jordanian Personal Status Law n° 36 of 2010. Non-Muslims are not permitted to inherit from Muslims, providing a reason for non-Muslims to convert to Islam.

Prior to the 1970s, it was only through inheritance and dowry that the vast majority of Jordanian women could acquire their own assets. In the 1970s, with the oil boom, the job market opened for women in the public sector. Some had the possibility of obtaining financial capital independently. This was especially the case for Christian women who were more engaged in professional activity—a third of employed women were Christian in 1969 (Jansen 1993).

### *Legal Procedures and Family Negotiations*

The procedure of inheritance itself is conducted by men and, at best, women are consulted. In most cases after the death of the father, heirs gather together in order to decide how the property should be divided before proceeding to the court. Instead of dividing the plot of land according to Shari'a, certain heirs decide to exchange, sell, or even renounce their rights. Women rarely attend these family negotiations. If the land is used for farming, no division occurs and the *mush'a* system (collective property and right of use by shares) is applied in which earnings from the land are divided between the brothers (Mundy 1996). In such a scenario, no legal transaction occurs. This is very common and has caused women to be deprived of their share of inheritances over decades, as we will see in the next section.

Once the decision has been agreed upon, the family has two options. Either the family can choose to have the decision validated in the civil court, which is a long process potentially lasting from six months to a year and costing thousands of Jordanian dinars (it is calculated as a percentage of the estimated value of the land). The other option, which is much more common, is to go to the Shari'a court and register the familial decision (*al-tasjil al-itifāqīa*), including the various exclusions (*takharruj*) and powers of attorney (*waqalāt*). In most cases, a single male heir will buy the shares of his sisters, in the best cases, with proper compensations (*badal*).

Most family houses are not registered per se; registration is only on the plot of land on which they stand. As a consequence, when the grandfather or the father dies, the heirs gather to decide how to use the house and how to allocate rooms to soon-to-be married children, the mother, or widows of the family.

This is done through a familial agreement. No official division takes place. This is especially common for properties located outside municipal zoned and serviced land boundaries. This absence of division does not occur for properties located within municipal boundaries where land prices rose significantly over the past fifteen years. In cities, most houses and apartments are sold and the shares of each heir are defined by the Shari'a. Women are entitled to specific shares in these cases. But most of the time, negotiations occurs within the family in order to find the best way to give better opportunities to sons by taking part of the daughters' shares without depriving them too much.<sup>6</sup>

These familial divisions are of crucial importance, as only 41 percent of the housing units built between 2004 and 2015 were built formally with a building permit: on 1,056,889 new housing units, only 432,921 were licensed.<sup>7</sup> In informal settlements in East Amman, the question of transmission and inheritance is crucial, and justifies several technics to register the apartment in order to transmit them to the children (Ababsa, Dupret, and Denis 2012).

#### *Customary Law Over Rural and Pastoral Land (mīrī) until 1991 (Qānūn al-Intiqāl n° 4)*

From the time of the Ottoman Empire until 1991, two systems of legal rules governed property ownership: Shari'a for private land (*mafrūz*) and customary law (*'urf*) for rural and pastoral land (*mīrī*). In the latter case, farmers and shepherds had right of use (*tasarruf*) but the property belonged to the state (*mīrī*). Customs intervened for *mīrī* land and, as a consequence, *tasarruf* rights were inherited equally between men and women.

Over the course of the 1989–91 democratic opening in Jordan, a set of new laws were adopted in response to the more conservative demands of the Muslim Brothers (Wiktorowicz 2001). Among these, a major reform concerning the inheritance procedure was introduced, according to which state land (*mīrī*) would not be inherited equally between men and women as it had been in previous centuries.<sup>8</sup> Advocates of women's rights said that they had not noticed this clause among the several reforms that had been passed. Consequently, since that date, all agricultural and pastoral land has become dependent on the same Shari'a divisions as private land (*mulk*). This led to the reduction of women's shares in land in tribal areas. The increase in land

6 Interview with H. B., lawyer, Legal Affairs, Department of Land and Surveys, November 5, 2015.

7 Calculation by M. Ababsa from JPHC 2004, 2015 and Construction Statistics (Ababsa Unpublished data b).

8 *Qānūn al-Intiqāl* n° 4 1991 (Ababsa 2016).

TABLE 1 *Inheritance of mulk and mīrī land in Jordan before and after 1991*

| In Jordan                                 | Before 1991   | After 1991<br>( <i>Qānūn al-Intiqāl</i> n° 4)  |
|---|---|--|
| Agricultural land<br>( <i>‘ard mīrī</i> ) | Rights of use ( <i>tasarruf</i> ) are granted equally to men and women<br>= Customary law ( <i>‘urf</i> ) | Shari’a law is applied to this land and women start to inherit half of their brother’s share |
| Private property<br>( <i>‘ard mulk</i> )  | Shari’a inheritance division rules are applied  | Shari’a inheritance division rules are applied   |

SOURCE: AUTHOR’S CONCEPTION.

value of former pastoral land, which became urbanized especially in areas east of Amman and east of Zarqa, can explain this major historical change in the inheritance of state land (Madanat 2010). Hence, the share of the inheritance is dependent upon the date of the death of the deceased. If the deceased person passed away prior to March 16, 1991, women were supposed to have received the same shares as their brothers and if a person passes away after this date, then women only receive half a share.<sup>9</sup>

In December 2015, registered mīrī land represented a quarter of the plots (737,797 plots on a total of 3,084,003) but only 10 percent of the land was owned by citizens (1.1 million donums), the rest belong to the State (Ababsa 2016).

### *In Jordan, the Shari’a is Applied to Muslims and Christians for Matters of Inheritance*

In Jordan, Shari’a procedures are applied to inheritance for both Muslims and Christians. Although Christians represent less than 3 percent of the 9.5 million inhabitants currently residing in Jordan,<sup>10</sup> they have played a major role in Jordan’s nation building. The Christian minority purchased large tracts of land,

9 Head of the DLS (Department of Land and Survey), Legal Affairs, interview with the author, November 5, 2015.

10 The total population of Jordan could be as high at 9.5 million persons according to preliminary results of the National Housing and Population Census 2015 which includes 1.5 million Syrian refugees (635,000 being registered by UNHCR, The United Nations High Commissioner for Refugees). According to Bishop Maroun Lahham, Latin Patriarchal Vicar of Jordan, the number of Christians in Jordan is estimated to be around 250,000

especially south of Amman (in particular, the Aubjaber, Qawar, and Besharat families) in the 1850s (Abujaber 1989).

In Jordan, the patriarchal hierarchy can be considered as much a marker of the Christian communities as it is of the Muslim communities. For both communities, wealth should be kept within the male line of the family and women should not disseminate it upon marrying. Land is valuable to both Christians and Muslims, and similar strategies developed to keep control of the land within the male line of the family. This is increasingly more important within an environment in which land fragmentation is increasingly widespread. As a consequence, Christian communities adhere willingly to Islamic laws for matters of inheritance.<sup>11</sup> As a judge of the Shari'a Supreme Court remarked, culturally "there is no difference between Christian and Muslim tribes and families in Jordan!" In fact, Shari'a does protect the rights of Christian girls giving them a share of inheritance:<sup>12</sup> "Without Shari'a law, not a single woman would inherit in Jordan!"<sup>13</sup> As anthropological works by Jansen (1993) and Chatelard (2004) have shown, a frequent practice among Muslims and Christians alike is to deprive girls of the half share of the inheritance accorded to them under Shari'a.

Christians apply Shari'a law to matters of inheritance, as there is no clause within the canon laws of the eleven Christian churches of Jordan concerning the distribution of shares. Over the course of the 1989–91 democratic opening in Jordan, a set of new laws was adopted. Among these laws, the inheritance law (Shifting of Immovable Property Law—*Qānūn al-Intiqāl* n° 4, 1991) was enacted according to which Shari'a should be applied to both Muslims and non-Muslims in Jordan. No one contested it as it served both Muslim and Christian male interests over land and property. When Christian officials

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(Lahham 2015, 149). Reference given by Marc Dugas, PhD student at EPHE (Ecole Pratique des Hautes Etudes), Paris, Ifpo (Institut Français du Proche-Orient)).

11 "In 1922, British Mandate authorities introduced a provision on inheritance rights for Christians. Inspired by Western civil law, it stipulated that girls and boys should inherit equal shares. The 1951 family law of independent Jordan abolished this text and referred each church to its own canon. However, no church canon provided clauses concerning the distribution of shares of an inheritance, stipulating rather that the civil law of the country should apply." (Chatelard 2004; translated into English by Ababsa).

12 Géraldine Chatelard, social anthropologist, in email correspondance with the author, December 1, 2015.

13 Dr. A. A. O., Judge at the Shari'a Supreme Court, interview with the author, November 4, 2015.

and major leaders meet (such as Atef Qawar, Abujaber), they do not discuss the issue of inheritance<sup>14</sup> nor has it ever been presented before parliament.

### Strategies to Deprive Women From Inheritance

Several methods are used to deprive women from their inheritance rights. The main one is social pressure exerted on women to renounce their rights (*takharruj*). The second method is to transfer real estate to male family members before the death of the owner. The third way is to delay inheritance divisions, without any proper registration, even to the point of delaying them over a period of decades. The latter is often the case for agricultural land and family buildings. In most cases, male heirs give symbolic gifts to women (*badal* or *takrim*) that are not equivalent to the value of the shares to which they are entitled. In general, women are knowingly kept ignorant about the real value of the land or the building in question.

#### *Assessment of Women's Property in Jordan*

Jordan Population and Family Health Survey 2012 was the first to include a section on women ownership of assets. Conducted on the basis of a representative sample of 15,190 households and 11,352 ever-married women aged 15–49, it gave for the first time a clear picture of property held by women in Jordan. According to the results, in 2012, only 6.8 percent of married women owned their house (3.2 percent alone and 3.5 percent jointly with men) and only 7 percent owned land (3.3 percent owned it alone and 3.5 percent jointly with men) (DOS ICF 2013, table 13.5). Rural women owned a larger portion of the land as compared with urban women (9.3 percent versus 6.4 percent). Women who reside in the north of the country where agricultural land is considered better as well as in the south where the tribal community is larger tend to own more land than those who live in the central region where, over the years, agricultural land has become increasingly urbanized (e.g., near Amman, Russeifa, and Zarqa). However, rural women were less apt to own their house as they live most of the time in their husband's family's building: 4.6 percent of rural women own their house (2 percent own it alone and 2.6 percent jointly) compared to 7.2 percent of urban women (3.5 percent alone and 3 percent jointly). However, women who live in Jordan's Central region near the capital are more likely to own and co-own their house than in the other regions (7.4 percent versus 6 percent in the north and 4 percent in the south) as seen in figure 1 below.

<sup>14</sup> Interview with Mrs. Amal Haddadin, lawyer at the Jordanian National Commission for Women and main author of the CEDAW country report on Jordan, November 1, 2015.

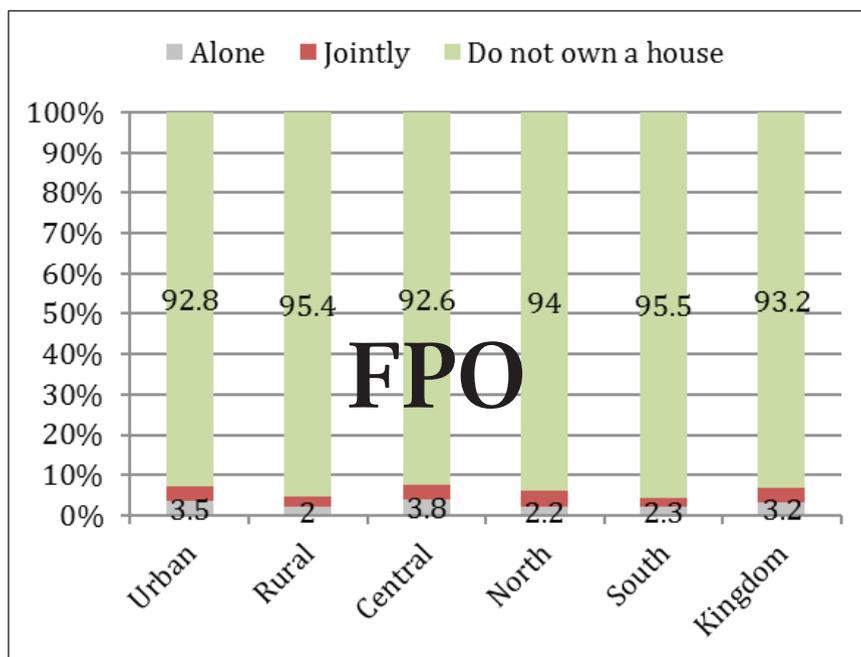


FIGURE 1 Percentage of ever-married women who own a house by region, both rural and urban, in Jordan (2012)

SOURCE: DATA FROM DOS ICF (2013), TABLE 13.5. FIGURE CREATED BY THE AUTHOR.

Women with higher educations are three times more likely to own land (9.3 percent—4.9 percent alone, 4.1 percent jointly, 0.3 percent alone and jointly) and a house (10.7 percent—4.7 percent alone and 5.9 percent jointly) than women with no education. In the highest wealth quintile, women are five times more apt to own land and a building than in the lowest quintile: 13.5 percent of women own land (7.3 percent alone and 6 percent jointly) and 15.3 percent own a house (7.4 percent alone and 7.9 percent jointly) versus 3.1 percent who own land and 2.7 percent who own a house as per the lowest quintile (JPFHS 2012, table 13.5).

It is important to note that housing units recorded by the census of housing and population are more than double the housing units recorded by the DLS (897,401 against 375,557 in 2014). This is due to the fact that the majority of houses and buildings located on plots of lands have not been divided into separate registered units mainly because the practice is not to divide belongings at the death of the owner. As a result, only 42 percent (i.e., 375,557) of the apartments are registered with the cadastre as single units. The rest are

included in family buildings and are not registered alone. It is even more difficult for women to inherit unregistered apartments.

Co-owning property is a solution towards protecting women's rights to housing, as they would keep half of the apartment upon the death of their husband. In most cases, this shared property means the recognition of a woman's contribution to the cost of the purchase, mainly through loans. Nonetheless, it is very reduced, to a level of 5.3 percent of registered apartments.

### *Donations to Male Heirs Prior to Death*

Donations to sons while the owner is still alive are very common. This is specifically the case when parents only have daughters, as a way to avoid the inheritance going to their brothers or relatives. According to the DLS database, more than a third (37 percent) of the land transactions in 2014 were conducted between close relatives (*usūl wa-fughūr*) (i.e., between parents and children, between siblings, between husband and wife). Over the years, the trend is that more and more sales are made within the family: from a quarter of the sales in 2005 to more than a third in 2014 (table 2). The share of sales between co-owners (*mushtarak*) is also rising. Unfortunately, the DLS does not provide indications regarding the gender of the buyer. Rather, this is an indication of the widespread culture of selling land prior to death.

TABLE 2 *The evolution of land sale patterns (within members of the family or outsiders as co-owners) from 2005 to 2014 in Jordan*

|  | 2005   |        | 2014    |        |
|--|--------|--------|---------|--------|
| Land sale between co-owners ( <i>mushtarak</i> ) | 2,641  | 2.8 %  | 6,187   | 5.9 %  |
| Land sale to relatives ( <i>usūl wa-fughūr</i> ) | 21,858 | 23.3 % | 38,926  | 37.1 % |
| Normal land sale                                 | 69,321 | 73.9 % | 59,636  | 56.9 % |
| Total sales                                      | 93,820 | 100 %  | 104,749 | 100 %  |

SOURCE: DEPARTMENT OF LAND AND SURVEY DATABASE PREPARED BY THE IT TEAM UPON REQUEST, NOVEMBER 2015. CALCULATION BY THE AUTHOR.

The justification commonly asserted is that it will keep the family property within the sphere of male heirs, thereby preventing it from falling into the hands of the husbands of the female relatives. Many fathers transfer their properties to their sons while still alive either by donating the property or selling it to them. Although Islamic jurisprudence forbids the transfer of more than a third of one's possessions prior to the death of the owner, there are few who adhere to these laws (COHRE 2006). Indeed, the majority give all of their possessions and property to their sons, or their brothers if the father only has daughters. This is the case both for Muslim and Christian Jordanians: "It is local custom for Christian propertied patriarchs to give their main asset, land, to their sons as premortem inheritance, thus effectively disinheriting their daughters" (Jansen 1993, 161).

In the case of selling possessions between family members, a registration tax of 1 percent is imposed by the Department of Land and Survey. Donations present the risk that potential heirs will call into question, at a later date, the legality of the donation. Hence, it is always suggested that possessions be sold to family members and not donated. As the Department of Land and Survey is only an implementing agency (*dā'irat tanfīthī*), it is unable to intervene with respect to the decisions made even if the decisions infringe upon the law.<sup>15</sup> By contrast, 15.7 percent of registered apartments were sold between family members in 2014 which represents a percentage in evolution as compared to the 11.7 percent for 2005, but which is still low when compared to land transactions (table 3). This is due to the fact that registered apartments are built for profit and their sale is a source of income. It is very likely that part of these apartments were "sold" to wives and children in order to protect them from any fiscal confiscation in case of bankruptcy.

### *The Absence of Estate Division or Its Long Delay*

Another technique employed to deprive women of their shares in the inheritance is to prolong the time it takes to divide the land of the deceased person. This permits the male relatives to organize ways to coerce the women into rejecting their share of the inheritance providing meagre compensations in its place which do not equal the value of the women's share in the property (Abu Sneh 2014).

In 2010, the Jordanian National Forum for Women (JNFW) conducted a survey on the inheritance practices of women in the Irbid governorate. Entitled '*ayn 'ala huqūq (An Eye on Rights)*', it was created within the framework of the

15 Interview with H. B., lawyer, Legal Affairs, Department of Land and Surveys, November 5, 2015.

TABLE 3 *The evolution of apartment sale patterns (within members of the family co-owners or outsiders) from 2005 to 2014 in Jordan*

|   | 2005  |       | 2014  |        |
|---|-------|-------|-------|--------|
| Apartment sale between co-owners ( <i>mushtarak</i> ) | 42    | 0.2%  | 169   | 0.4 %  |
| Apartment sale to relatives ( <i>usūl fughūl</i> )    | 2165  | 11.7% | 6003  | 15.7 % |
| Normal apartment sale                                 | 16309 | 88.1% | 32146 | 83.9 % |
| Total sales   | 18516 | 100%  | 38318 | 100 %  |

SOURCE: DEPARTMENT OF LAND AND SURVEY DATABASE PREPARED BY THE IT TEAM UPON REQUEST NOVEMBER 2015. CALCULATION BY THE AUTHOR.

Equal Opportunities Support Program for Women and Girls.<sup>16</sup> The panel size consisted of women aged between 25 and 50 years old and from 1,372 families distributed in various departments of the Irbid governorate.<sup>17</sup>

The JNFW survey showed that the principle method employed to deprive women of their rights is forestalling the division of inheritance between the heirs. This is considered a public issue as the division of inheritance can be delayed for several years, which greatly affects women's inheritance rights and consequently their ability to enjoy any inheritance that they might receive. The study revealed that 34 percent of women residing in the Irbid governorate did not receive their legal rights of inheritance (as compared to 32.5 percent in Ramtha and 60.5 percent in Taybeh)<sup>18</sup> because of the absence of division.

16 The survey was funded by the United Nations Population Fund (UNFPA) Oxfam Quebec and received technical assistance from the Jordanian Hashemite Fund for Human Development (JOHUD).

17 During our visit to the Jordanian National Forum for Women, only a two-page leaflet was given to us. The following statistics and analysis are translated by me from an article published in Arabic in the government newspaper *Al Dustour* on September 26, 2010 (Al Saheh 2010).

18 Ramtha (32.1 percent), Bani 'Ubayd (34 percent), Al Kura (38.3 percent), Al Mazar Al-Shamali (38.6 percent), Bani Kinana (39 percent), and At Tayba (60.5 percent). It is to be noted that At Tayba district has the highest score concerning women's knowledge of their inheritance right (98 percent) while, at the same time, it has the highest percentage among other districts with respect to women who have not received their inheritance

Indeed, there is an inverse relationship between the time taken to distribute the inheritance and the woman receiving her rightful part irrespective of the woman's knowledge about her rights. The longer the division of inheritance is delayed, the more likely the woman is to be deprived of her rights (Al Saheh 2010).

Another major point must be taken into consideration: the importance of informal housing and the absence of title deeds.

### *Women's Exclusion from Property (takharruj)*

In Jordan, land is traditionally a male domain and women did not easily inherit before the 1990s. Pressure is exerted on women to waive their rights to properties in favour of their brothers. The patriarchal nature of Jordanian society has had an adverse effect on women's inheritance rights, pushing women to renounce their inheritance in favour of their brothers or to be *shaykha* and not utter a word. Women who refuse to waive their inheritance rights are threatened with abandonment, ostracism, and, in the most extreme cases, are faced with verbal abuse and physical violence. This is true for inheritance but also for all sales of land or buildings, as a sale cannot be done without the signature of all co-owners, including women. This is why pressure is often exerted on women either to give up power of attorney or to renounce their shares in the property. According to lawyers, most of so-called honour crimes are related to property.<sup>19</sup>

According to the Jordanian National Forum for Women 2010 Survey on inheritance in Irbid, 20 percent of women renounced their inheritance rights: 15 percent did so willingly and 5 percent under constraint (Al Saheh 2010). In 2014, according to the Jordanian Shari'a court, a third of heirs fully renounced their inheritance rights through the process of takharruj (exclusion of their rights) or 4,713 cases out of 17,264 inheritance cases (Shari'a Supreme Court 2014, 167). Although the gender of those who requested takharruj has not been officially specified, the great majority were women.

But with the advances in education and improved awareness of women's rights, this is becoming increasingly less common. An example of this is the case of the well-established Christian family, Al Haddadin, from whom came the Chief of the Appeal Court in Jordan. When Issa Haddadin, a Christian

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right in the inheritance division (60.5 percent). This demonstrates that the link or correlation between a woman's knowledge of her inheritance right and receiving her right is not always strong (Al Saheh 2010).

19 Eva Abu Halaweh, lawyer, Director of Mizan for Legal Rights, interview with the author, November 1, 2015.

landlord owning estates in Ma'in near Madaba passed away in 1937, he deprived his daughters of their share of inheritance. He had one handicapped son and three girls from a first marriage and one son and one daughter from a second marriage. Rahma, one of his first three daughters, married Khalil Al Haddadin. When he died in 1994, their seven sons and four daughters legally received their full shares of the inheritance. Each woman received approximately 85 donums.<sup>20</sup>

As a consequence of their lack of economic independence, Jordanian divorced or widowed women are in dire straits if they have no family support or if they have been ostracised while protesting during the inheritance process. In 2012, half of the divorced women had to work. Two thirds of the widows had no other solution than to work (66.6 percent whereas only one third of widowed men were working—33.4 percent). In households headed by divorced or widowed women, 85.7 percent are poor, whereas only 0.6 percent of poor households are headed by divorced or widowed men (DOS KVINFO 2012, 53).

### *Social Pressure and Embarrassment*

“They do not want girls to inherit” (*biybush al-banât biyqsamu*). An educated woman from Al Hisa, a small city in the Tafilah governorate, was ostracized by her six brothers when she decided to convince her five sisters to defend their inheritance rights after the death of their father in 2014.<sup>21</sup> The elder son wanted to sell the house where the mother was living, despite the fact that his father had built a house for each of his sons. Intimidated, the mother did not explain to her sons that she would prefer to stay in her house instead of living with one of her stepdaughters. In response to the actions of her daughter, the mother called her to thank her and to confirm the mother’s support for her.

#### BOX 1 *Relevant inheritance case studies*

| Social class | Case studies   |
|--------------|--|
| Upper class  | The famous historian Dr. Rauf Abujaber, one of the major landowners south of Amman (Yadudeh) coming from an important Christian family, recalls how women did not inherit in his family. In 1921, his mother received only |

<sup>20</sup> Interview with Mrs. Amal Haddadin, lawyer on the Jordanian National Commission for Women and main author of CEDAW country report on Jordan, November 1, 2015.

<sup>21</sup> Interview with anonymous source at the Jordan National Forum for Women, November 1, 2015.

Middle  
class

500 Ottoman gold coins when his father passed away. In 1924, his father's sister received 1,000 gold coins, but no land, whereas her brothers received 3,000 donums each. This amount of money was enough to buy ten large houses at this time. In the 1980s, he managed to convince his brothers to give 75 donums of land to their sister. Now, a donum costs more than 100,000 Jordanian dinars (142,650 US dollars). He has decided to give land to his daughter and his two sons (20 donums each). Those lands have a high value (more than 3 million Jordanian dinars each). He insisted on reaching an equitable arrangement for his daughter (interview, December 2015). A grandfather from Deir Smadi (Ajlun governorate) gave his 300 donums to his seven sons in 2011 after his five daughters renounced their shares. Aware of the monetary value of the land (between 5,000 to 10,000 Jordanian dinars), the women had forfeited thousands of Jordanian dinars (interview, October 28, 2015).

In a Christian family related to Al Madanat, a father had three sons and one daughter. The brothers gave 100 Jordanian dinars to their sister, along with a dress, to thank her for relinquishing her inheritance rights (interview October 1, 2015).

A grandfather from the Barizat family who lives in Al Satih village near Madaba had four sons and twenty-three daughters from two wives. He decided to donate his land equally between his sons in 2005. The 300 donums of land were sold for more than one million Jordanian dinars. The four brothers each gave 2,000 Jordanian dinars to their sister as *takrim*.

On his death in 2002, the elderly Abu Halaweh left behind two houses in the city of Irbid and one shop. The elder son inherited the first 800 m<sup>2</sup> house and the shop while the second son received the second floor of his second house, which was 600 m<sup>2</sup> and built on one donum of land. The first floor of this house was given to all the children as shared property (*musharaka*). In 2009, as one daughter was facing financial difficulties, the second son decided to buy the share from her and the other owners who shared ownership of the property. However,

he deceived them by paying only 3,000 Jordanian dinars to each of them.

Low income and poor Umm Achraf is a Jordanian of Palestinian origin who was expelled from Palestine in 1967.<sup>22</sup> When she married, she moved to Saqf Al Nuzha, into a tent which her stepmother installed on a plot of 58 m<sup>2</sup> purchased with a *hujja* contract. Achraf had six daughters and three sons. In 1983, the roof collapsed on them while they were sleeping. HUDC helped them to rebuild the house and gave them a property title for the house. They managed to build a second floor of 45 m<sup>2</sup>. In 2003, Umm Achraf bought a small house built by her neighbour Muhammad which was adjacent to her house. Informally, she paid 2,500 Jordanian dinars for it and received a *hujja* contract. She asked him several times to transfer the house legally to her but he did not. When Muhammad passed away, his brother and his grandsons claimed to receive the house as inheritance. Umm Achraf's husband is old and her sons are unemployed. But, according to the law, "none can expel you from your house."<sup>23</sup>

SOURCES: INTERVIEWS CONDUCTED BY AUTHOR IN AMMAN, OCTOBER TO DECEMBER 2015.

It seems that women in Amman are more eager to defend their inheritance rights as they are more aware of their rights and, for a high number among them, are working. As noticed by Mrs. L. A., lawyer at the Department of Land and Surveys, one should not forget the importance of money compensation (*badal*) to exclusion.<sup>24</sup>

There is significant pressure exerted on women who do not agree with decisions that were made in order to dissuade them from taking the matter to court. This action is further supported by an unwritten social norm which condemns taking a lawsuit out against one's brother. Social norms often deter

22 Interview with Umm Achraf in Jabal Nuzha, October 20, 2015. I would like to thank Mrs. Khawla Salahat of HUDC for having introduced me to this field.

23 Ibid.

24 Interview, with Mrs. L. A., lawyer at the Department of Land and Surveys, November 24, 2015.

women from seeking justice through the legal system out of fear of being excluded or exposed to physical violence. Pursuing a legal claim to inheritance is costly and difficult for women if male family members are reluctant to cooperate (Prettitore 2013 a and b). In cases where a woman would go to court, she must have financial assets to do so as court costs in Jordan reach 8 percent of the value of the claim, which is higher than in all other Middle East countries.<sup>25</sup> Women must be supported by relatives since in the Shari'a court the testimony of two women is equal to that of one man. "The social norms of the Jordanian patriarchy continue to prevail hindering women from practicing their rights on an equal footing with men. This paves the way for rising cases of violence against women" (Naffa et al. 2007). Yet, 70 percent of cases assisted by the Justice Center for Legal Aid (JCLA), Jordan's largest legal aid provider, are at the request of women.

### Mobilization for the Implementation of Women's Inheritance

Women's rights activists have to find ways of action within the framework of Shari'a which constitutes a red line in Jordanian conservative society. In this context, their successes are even more remarkable. In 2009, they managed to obtain the right for women to choose their residence.<sup>26</sup> In 2010, women's rights activists succeeded in amending the aforementioned law by working with the Supreme Shari'a Court (Qadi al-Quda) the highest religious and legal institution in Jordan. As a result, in 2011, seven amendments to the Jordanian Personal Status Law n° 36 of 2010 were made and Articles 318 and 319 on property and exclusion were introduced. The first introduced a mandatory period of three months after the death of the owner before either exclusion (*takharruj 'amm*, *takharruj khāṣṣ*) or power of attorney (*waqāla*) can be invoked. This amendment was adopted in order to give time to women before declaring the rejection of their inheritance rights. This enables women to deal with the grief caused by the loss of a parent and means that they do not have to concern themselves with making important decisions whilst in a vulnerable emotional state. This

25 "Based on the indicator, 'Enforcement of Contracts' in the World Bank's Doing Business Report 2012, costs as a percentage of the value of the claim are as follows: Jordan—8%; Syria—4.5%; Lebanon—3%; Iraq—2.3%; West Bank & Gaza—2.2%; and Egypt—1.3%" (World Bank 2013, 79).

26 Women's rights defenders managed to have the reservation regarding Article 15/4 (which states that "the wife must reside with her husband") of the Convention on the Elimination of All forms of Violence Against Women (CEDAW) removed in March 2009 (JNCW 2010).

in turn reduces the possibility of women being coerced by their brothers into renouncing their inheritance rights. The second amendment states that judges must inform all heirs of the consequences of exclusion procedures. The fourth amendment states that the attorney is under obligation to inform the heirs of all the properties included in the inheritance. The sixth amendment prohibits invoking the power of attorney (*waqāla*) during the three months after the death of the owner. All these measures were taken in order to protect the rights of the heirs, especially the rights of women.<sup>27</sup>

According to Umm Muhammad, born in 1945 in Kobania (Palestine) and resident of Saqf Al Nuzha, east of Amman, “Only the non educated peasants do not give their rights to their sisters and daughters. We are fearing God, we must go on the Koran.” And “Our Lord gave us the right, through the Koran, so we must inherit.” When her mother died in Jabal Hussein, she inherited 1500 Jordanian dinars as did her five sisters (total of 16,500 Jordanian dinars). When her husband, who had worked thirteen years in Saudi Arabia to support their thirteen children (nine sons and four girls), passed away in 2015, her eldest son decided to register the house in her name. This house, which had two rooms and a bathroom, was built in 1967 on a 60 m<sup>2</sup> plot of land purchased from Youssef Ghanem (who bought land informally in 1967 and sold it by small plots on *hujja* contracts to the refugees).<sup>28</sup>

Another measure taken by legislators is the ability to prevent a sale made by a dying person to an heir, unless it is approved by all heirs (Paragraph 1 of Article 544 of the Jordanian Civil Law). In order to protect all the heirs, paragraph (b) of Article 274 of the Provisional Jordanian Personal Status Law n° 36 of 2010 forbids the enforcement of a will that exceeds one third of the inheritance. However, the problem is that, in many cases, the donation was made by the elder owner and no action can be taken.

One of the recommendations of the Jordanian National Commission for Women is to amend Article 279 of the Provisional Jordanian Personal Status Law n° 36 of 2010 in order to grant the right to a mandated will to the children of a deceased daughter which would be similar to the right granted to the children of a deceased son. This is a major issue since not only are women not inheriting, but their children are also deprived from any inheritance. It calls for a clear statement to regulate *farar* divorce, which is the divorce of a wife incurred by a dying husband in order to deprive his wife of her right to inherit

27 Dr. Achraf Al Omari, judge at the Shari'a Supreme Court, interview with the author, November 4, 2015.

28 Khawla Salahat of HUDC (Housing and Urban Development Corporation), interview with the author in Jabal Nuzha, October 20, 2015.

him when he dies. The statement should allow a wife in such a situation to inherit although she is divorced by a dying husband (JNCW 2012, 28).

Women's rights defenders, such as the legal NGO Mizan, assist women in accessing their full dowry at their husband's death.<sup>29</sup> Few women are aware of their rights to obtain the remainder of their dowry after the death of their husband before any division of inheritance occurs. In Jordan, marriage contracts require two payments: one prior to the wedding (*al-mu'ajal*) and one after the wedding (*al-muajjal*). Women often receive this second payment in the eventuality of a divorce. The monetary value of the second payment is often much greater. A lower-middle-class woman will be married with 2,500 to 5,000 Jordanian dinars (including gold) which is paid to her before the wedding and double this amount in the case of divorce. A middle-class woman will agree to marry for a symbolic dinar in gold but the judge will protect her rights by stipulating an amount in case of divorce (from 5,000 to 15,000 Jordanian dinars and in some cases more).

### Conclusion

In Jordan, land is the major source of family wealth for large segments of the society, both in rural areas and within the cities. Traditionally, land has been considered a source of income for men with which they take care of their family. Men are reluctant to give land shares to female children who, once married, will become part of the husband's family. This male line of wealth transmission is true both for private land and agricultural land and for both Muslim and Christian families.

Gender-based restrictions on women's legal capacity and property rights are still prevalent in Jordan. Since the 1960s, the improvement of women's rights on inheritance has been advanced as a solution to poverty and a means of preventing women from falling into a life of destitution. Jordan is working on incentives for better inclusion of women in the economy; inheritance and property should be a major dimension of this policy. Statistics and surveys tend to show a slight improvement in women's inheritance patterns in Jordan over the past twenty-five years. This is due not only to women's increased awareness of their rights but also paradoxically with respect to a stronger Islamic conservatism that encourages men to implement "God's will" with regard to women's rights.

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<sup>29</sup> Mrs. Eva Abu Halaweh, lawyer, interview with the author, November 1, 2015.

Social norms regarding inheritance are progressively moving but at a slow pace in Jordan. Enhanced inheritance would help women to break the glass ceiling that constitutes their lack of economic assets. It would improve their capacity to engage in paid activities. This is needed even more so in that Jordan is the second to last country, before Saudi Arabia, in terms of its lack of incentives for women to work (World Bank International Finance Corporation 2013).

### Acronyms

|       |  |
|-------|--|
| CEDAW | Convention on the Elimination of All Forms of Discrimination Against Women |
| COHRE | Centre on Housing Rights and Evictions                                     |
| DLS   | Department of Land and Survey  |
| DOS   | Department of Statistics   |
| HUDC  | Housing and Urban Development Corporation                                  |
| JNCW  | Jordan National Commission for Women                                       |
| JPHC  | Jordan Population and Housing Census                                       |
| JPFHS | Jordan Population and Family Health Survey                                 |
| UNHCR | The United Nations High Commissioner for Refugees                          |

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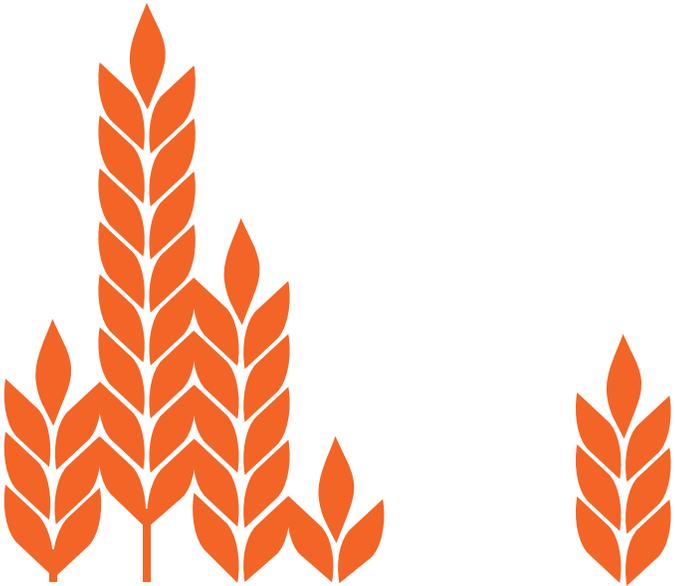
Prindex

# Women Land rights: Sources and Barriers

UAWC, February 02, 2021

# Women & Land

Ensuring that women have secure rights to land is essential to addressing poverty, hunger and gender equality around the world.



# Women and Land Facts?

- Women are responsible for the production of 60 to 80 per cent of food in developing countries.
- Only 4 per cent of women have land titles in MENA .
- Women have limited access to land.



# Why Women Accessibility to Land matters?

- Ensure social justice, economical development and food security.
- Contribute in enhancing their confidence and their contribution in the society.
- Enforce social stability under crisis and conflicts.
- Enhance independency, security.
- Freedom of choice.

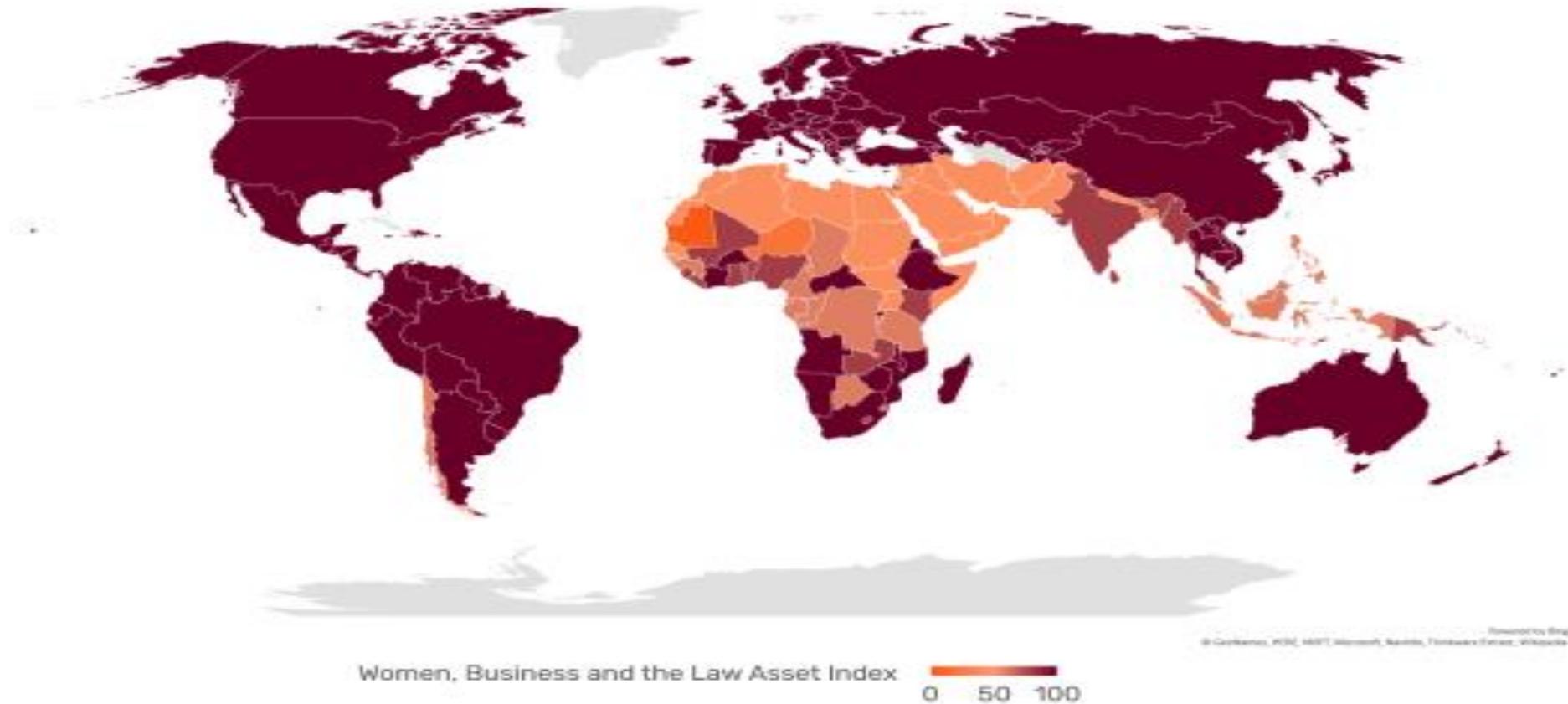


# Women Accessibility to Land

- Purchase
- Gift
- Dowry
- Marriage
- Inheritance

# Gap of Land Accessibility

Figure 1. Global map of where men and women have equal rights to access land



Note: 0=unequal; 100=equal.

Source: World Bank (2020)

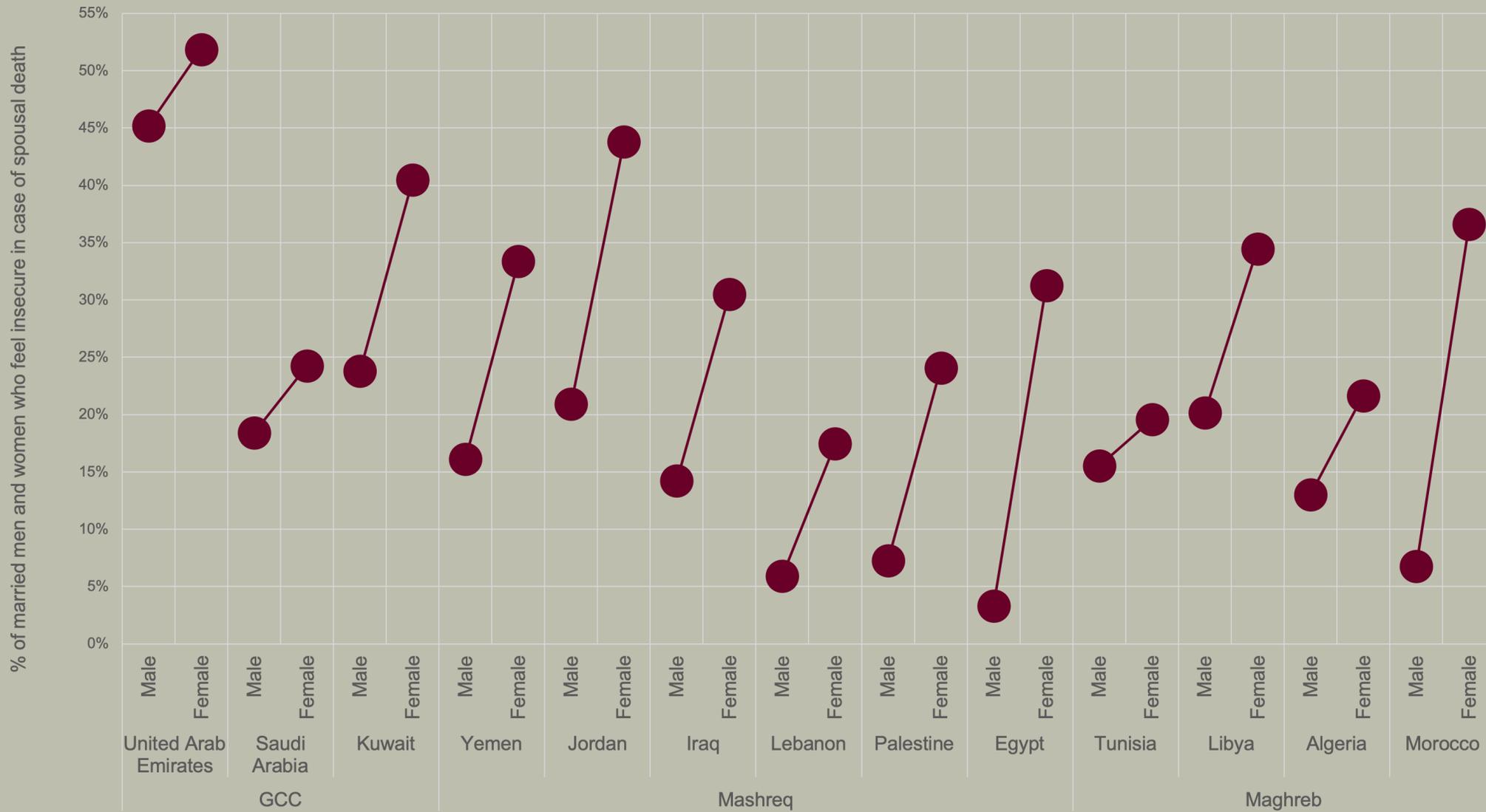
# Women Barriers to Access Land

- Lack of Law implementation
- Social norms/ Traditions
- Lack of awareness
- Access to Justice
- Lack of documentation specially in conflict/post conflict countries
- Registration process
- Marriage
- Inheritance

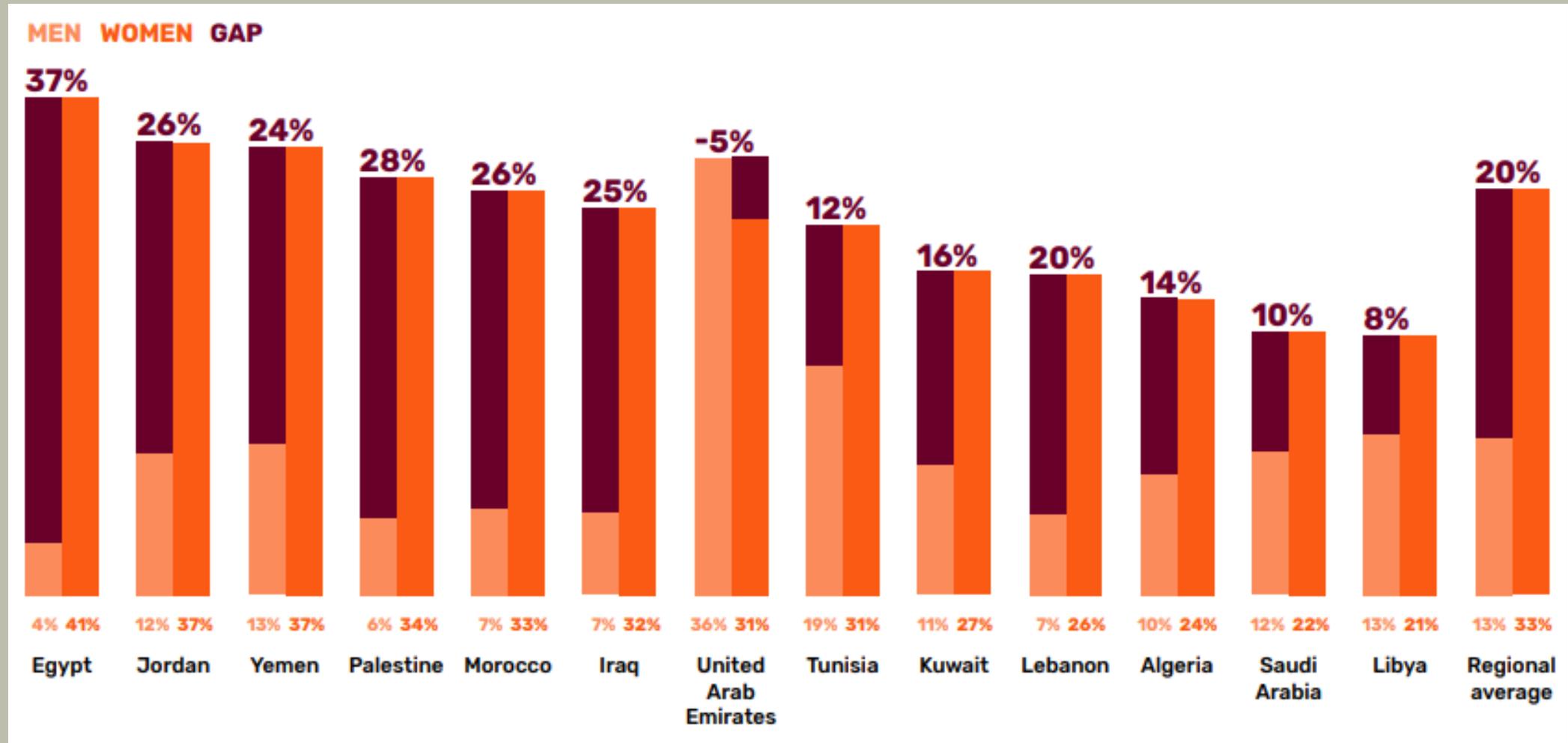
# Why Measuring Perceptions?

- Perceptions drive behavior
- Perceptions provide demand-side indicator of property rights security not available from administrative data
- Identify vulnerable groups
- Understand citizens' reasons for insecurity

# Insecurity in Case of Spousal Death

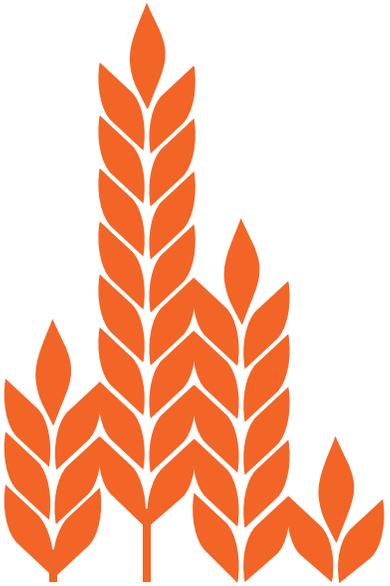


# Insecurity Gap in Case of Divorce



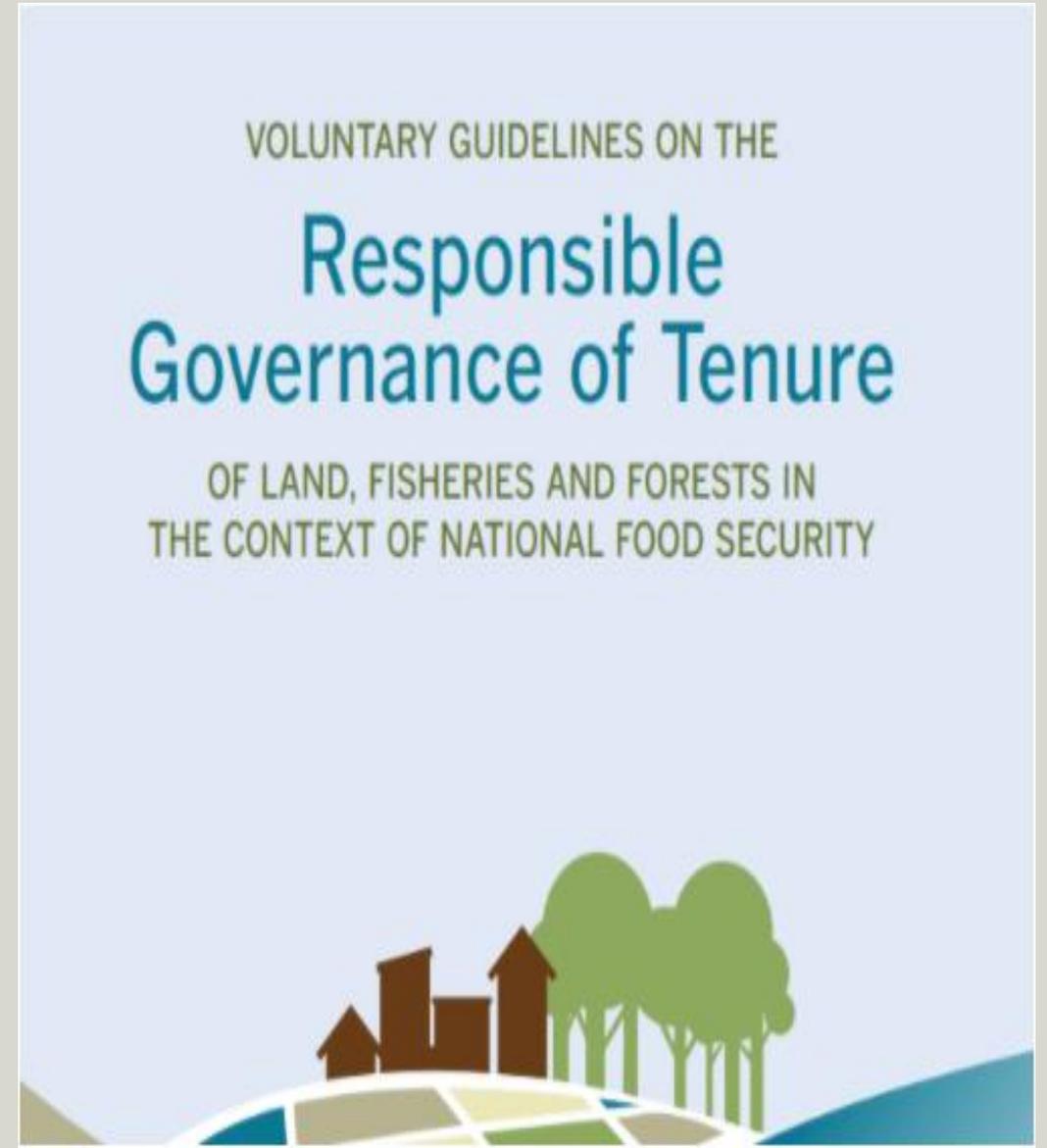
# Next steps

- Awareness raising
- Regional partnerships and outreach
- Policy revision
- Joint Marital Property
- Strengthen the rule of Law
- Thematic research
  - Fragility, conflict and violence
  - Young women issues
  - Women under customary tenure... etc.



# Implementing the VGGT General Principles

- Human Dignity
- Non-Discrimination
- Equity and Justice
- Gender Equality
- Continuous improvement
- Monitoring of implementation



# Sustainable Development Goals



# Prindex and SDGs:

## Prindex data can be used for indicators of women land-related SDGs

- 1.4.2 : The proportion of the adult population who **perceive their tenure rights** as legally secure, regardless of whether these rights are documented.
- 5.a.1: (a) Proportion of total agricultural population with ownership or **secure rights** over agricultural land, by sex; (b) share of women among owners or rights-bearers of agricultural land, by type of tenure.



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# حقوق الحيازة وتمكين المرأة في الوطن العربي

م. دينا نجيب

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# النزاعات حول التمكين من حياة الاراضي

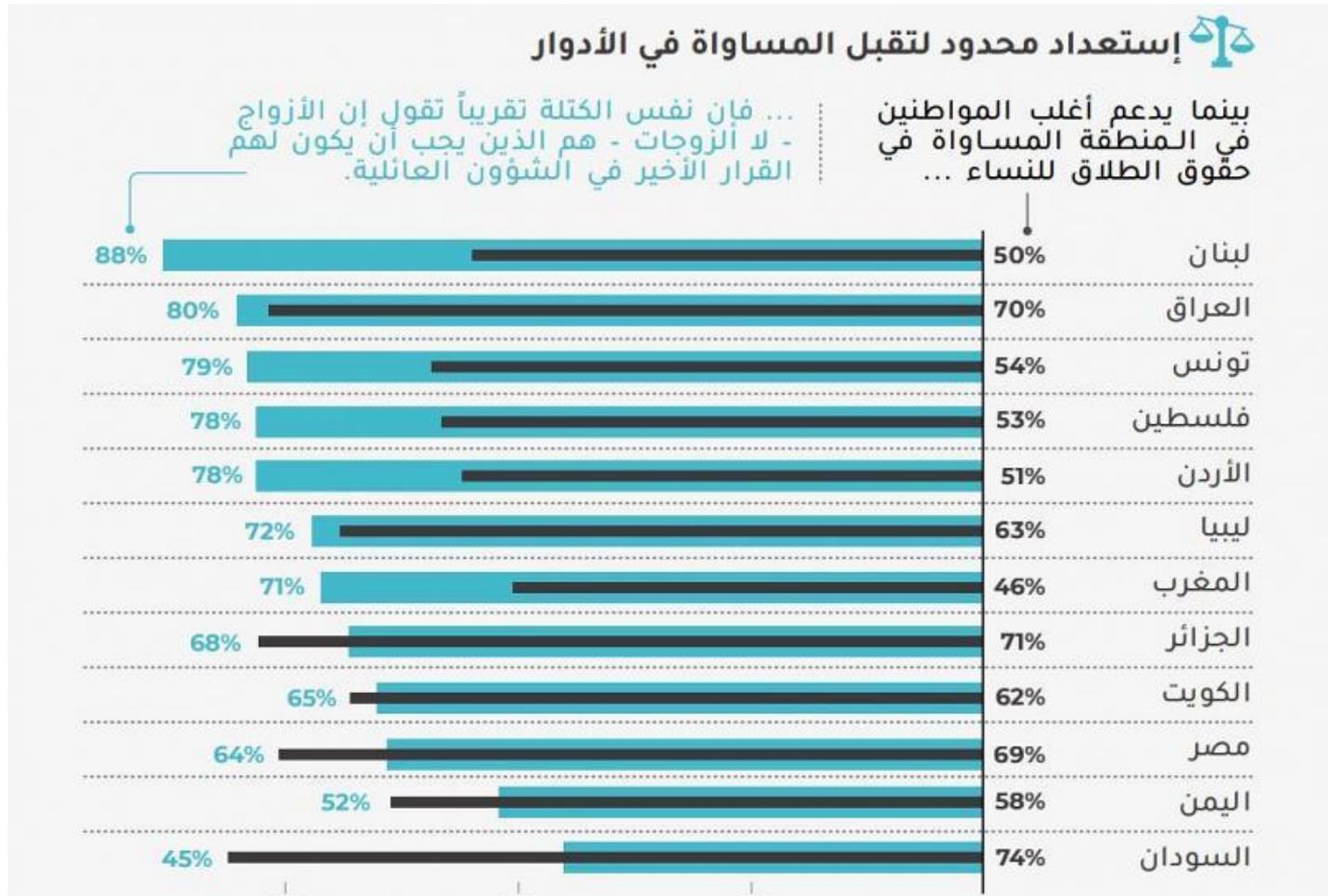
شروع الممارسات غير الرسمية - خارج الاطار التشريعي - مما يخلق فجوة في الواقع، وذلك من خلال:

- الحقوق غير الامنة والقصور في تفعيل القانون (الممارسات الاهلية)
- فرص السيطرة علي الاراضي (الاستثمار)
- توزيع الاراضي (وضع اليد)

هو نتيجة لتاريخ والاعراف والتقاليد ويعد سبب من الاسباب الرئيسية هو عدم تكامل وإدماج المجموعات المختلفة مما نتج عنه آثار اجتماعية وثقافية سلبية

# الاستقلال في حالات الانفصال الاسري في الوطن العربي

- وطبقا للباروميتر العربي لعام 2018-2019 فان نسب اتخاذ قرار الطلاق والاستقلال عن الاسرة علي المستوى الاقتصادي ومرتبب بقرار متخذي القرار في الاسرة (الأزواج)



# ميراث المرأة: الفريضة الغائبة (صعيد مصر)

- حقوق الحصول علي الميراث في الصعيد يخضع للتقاليد السائدة في المجتمع
- معتقد يتوارثه الابناء والاحفاد وعدم انتقال الارض خارج نطاق الاسرة
- التزام المرأة الصمت في اغلب الاحيان أو مقاطعة الاشقاء (سنوات من القضايا في المحاكم بدون الوصول للهدف المرجو)
- إنهاء خصومات الثأر أيسر من المطالبة بحصول المرأة علي حقوقها من الميراث وتملك الأراضي

# ميراث المرأة: الفريضة الغائبة (صعيد مصر)

مفاهيم متداولة في صعيد مصر (سوهاج، قنا...)

## الترضية

- الحصول علي ترضية مادية نظير التنازل علي حقوق الميراث من الاراضي بعد تدخل الوطاء

## التقريد

- هناك حالات عديدة يكون سبب حجب الميراث عن المرأة فيها هو «الأب» نفسه، من خلال تسجيل ممتلكاته من الأراضى والعقارات، باسم أبنائه من الذكور
- ولا تنال الزوجة نصيب من التركة بعد وفاة الاب

# ميراث المرأة: الفريضة الغائبة (صعيد مصر)

- برغم أن القانون المدنى المصرى ينص على أن للمرأة الحق فى امتلاك ممتلكاتها وإرثها، واستخدامه بشكل مستقل على قدم المساواة مع الرجل، فإن العديد من النساء، لا سيما فى المناطق الريفية، محرومات من ميراثهن
- وتكون الاراضي فى حيازة العائلات، حيث ان كل عائلة تريد أن تحتفظ بأرضها. الموروثات الثقافية تحتم ألا يباع ما يتركه الآباء والأجداد من ميراث يتعلق بالأراضي الزراعية إلا لمن يحمل اسم العائلة.
- وعلى الرغم من ذلك، فان عدد قضايا المواريث المنظورة أمام المحاكم (بمحافظة سوهاج) للمطالبة بحقوق حصول المرأة علي الميراث محدودة بسبب:
  - تفضيل المرأة التزام الصمت وعدم المطالبة
  - قبول الترضية الودية
  - عدم ضمان الحصول علي الحقوق من خلال القضايا بسبب طول فترة المحاكمات ولضمان مراعاة سمعة العائلة
  - مباركة «الأم»، التى ترغب فى عدم انتقال تركة زوجها الراحل إلى آخرين غير أولادها الذكور

# ميراث المرأة: الفريضة الغائبة (صعيد مصر)

- دراسة بحثية لعلم الاجتماع بجامعة قنا (د. سلوي المهدي)  
95.5% من نساء الصعيد محرومات من الميراث - مفهوم ممارسات «العنف الاقتصادي»  
نسبة «المرأة المعيلة» في سوهاج إلى 24%، بينما تصل في قنا إلى 22%

- دراسة عن التعداد الزراعي في مصر لعام 2000  
نسبة المرأة في امتلاك الأراضي بالنسبة للذكور 7.5% من إجمالي النساء (432 ألف فدان)  
وذلك بنسبة 5.1% من إجمالي الأراضي الزراعية  
بينما يبلغ إجمالي ما يمتلكه الذكور نحو 8.4 مليون فدان.



# قضايا تمكين المرأة من الميراث في فلسطين

- 3 % فقط من النساء الفلسطينيات يحصلن على حقهنّ الشرعي والقانوني في الميراث، نتيجة تحديات عدة ترتبط بالنسيج الاجتماعي (وزارة شؤون المرأة الفلسطينية).
- هناك حالات عنف جسدي تتعرض له المطالبات من النساء بحقوقهن في الارث على الرغم من أن الشريعة الإسلامية والقانون الفلسطيني أقرّا حقوقهنّ في الميراث، بالإضافة إلى ما نصت عليه اتفاقية سيداو (اتفاقية دولية للقضاء على جميع أشكال التمييز ضد المرأة).
- مرتبط بالثقافة المجتمعية والنظرة النمطية السائدة تحت مبرر انتقال ملكية العائلة إلى ملكية الأنساب.

# قضايا تمكين المرأة من الميراث في فلسطين

إجراءات معقدة في المحاكم الفلسطينية تحتاج إلى:

– جهد كبير

– تكاليف مرتفعة لرسوم المحاكم، ونفقات حصر الإرث وأتعاب المحاماه

– المدة الزمنية الطويلة التي تأخذها المحاكم الشرعية في قضايا حصر الإرث

- في قضايا حصر الإرث يتم وضع إعلانات في لوحة إعلانات المحاكم الشرعية والمساجد وأحياناً في الصحف المحلية لحصر إرث المتوفى والتأكد من صحته لمدة أسبوع وذلك لمنح المعترضين فرصة التوجه إلى المحكمة، وحضور الشهود والورثة بحسب الأصول القانونية ويتم حصر الإرث النهائي



# قضايا تمكين المرأة من الميراث في فلسطين

- في نوفمبر 2018 قامت وزارة شؤون المرأة بالتعاون مع الاتحاد العام للمرأة الفلسطينية، وعدد من المؤسسات النسوية في الضفة الغربية، القيام بالحملة الوطنية لمناهضة العنف ضد المرأة والتي سعت الي توعية النساء بشأن حقوقهنّ القانونية وتشجيعهنّ على تحصيلها.
- ومن ضمن المقترحات: إنشاء صندوق لمساعدة النساء الفقيرات بتكاليف حصر الإرث أو طلب المساعدة القضائية من خلال تخصيص محامين لمساعدة النساء من أجل التسجيل والإجراءات الأخرى. ويمكن أن تطلب المرأة تخفيض الرسوم ويتم دراسة طلبها.

# مبادرة محامية الفلسطينية في أكتوبر 2020 (موناليزا المصري)

- مقترح تطبيقاً إلكترونياً بعنوان "فرمان" يقدم العديد من الخدمات القانونية، حيث يوفر على النساء عناء الحصول على الاستشارة القانونية.

- ويضم التطبيق:

- استشارات قانونية لتجاوز العنف والاضطهاد الأسري للنساء.

- نماذج العقود والاتفاقيات

- مؤسسات نسوية فلسطينية في الضفة الغربية وقطاع غزة متخصصة بالدفاع عن حقوق المرأة المطالبة بضرورة الإسراع في تعديل القوانين السارية بما يضمن حماية المرأة من العنف الاقتصادي الممارس عليها، وتجرى حرمان المرأة من الميراث

- إيجاد قانون ملزم لحصر أموال التركة وتوزيعها

# القبيلية في المملكة العربية السعودية

- بعض القبائل تتجاوز ويتساهل عدد من عائلاتها في حق المرأة شرعاً من الميراث، وخاصة في جانب الأراضي والمزارع
- ويتم أحيانا كثيرة بتأييد من طرف زوج المرأة إذا كان من نفس القبيلة، لأن العرف القبلي يرفض خروج ملكية الأرض من العائلة الواحدة



- تقبل المرأة تعويضا ماليا للتنازل عن الأرض من قبيل الخضوع للنمط الاجتماعي السائد

# تونس: مشروع قانون المساواة في الميراث، 2018

- طبقا لتقرير حول الإصلاحات المرتبطة بالحريات الفردية والمساواة بالاستناد الى الدستور التونسي والمعايير العالمية لحقوق الإنسان: المساواة في الإرث
- دور الديناميكي لمسار نضال نسوي ومدني منذ أواخر السبعينيات رفض أن يفصل بين حقوق المرأة والإنسان في تونس
- تحقيق المساواة بين النساء والرجال يتطلب تحقيق مواطنة فعلية واحترام حقوق الفرد وسيادة دولة القانون



# الحكومة المصرية: الدور القانوني (جمهورية مصر العربية)

- المادة 77 لسنة 1943 قد شهدت تعديلاً عام 2018، هي المختصة بجرائم المواريث ونصت بمعاقبة كل من يعتمد عدم تسليم أحد الورثة نصيبه الشرعي من الميراث أو من يعتمد حجب سند وحجة الميراث، بالحبس مدة لا تقل عن ستة أشهر، وبغرامة لا تقل عن 20 ألف جنيه ولا تتجاوز 100 ألف جنيه أو بإحدى هاتين العقوبتين.
- دعم حقوق المرأة بصعيد مصر، حصول مئات النساء في صعيد مصر على أحكام نهائية تمكنهم من ميراثهن، إلا أن هذه الأحكام معطلة لا تنفذ بسبب سطوة الخارجين على القانون ممن يسيطرون على ميراث السيدات المسلوب.
- المجلس القومي للمرأة في الصعيد (مثل فرع قنا) يقر بأن الحلول الأمنية والقضائية وحدها لا تكفي بسبب قناعة الرجال في الصعيد.

# مشروع اقراض زراعي (جمهورية مصر العربية)

- مشروع «بدايتي» هو عبارة عن قروض موجهة لمشروعات المرأة وخاصة المرأة الريفية، والمرأة المعيلة، ضمن برنامج بنت مصر الذي أطلقه البنك الزراعي المصري. توجيهه 600% من قروض مشروع بدايتي للمستفيدات تحت خط الفقر، لدعم وإقامة المشروعات متناهية الصغر الخاصة بالمرأة؛ لتوفير فرص عمل دائمة ومؤقتة لهن وتحسين ظروفهن المعيشية والاقتصادية
- يقدم بنك ناصر الاجتماعي برنامج للتمويل متناهي الصغر للمرأة تحت اسم "مستورة" بالتعاون مع صندوق تحيا مصر. هذا القرض للمشروعات متناهية الصغر وليس كمبالغ نقدية لمدة القرض من 3 أشهر وحتى 24 شهرًا: قروض إنتاج حيواني، قروض إنتاج صناعي، قروض تجارية، قروض خدمية المشروعات المنزلية.
- ألا يقل سن المستفيدة عن 21 سنة ولا يزيد على 60 سنة - يفضل من لها سابق خبرة في المشروع المطلوب تنفيذه

# الدعم المادي "الإقراض الزراعي" للمرأة (الأردن)

- توفير مزيد من الدعم المادي للنساء عن طريق مؤسسة الإقراض الزراعي وزيادة أعداد المستفيدات من القروض، وخاصة الريفيات، وزيادة قيمة القروض لسد الفجوة النوعية بين الرجل والمرأة.

نسبة النساء الحاصلات على قروض لمشاريع زراعية؛ بلغت 30.5 % مقابل 69.5 % للذكور بلغت قيمة ما حصلت النساء عليه من قروض 12 مليونا مقابل 35 مليونا للرجال.

- تبين ان بعض الحالات من المقترضات من يجري استغلال أزواجهن أو أفراد أسرهن لهن، لطلب قروض زراعية بأسمائهن، ولكن عوائد هذه المشاريع لا تعود إليهن؛ بل يترتب عليهن دفع التزامات شهرية والتعرض للمساءلة القانونية في حال عدم الدفع (معهد تضامن النساء الأردني «تضامن»).

# مقترح لدور الحكومة في مواجهة قضايا تمكين المرأة

- تكثيف الندوات الموجهة للرجال في القرى، بالتنسيق مع رجال الدين لتغيير الثقافات الموروثة في قضايا ميراث المرأة.
- مكاتب شكاوى المرأة داخل فروع مجالس القومي للمرأة تقدم كافة الدعم القانوني، لكافة المحرومات من الميراث.
- تفعيل الأحكام المعطلة وتنفيذ سيادة القانون على الأعراف السائدة بغير وجه حق.
- ضرورة تطبيق منظومة إلكترونية لتقسيم تركة الميراث، مع إعلان الوراثة لكل متوفى، حتى يحصل كل صاحب حق على حقه الشرعي بإشراف قانوني من الدولة متمثلة في وزارة العدل، بعيداً عن الأعراف التي تخالف صحيح الدين والقانون والعدل.

# مقترح لدور الحكومة في مواجهة قضايا تمكين المرأة

- حرمان المرأة من حقها في الإرث جريمة تتصدى لها الأنظمة والجهات المعنية في المملكة، وعلى رأسها القضاء
- هيئة حقوق الانسان تنسق مع الجهات المختصة لتتبع هذه القضية بشكل أعمق، وإحاطتها من كافة جوانبها، والتأكد من إتاحة وسائل الانتصاف أمام المتضررات وفعاليتها، بما يضمن توفير المساندة اللازمة لهن في الحصول على حقوقهن.
- ضمان توفير بيانات خاصة في هذه القضايا من خلال دراستها وتتبعها ومعالجتها.

# مواجهة التحديات التي تواجه المرأة

- الأمية، والمهارات المحدودة في استخدام الأجهزة المعقدة للبحث عن المعلومات والقضايا الثقافية، لا تزال حواجز تحول دون تلقي المعلومات واستخدامها على نحو فعال عن طريق تكنولوجيا المعلومات والاتصالات

## خلق بيئة آمنة للتبادل والتعلم

- الفجوة بين السكان الحضريين والريفيين. وتعرقل تكلفة الحصول على تكنولوجيا المعلومات والاتصال، بسبب أوجه عدم المساواة المستمرة، فرص حصول النساء والشباب والمزارعين الأكبر سنا والأشخاص الذين يعيشون في المناطق النائية على الفرص المتاحة لهم.

## توفير برامج مخصصة للنوع

# مواجهة التحديات التي تواجه المرأة

- محدودية راس المال لدى الشركات الصغيرة المحلية الخاصة ومنظمات المنتجين المحليين والمنظمات غير الحكومية المجتمعية لتوفير معلومات موثوقة وخدمات ذات نوعية جيدة

## بناء الشراكات

- النساء الريفيات لديهن فرص أقل للوصول إلى تكنولوجيا المعلومات والاتصالات لأنهم يواجهون بمعايير اجتماعية، ولأنهم يعيشون في مناطق غير متصلة. لذا يجب تعزيز سياسات الإدماج الرقمي مع المنظورات الجنسانية لتمكين الرجال والنساء من الحصول على تكنولوجيا المعلومات والاتصالات واستخدامها على قدم المساواة.

## توفير الوصول للفرص وأدوات التبادل

# مواجهة التحديات التي تواجه المرأة

- لا تقتصر الفجوة الرقمية على البنية التحتية التكنولوجية بل يجب أن تستهدف مبادرات تكنولوجيا المعلومات والاتصالات وخصوصا المرأة والمجتمع المحلي لضمان الاستدامة على المدى الطويل من خلال اتاحة فرص قيمة للتنمية الزراعية والريفية، وزيادة الإنتاج المستدام، وكفاءة الزراعة والأعمال الزراعية.

**ضمان الاستدامة**

# أهمية تجميع وتحليل البيانات

- توفير البيانات لتمكين البيئة الصالحة للمعيشة من خلال تحليل البيانات
- استكمال قاعدة البيانات من خلال التعاون مع الجهات الفاعلة الأخرى
- دعم المجال البحثي لتقييم الأطر التنظيمية للسياسات والقوانين
- توليد البيانات التي تؤدي إلى تطوير أدوات تحليل القدرات؛ المشاركة البحثية
- إمكانية المشاركة الإيجابية لجميع المجموعات بما في ذلك المرأة (مشاركة من بداية العملية؛ نهج من أسفل إلى أعلى وليس علي مستوى متخذي القرار فقط)
- المشاركة المجتمعية متمثلة في الجمعيات المخصصة للمرأة في ادارة الحوار وتحديد الاحتياجات والمشاركة في عملية اتخاذ القرار.

- العمل علي التوعية ضد المفاهيم المغلوطة السائدة والاعراف متوارثة
- هناك تسجيل لبعض التقدم المتفاوت بخصوص بعض حقوق المرأة وأدوارها في المجتمع كحق التعليم والعمل وتولي المناصب السياسية
- مازال هناك تحدي اكبر في الحصول علي حقوق أخرى كالميراث وصناعة القرار (خصوصا علي مستوى الاسره).

# **Role of civil society organizations, academia, and individuals in enhancing women land rights in the Arab region.**

**Presented by:**

**Ala Mustafa**

**Environment & Climate Change Program Coordinator**

**International Youth Council – Yemen (IYCY)**



# Challenges for Women's Access to Land in the Arab Region.

- Rural women are not empowered to claim and defend their land rights.
- There is no enabling environment and little political will to promote women's land rights.
- The root cause of discrimination against women in access to land and other natural resources is a pervasive patriarchy.
- Rural women are often limited to traditional gender roles of food production and child rearing.

# International conventions related to gender and access to land

- Universal Declaration of Human Rights (1948)
- Beijing Platform for Action, paragraphs 165 (e), 166 (c)
- UN Convention on the Elimination of All Forms of Discrimination against Women, Article 16 (1) (h). 14 (2) (g)
- Economic and Social Council Commission on the Status of Women Resolution 42/1, Human Rights and land rights discrimination
- Commission on Human Rights Resolution 2003/22
- Universal Declaration of Human Rights. Art. 25
- Convention on Economic, Social and Cultural Rights Art.11
- Habitat II Conference, Istanbul 1996 Preamble
- Istanbul Declaration on Human Settlements (esp.Par.7) III Commitments D. Gender equality (1): : “providing legal security of tenure and equal access to land to all people, including women (...) and undertaking (...) reforms to give women full and equal access to economic resources, including the right to inheritance and to ownership of land”.
- Rome Declaration on World Food Security (1996). World Food Summit. Specifically lists commitments in regard to land rights and equitable gender relations.
- “African Charter on Human and Peoples’ Rights” (1986). Commits to non-discrimination against women, while acknowledging the right of local communities to follow customary rules and norms.
- The United Nations Commission on Human Rights Resolution 2002/49.

# Role of Arab Civil Society Organizations

- **Different Roles & Strategies.**

| Political Role          |  |               | Advocacy Phase                 |
|-------------------------|--|---------------|--------------------------------|
| <b>Cooperative</b>      | Coordination                           |               | <b>Political Participation</b> |
|                         | Subsidiarity                           |               | <b>Political Participation</b> |
| <b>Representational</b> | Voice                                  | Direct        | <b>Political Participation</b> |
|                         |  | Indirect      |                                |
|                         | Resistance                             |               | <b>Political Participation</b> |
| <b>Communicative</b>    | Channels of Communication with state   |               | <b>Mobilization</b>            |
|                         | Channels of Communication with Society |               | <b>Mobilization</b>            |
| <b>Educational</b>      | Internal                               | Information   | <b>Activation</b>              |
|                         |  | Civic virtues |                                |
|                         | Political skills                       |               |                                |
| External                | Informing state officials              |               | <b>Activation</b>              |
|                         | Informing citizens                     |               | <b>Activation</b>              |

# Entry points for CSOs for increasing women's access to land

- 1. Land policy.**
- 2. Land legislation.**
- 3. Law Enforcement.**
- 4. Land Administration.**

# Entry points for CSOs for increasing women's access to land

## **1. Land policy**

- Supporting women's organizations and groups of rural women to participate in the formulation of land policy and land reforms
- Holding governments accountable to commitments made on gender equality.
- Supporting research in terms of women's access to land.
- Supporting the production of sex-disaggregated data and statistics.

# Entry points for CSOs for increasing women's access to land

## **2. Land legislation**

- Advocating the representation of women.
- Supporting capacity building of state institutions.
- Supporting efforts to sensitize those with decision making power over land distribution and management.
- Supporting assessments of how customary complaint system can be made gender-sensitive.
- Supporting efforts to ensure that key actors are updated on new policies and laws regarding equality in access to land.
- Supporting awareness-raising and access to information for women, men and communities about existing legislation and policies.

# Entry points for CSOs for increasing women's access to land

## **3. Law Enforcement**

- Supporting capacity building of law enforcement institutions.
- Supporting the creation of support mechanisms that assist women who claim their legal rights and thereby go against societal norms.
- Developing initiatives that address power relations in the household.
- Advocating the creation of national/regional mechanisms to monitor the enforcement of policies, targets and laws on women's access to land.

# Entry points for CSOs for increasing women's access to land

## 4. Land Administration

- Thorough analysis that individual land titling and registration processes do not take away rights that women have had in a community tenure system.
- Supporting the creation of a systematic registration system.
- Joint titling of private property or use rights mandatory in the registration process.
- Exploring how land administration authorities can promote gender equality in access within communities.
- Increase the possibility of providing financial incentives for registration of both spouses
- Ensuring that both women and men can participate in the planning and design of such programs.
- The development of handbooks or guidelines for lawyers and personnel of cadastral offices.

# Spread the Word!

- Social Media Campaigns.
- Storytelling.
- Collaboration with women groups/feminists

**Bring in the Imams/Religious Leaders!**

# The Role of Research & Educational Institutes in enhancing Women's Land Rights

- Promoting adult education and literacy courses for women and men.
- Establish comprehensive land education systems for Arab states.
- Develop a comprehensive model curriculum on land governance and land administration.
- Put in place effective exchanges of land-related knowledge in the region.
- Develop knowledge and capacity to manage public land.
- Adapt, translate into Arabic, and make widely accessible existing relevant materials on land governance and land administration.

# Join our CSO's Network!

All participants are encouraged to join the Arab CSO's Network in Land Governance.

The link will be sent on the Zoom Chat!

|   |   |
|---|---|
| <p><b>Topic 5: Willi Zimmermann</b></p> <p><b>Governments must develop an enabling environment for Gender Equality: fair, just and right to claim</b></p> | <p><b>Role of Governments in enhancing women land rights and their empowerment in the Arab region</b></p>   |
| <p>Tunisia</p> <p>Progressive constitution and law</p>  | <p>Tunisia becomes first Arab state to approve gender equality in inheritance. However, strong resistance from traditional forces.</p>  |
| <p>Morocco new land laws</p> <p>Morocco new national land strategy towards a National land policy</p>   | <p>Draft new land laws and policy: Equity in land registration and recognition of rights</p> <p>Representativeness at the level of guardianship councils</p> <p>Empowerment strategy</p>                                    |
| <p>Morocco Land Commission 2020</p>   | <p>3 out of 18 members of the new Moroccan Land Commission are women</p>  |
| <p>Morocco NELGA NA; IAV</p> <p>MSc Geospatial and Land Governance</p>  | <p>2018 – 2020: 5 females out of 12 students</p> <p>2020 - 2022: 8 females out of 17 students</p> <p>2022 – 2024: 14 females out of 16 students</p> <p>PhD: 2 or 3 female applicants out of 6 (t.b.d.)</p>                  |
| <p>International MSc and PhD</p>  | <p>Increasing rate of female in current land-related MSc, PhD (TU Munich, ITC, TUB...)</p>  |
| <p>UTI, APN, LCPS</p> <p>UAWC, Rasheed TI, TI Morocco</p>   | <p>Around 2/3 of land-related researchers and professionals are female !</p>  |
| <p>Women play an increasing role in judiciary and parliaments</p>   | <p>Bar Assoziation, centers of arbitration and mediation</p> <p>Arab region has the lowest rate of women in parliaments. However witnessing the highest increase rate worldwide (from 1 to 10 %) during the last decade</p> |

# Tunisia becomes first Arab state to approve gender equality in inheritance



**The law was approved  
on Friday, 23.11.2018**

# New partnerships and perspectives for the Arab Land Initiative: the outcomes of an induction, capacity development and planning workshop

Cairo February 2020: **The new balance 15 f : 11 m**

