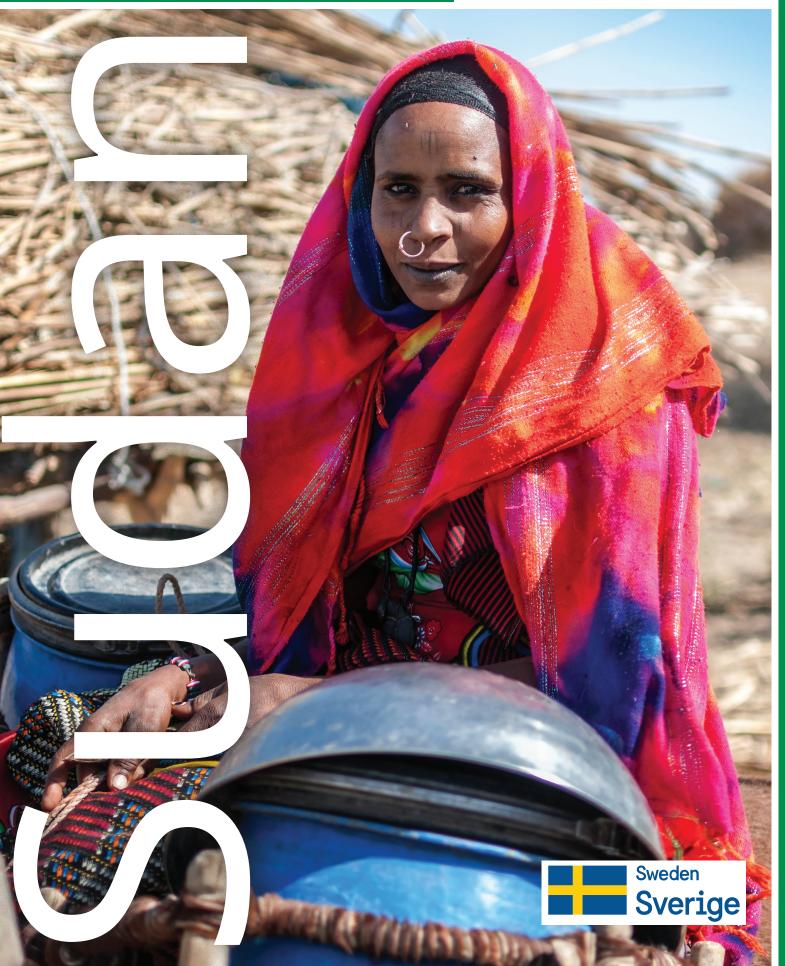




## WOMEN'S LAND RIGHTS AGENDA



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## **SUDAN WOMEN'S LAND RIGHTS AGENDA**

2021-2030



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#### 1 INTRODUCTION

Sudan has no uniform land policy and no specific ministry responsible for the development of land policy. However, many institutions are responsible for the land issues in Sudan. The major one is the National Land Commission established by the act of the Constitution 2005(UNEP, 2017). The 2019 Constitution called for establishment of new land commissions. Article 38. (1) Independent commissions shall be established, and figures with attested competence and integrity shall be nominated, therefore. They are formed and their competencies are defined by the laws that establish them. In the recent past, the National Land commission has been put in place not functional yet. Only the Darfur Land Commission is active.

The Government of Sudan (GoS)) recognized the need to develop land policy, land legislation, and functioning land institutions and the supporting services; given that different contexts have different patterns of land use and land holding, which are influenced by the political system, geographical, economic, social, cultural and historical dimensions.

Land rights are governed through policy-making processes, administrative systems, norms, and customs. Women's access to land is influenced by several inter-related factors, from the social and cultural, to the economic, legal and political, and from the household level to the international level. Sudan does not enshrine gender equality in its constitution. Sudan has neither adopted policy and legal reforms to promote gender equality on land.

Gender discrimination in access, control, and ownership of land is exacerbated by the lack of gender- responsive land administration systems. The legal frameworks are characterized by gender-blind language and analysis, which assumes that the entire household would benefit equally when the household head is given land. The review of land lated laws indicates that inequitable land access persists, with limited collection of land information in a gender-disaggregated way (Shadia Daoud

2014, JICA 2012) and exclusion or underrepresentation of women in land-related institutions is quite rampant. To ensure gender equality on land governance, the development community, policymakers and practitioners must expand the range of interventions that address internal and external constraints women and men face when exercising their land rights.

## 1.1 Alignment with Regional commitments; progress and Gaps

At the global level, key gender commitments on land governance are stipulated in various international instruments, including Sustainable Development Goals, Convention on Elimination of all forms of Discrimination Against Women, the VGGTs, and at regional level in the Agenda 2063: The Africa We Want, the Maputo protocol<sup>1</sup>, AU declaration on Land issues and Challenges in Africa among others. Sudan fully supports AU's Agenda 2063 and the current reform going on inside the African Union. However, the Government of Sudan has not yet signed the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). In addition, Sudan has signed, but has not ratified, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women (Maputo Protocol), despite being one of the original State Parties that contributed to the drafting of the Maputo Protocol and one of the first African countries to sign the Protocol in 2008. Ratifying and incorporating the Protocol into domestic laws is a step towards making sure that issues disproportionately affecting women would be addressed and at the same time meet international standards of fundamental human rights.

With support of FAO, the VGGTs has been implemented in Sudan to the provision of legitimate land tenure rights using the VGGT in the context of national food security for conflict-displaced communities, including small-scale rural farmers, pastoralists, and Internally Displaced Persons (IDPs) in the Greater Darfur region of Sudan.

<sup>1</sup> In 2003, the African Union (AU) adopted the Protocol on the Rights of Women in Africa, focusing on human, social, economic, and political rights – widely referred to as 'the Maputo Protocol. In 2015, adopted a recommendation aimed at facilitating women's economic empowerment: That member states move towards allocating 30% of land to women through legislative and other mechanisms.

### 2 SUDAN WOMEN'S LAND RIGHTS AGENDA

## 2.1 Process and methodology for Agenda formulation

IGAD supported Member States to formulate their women's land rights agenda as a commitment to addressing women's land rights challenges in line with the AU Declaration on Land issues and Challenges in Africa. IGAD adopted a multi-stakeholder approach to developing the agenda while enabling Member States to coordinate the agenda development process, including identifying and defining priority women's land rights challenges to be addressed.

The "Sudan Women's Land Rights Agenda" was developed through several interrelated processes ranging from research to participatory workshops. The IGAD study entitled "the National Gender Assessment of the land sector in Sudan greatly informed the process. This assessment was presented and validated in a workshop organized by IGAD and the ministry of Natural Resources in September 2020. Fifteen representatives from government, academia and non-government organisations working in the land sector, attended the workshop. Their report served as a springboard for discussion on women's land rights-related challenges. Based on the report and experiences from workshop, participants enlisted the following as critical barriers to women's land tenure security in Sudan:

- 1. Lack of a unified legal framework for land tenure across the country.
- 2. Unavailability of a single land policy or strategy to address land tenure challenges for Sudanese women in rural areas.
- 3. Non-existence a gender policy for agriculture and land related matters.
- 4. Customary land tenure in rural Sudan where the land is not formally registered.
- 5. Constitutional law often does not provide for women's independent rights and where such legislation exists, mechanisms to enforce it are absent.

- 6. Exclusion or under-representation of women in land related institutions.
- 7. Limited awareness of women's rights that hinders their participation in land administration and governance processes.
- 8. Land ownership data at the national level is seldom disaggregated by gender and are generally categorized by households assumed to be headed by men.
- 9. Lack of capacity building and sensitization on integrating gender issues in the programming and projects on land. Expertise for gender- sensitive programming lacks in government.
- 10. Existence of discriminatory traditional norms and traditions, the patriarchal culture that does not recognize women's rights and economic, social and political roles; women can only own land through their husbands or fathers and do not have full inheritance rights.
- 11. The lack of a clear policy and strategy to advocate for equitable rights of women to land
- 12. Limited gender capacity of land actors to mainstream gender in land programmes and policy interventions.
- 13. Existing legal and legislative gaps on women's rights to land.
- 14. The vast cultural and geographical diversity makes it challenging to find a unified law.
- National and international organizations have focused on gender awareness rather than technical skills to conduct gender analysis and gender mainstreaming

From the list of obstacles and challenges, workshop participants prioritized six major issues that require immediate attention. Following the prioritization

exercise, participants deepened the analysis using the problem tree analysis tool.

The tool helped unearth the root causes of the issues and effects, leading to the formulation of appropriate and corresponding strategies from which action/implementation plans will be derived.

#### 2.2 Key Priority Areas

- 1. The lack of a legal and clear policy framework to address equitable rights to land for women
- Lack of fair representation of women in land administration and governance institutions from local to national levels

- 3. Limited gender capacity of land actors to mainstream gender in land programmers and policy intervention
- 4. The patriarchal culture that does not recognize women's rights and their economic, social and political roles
- 5. The absence of data disaggregated by gender in all land administration institutions and projects, including employment
- 6. Limited awareness of women's rights limits their participation in land administration and governance processes



# **3** WOMEN'S LAND RIGHTS CHALLENGES AND STRATEGIES TO OVERCOME THEM

# 3.1 Lack of legal and transparent policy framework supportive to equitable rights to land for women

The Government of Sudan, to date, lacks a clear strategic and policy framework to provide for women's equal rights of access to land. The legal framework to land in the country does not explicitly provide for the rights of women to land. Although Sudan Constitutional Charter of 2019 governs the Transitional period specified commitment to protecting women's rights as outlined in international and regional agreements, specific agreements related to women's rights have not been ratified by Sudan, namely CEDAW and Maputo Protocol. In addition, the customary law recognizes the rights of women to land but is always under the custodianship of their male relatives.

The main land existing law (e.g., Land Resettlement and Registration Act 1925) was developed during the British colonial era to serve the British economic objectives in Sudan; accordingly, the law lacks the human face to respond to both women and men's rights. In addition, most of the existing land laws are old, a situation that renders these laws irrelevant to respond to the current social, economic, environmental, and political dynamics of contemporary Sudan.

#### **Root causes**

- Lack of institutional stability due to political reasons: Sudan has remained an unstable state with a cyclic move between democratic and autocratic rule. Within that framework Sudan has been mired with conflicts for most of its independence history. This has further contributed to the instability of government institutions, overstretching of financial resources, and brain drain.
- 2. Male domination of leadership positions in Government. Despite the increased presence of women in government institutions over the past 20 years, the presence of women in leadership

- positions remains very restricted. This has to do with a complex set of sociocultural and political norms and practices existing in the country.
- 3. Long term strategic planning was not on the government agenda are capacity to do so is limited. The spread of conflicts in the country since the early years of independence, and Sudan's belligerent relationship with the international and regional actors, have curtailed the capacities of government to invest in long term strategic planning.
- 4. Women's rights issues were primarily perceived as disconnected from the wider perspective of the development agenda and therefore did not deserve attention. The advocacy for women's rights is essentially a global agenda rather than being an articulated indigenous move. This has been associated with a wide range of difficulties, including, among other things, planning processes and the capacities for planning
- 5. Advocacy mechanisms for policy reform remain limited. Although an appreciated capacity has been gained over time, Sudanese civil society organizations, including women's organizations suffer weak advocacy capacities, especially concerning land to promote women rights. The suppression and containment of CSOs, including access to public media over the 30 years of the lngaz regime significantly contributed to this.
- 6. Bylaws and subsidiary legislation have a bias towards women because they are framed in the context of customary norms, and practices.
- 7. The language of the law is masculine.
  - The participation of women in drafting the law is non-existent – the women are not consulted and included in legislative processes.
  - Land is not registered in the names of women as the custom continues to be dominant

in some states (East, Darfur and Kordofan) despite the legal framework's existence.

#### **Effects**

- 1. Violation of women rights to access land.
- 2. Accessibility to economic resources for investment in land has been curtailed.
- 3. Vulnerability of women to poverty, food insecurity, nutrition and poor health.
- 4. Suppression in limited voices (the right to be heard).
- 5. Over burdening of women and limiting women contribution to the household economy.

#### Strategies

- Review and reform of existing laws and policies to accommodate women rights.
- The Government of Sudan, with support from relevant partners, needs to develop a clear policy and strategic framework to ensure equitable access to land for women.
- Enhancing the advocacy capacities of women organizations and CSOs in advocacy for women rights.
- Capacity development, at different levels, in gender-sensitive panning.

## Ratification of international and regional protocols) MAPUTO)

- Mainstreaming of these protocols in national development agenda.
- Advocacy for the ratification of the relevant international agreements (
- Media campaigns in awareness are rising, focusing on women's rights and gender sensitive planning including developing a national long-term vision for Sudanese women. SDG 5 could be utilized as a tool for that.
- Long term investment in women organization in both urban and rural settings

- Equitable gender representation in enacting legislation and laws, (in the Ministry of Justice and Parliament).
- Legal reform and the justice system to be more responsive to equitable and specific rights
- Gendering the drafting of laws It should be ensured that all legislation and local regulations are consistent with the Constitution and international human rights law, and that this framework supports gender equity.
- Measures should be taken to ensure affirmative action and the inadmissibility of laws and regulations without consulting with women. Laws and practices that discriminate against women should be declared null and void.
- Quotas for women regarding trademarks in legal drafting committees should be set to increase women's participation.
- Awareness and education of the existing laws regarding the protection of land rights

# 3.2 The limited presence of women in land administration, and governance institutions from local to national levels

#### Introduction

There is limited presence of women in land administration and management institutions from local to national levels. The function of land administration is scattered among different departments and at different levels of Government. This is in addition to the customary tribal institution at the community level where historically tribal leaders are the custodians of land, providing for land management and administration. In all these formal and informal institutions, the presence of women, particularly in leadership positions, is limited.

#### **Root Causes**

 High level of illiteracy among women (early marriage, the economic situation of the households, and the need for girls labour;

- Cultural restrictions on women to exposure to the outside world contributes to limited access to university education and, reduces their role in governance. This has gradually started to change over the past few years owing to the establishment of high education in the states.
- Patriarchal dominance in leadership positions;
- Lack of representation of women in tribal customary institutions (the Native Administration) which is the community based institution responsible for land management and administration
- Women are over burdened by domestic chores that render them non-competitive to men;
- Previous restriction rules that limited women access to specific specialized high education fields (surveying, oil exploration
- In the national system of land management, there is no representation of women.
- Women did not participate in mapping the lands.

#### The effects

- A critical gap in gender sensitive budgeting at different levels, including the Ministry of Finance and Economic Planning
- Most of the development plans and frameworks were gender blind. Even when women were included, they were just in the form of numbers to satisfy the demands of donors or funding agencies.
- Violation of women rights to land and related resources.
- Lack of gender-segregated data.
- Restricting the participation of women in planning and access to leader positions.
- Contribution to women marginalization and poverty.
- Very weak monitoring and evaluation processes.

#### **Strategies**

- Investment in the capacities of the related commissions specified in the Constitutional Declaration 2019 (Land Commission; Civil Service Reform Commission; Human Rights Commission and Women and Gender Equality Commission) to promote and assure the presence of women in land administration and governance.
- Advocacy for reforming the tribal customary institution to include women.
- Support to strict adherence to the implementation of the Positive Discrimination rule specified in the Constitutional Declaration.
- Encourage and support engendering of human resources policy in Government institutions.
- Training of customary authorities in legitimate land rights for women and men.

# 3.3 Limited gender capacity of land actors to mainstream gender in land programmes and policy interventions

Limited exposure of land-related planners and decision makers to gender mainstreaming approaches and methodologies (gender transformative approaches; GALs). The listing of Sudan on state sponsor terrorism and the economic sanctions on the country had and for nearly – three decades cut the country off the international community. This has restricted access to training and capacity building and the exposure to globally availed opportunities for investment in capacity development. This has extended to scholarships and access to capacity building exchange programmes and quality and up-to-date university education for both males and females.

State policy during the Inqazi regime founded on the ideological exclusion of governance contributed to the restriction of fair and just opportunities for training and capacity building. This has further contributed to brain-drain and loss of qualified human resources in the country.

#### **Root Causes**

- Domination of males in leading positions in Government institutions. For most of its independence history Sudan civil services, especially at the highest levels of governance, was essentially dominated by males with very limited exposure to gender sensitive planning.
- Limited gender sensitive capacities in monitoring and evaluation. Monitoring and evaluating most of the implemented projects is done by male consultants who generally have limited exposure to gender analysis.
- Lack of access to information on the gender-equity.
- Conflict of interest, the gender equality gives the power to the women, some brief this against their benefit.
- Tradition and custom norms, which favour the men.
- insufficient training mismanagement of resources allocated to gender programs

#### **Effects**

- a critical gap in gender-sensitive budgeting at different levels including Ministry of Finance and Economic Planning.
- Most of the development plans and frameworks are gender blind. Even when women were included they were just in the form of numbers to satisfy the demands of donors or funding agencies.
- Violation of women rights to land and related resources.
- Lack of gender-disaggregated data.
- Restricting the participation of women in planning and access to leadership positions.
- Increase in women's marginalization and poverty.
- Very weak monitoring and evaluation processes.

#### **Strategies**

- Raise the awareness of the land actors on the importance of gender mainstreaming in programmes and policy;
- Follow up the extent of incorporation of genderequity in programming and policy making.
- Training in gender-mainstreaming methodologies at different levels, with a particular focus on planners and decision-makers.
- Specific focused training on gender sensitive budgeting for state and non-state actors including women organizations; this could be extended to include TOT.
- Development and full implementation of gender policy.
- Investment in gender sensitive monitoring and evaluation.
- Support to Gender research centers and institutions as hubs for training and capacity building/ development.
- Support inter-regional exchange visits (learning routes) to senior planners for successful practices and experiences in gender mainstreaming in land programs

# 3.4 The patriarchal culture that does not recognize women's rights and their economic, social and political roles

Despite the geographical and ethnic diversity of Sudan, the country is predominantly patriarchal in cultural orientation. Accordingly, gender roles and gender relations are socially constructed around the supremacy of masculinity and the domination of males over females. This has contributed to women's internalization of their position as inferior compared to men. Therefore, this has compromised women's rights, including the rights to land.

The cultural construction of gender roles has created two distinct domains for males and females: the external domain outside the house which is the domain of males and the internal domain of the house which is the domain of women. This has further restricted the access of women to land. Even under the Sharia law that recognizes women's rights to inheritance, women usually exercise that right through their fathers, husbands or brothers.

Related to the above, the economic role of women in the household economy is poorly recognized; even if recognized it is rarely calculated. Similarly, the political role of women is not fully recognized and their participation in public life is rarely recognized or appreciated.

#### **Root Causes**

- Due to social upbringing, misconceptions of religious and social and cultural norms have persisted and often embraced by women as the norm. The system does not contain the importance of land for women.
- Land disputes have increased resulting from displacement due to drought and wars,
- Land is a commodity and a source of other resources (gold, oil). As such, it is dominated by men because of the significance of its economic value to Sudanese culture and politics.
- The geographical dimension of services affects access to services, especially in rural areas.

#### **Effects**

- Unequal distribution of power at the different levels, including the household level where women usually represent the weakest arm in the power structure.
- The domination of male culture including control of resources at the household level. Men control even income from land or livestock generated by women.
- Violence against women's rights.
- Limited contribution of women in the public life and the household economy.
- Limited recognition and respect of individual women's contribution by other women.
- Because access to land and access to power are largely interlinked in the Sudanese culture, lack of

- women access to land is one of the main factors behind women disempowerment.
- High level of dependency among women on their male relatives.

#### **Strategies**

- The educational curriculum embrace gender equality and address equal protection of women under the law.
- Facilitating access to justice is critical. Providing mechanisms and judicial services at the local level to help women access justice.
- Civil society organizations should play their role in raising awareness, advocacy, and the provision of legal aid.
- Awareness campaigns on women rights and role in society, at different levels, and among the different social groups including men and women.
- Economic empowerment of women as an entry point to enhance their power at the household and community levels.
- Long term investment in the education as a means of promoting gender equality to change the current stereotypes about women while promoting their role and position in society.
- Promote/enhance the accessibility of the formal rule of law and justice institutions to women.
- Ratification of international agreements/protocols related to women.

# 3.5 The absence of data disaggregated by gender in all land administration institutions and projects, including employment

There is absence of data disaggregated by gender in all land administration institutions and projects, including employment. An apparent critical gap related to gender and land is the complete absence of gender disaggregated data in land administration. For example data on how many women hold title to land, how many women have secured access to land, or how much

resources are spent on gender related issues in land management is not known

#### **Root Causes**

- Lack of capacities and vision among planners and decision makers for gender mainstreaming. Decades of belligerent relationship with the outside world and the intensification of economic crisis have left the Government of Sudan in a very weak position to invest in the capacities of the staff, including capacities for the collection, and documentation of gender disaggregated data, including gender budgeting data.
- Data and information collection and documentation systems are old and gender blind.
- Lack a follow up and clear accountability systems.
   Most government institutions suffer acute capacity gaps. Quality assurance and accountability systems are rarely in place. Follow up and monitoring systems are also weak.
- Limited acknowledgement of the value and necessity of gender disaggregated data.

#### **Effects**

- Lack of clear picture about the situation of women about land ownership and access;
- Very difficult to understand or fully grasp the needs of women or gaps in policy in the absence of gender disaggregated data and, by definition, to undertake gender focused and targeted planning in the land sector.
- Difficulty in measuring progress made through a different intervention designed to target women
- Reinforcing the low status of women land and ownership.

#### **Strategies**

- Training and capacity building, at different levels, in gender mainstreaming and the design, implementation and analysis of gender disaggregated data.
- Support to agricultural census to collect gender disaggregated data on land.

 Educating planning and executive cadres about gender and the importance of including equity type information in planning and implementation processes, evaluation and follow-up.

# 3.6 Limited awareness of women's rights limits their participation in Land administration and governance processes

Limited awareness of women's rights limits their participation in land governance processes. The overwhelming majority of women, especially in rural areas are not fully aware of the wide spectrum of their rights, including the rights to land access.

#### **Root Causes**

- The high level of illiteracy among Sudanese women, compared to men, is indisputable. This is culturally and historically constituted reality. Issues of early marriage, cultural restrictions of women to the internal domain of the house, negative perception of women education, limited access to schooling, and appalling poverty conditions in rural areas have all combined to suppress the awareness of their rights, including land rights.. Even existing laws and policies supportive for women, e.g. SCR 1325, are poorly recognized by women.
- Limited investment in women's awareness and empowerment. Although there is a growing and observable trend of investment in women's capacities, the efforts exerted remain limited compared to the huge demands. In addition, large groups of women in remote rural areas remain excluded from the programing of the gender development actors.
- Although women organizations have proliferated over the past few years, these organizations are still few and are largely urban based. In addition, and because most of these women organizations are still in their infancy and poorly recognized by communities, they suffer from lack of critical capacity and funding gaps to actively engaged in awareness-raising. Many of these organizations and CSO groups, remain donor-driven in their focus and not realy serving the country's interests.

#### The Effects

- Continued violation of women rights and access to land with all resultant negative impacts including poverty and limited access to power.
- Women are suppressed and surrendering their legitimate rights.
- Bias against women as reflected in the design of gender-blind policy frameworks and programmes in land management and administration.
- Negative impacts on socioeconomic development associated with the poorly tapped inherent capacities of women.
- Insecure access of women to public resources, including access to credit and financial resources.
   The majority of women, especially in rural areas, and because of their illiteracy, lack the necessary documents (e.g. IDs, national social numbers) to access resources.

#### Strategies

- Orchestrated national strategy for awareness campaigns targeting women in rural and peri-urban settings and focusing on women's rights including rights to land and public resources.
- Investment in the organization of women at different levels.
- Provide for economic empowerment of women as an essential entry point for enhancing the awareness of women about their rights, including land rights. This involves the revision of existing laws and policy frameworks to ease access of women to financial resources.
- Investment in the advocacy capacities of women CSOs to effectively advocate the rights of women in land.
- Institutionalization of adult literacy for women in all development projects and programme.



## **ANNEX**

# List of Participants at the multi-stakeholder workshop for formulating Women's Land Rights Agenda for Sudan 22<sup>th</sup>-22<sup>th</sup> March 2021

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