

# WOMEN'S LAND RIGHTS IN THE KYRGYZ REPUBLIC



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## ABOUT THE INITIATIVE

### SECURING WOMEN’S RESOURCE RIGHTS THROUGH GENDER TRANSFORMATIVE APPROACHES

In 2020, the International Fund for Agricultural Development (IFAD) invited a consortium of the Center for International Forestry Research and World Agroforestry (CIFOR-ICRAF), the International Food Policy Research Institute (IFPRI) and the Alliance of Bioversity International, and the International Center for Tropical Agriculture (CIAT) to work with selected IFAD projects to promote and strengthen women’s land rights through the integration of gender transformative approaches (GTAs) in rural development interventions by improving policies, tools and practices.

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SECURING  
WOMEN’S  
RESOURCE RIGHTS  
THROUGH GENDER  
TRANSFORMATIVE  
APPROACHES



Investing in rural people

# WOMEN’S LAND RIGHTS<sup>IN THE</sup> KYRGYZ REPUBLIC



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# Contents

Background	3
01. Introduction	4
02.Characterization of land tenure arrangements	5
Land generally	5
Arable land	5
Pastures	7
02.Insititutional And Regulatory Framework For Women’s Land Tenure	9
Legal and political context for women’s rights	9
Women’s rights to land and property	10
03.Interventions	12
Land titling and registration of privately held arable land	12
Pasture governance and management reforms	13
04. Access To Land Justice For Women	14
05.Conclusion	15
References	16
List of Regulations	17
Policy Documents	17
Sectoral Laws	17
Women	17



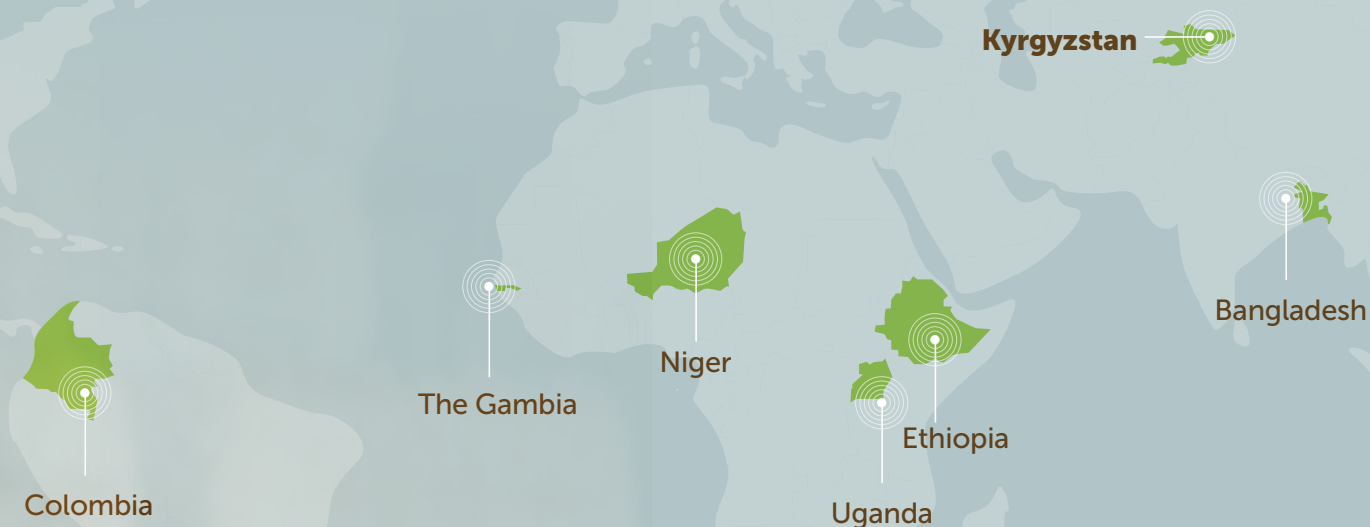


## WHAT IS A SOCIO-LEGAL ANALYSIS?

A socio-legal analysis focuses on reviewing laws in the context of particular social problems that the law aims to address (Schiff, 1976; Creutzet et al., 2019). Findings draw on the analysis of country legal and institutional frameworks that recognise women's land rights, and information on existing procedures and processes for implementing tenure interventions. These analyses provide the basis for identifying incongruencies, overlaps, and gaps that pose barriers to the recognition and enjoyment of women's rights to land and productive resources.

# Background

This series of socio-legal reviews summarizes the legal and policy documents related to women's land tenure in seven countries: Kyrgyzstan, Uganda, The Gambia, Ethiopia, Niger, Bangladesh, and Colombia. These synthesis documents, part of the IFAD Initiative on Women's Resource Rights, are designed for researchers and policymakers seeking to improve women's land and resource rights in these target countries.



## THE REVIEW COVERS:

- **A general characterization of land and resource tenure systems** at national, regional, and local levels
- **Existing institutional and regulatory frameworks** for land and resource tenure, and the extent to which these are inclusive of women
- Implemented **land tenure interventions**, and the extent to which these benefit women
- **Barriers and constraints** affecting women's ability to access rights
- Mechanisms for **dispute resolution**, and how these engage women and address their concerns



# 01. Introduction

The Kyrgyz Republic (Kyrgyzstan) is a landlocked country located in Central Asia between the Tien Shan and Pamir Mountain systems. Approximately 94% of the country is above 1,000 meters (m) elevation, and 40% is above 3,000 m; 4% of the country is permanently under ice and snow (World Bank, n.d.).

The population of the Kyrgyz Republic is about 6.6 million, two-thirds of which live in rural areas, centered around the capital Bishkek in the north, and the cities of Osh and Jalal-Abad in the south. Poverty has declined in recent years, but remains high, with about one-fourth of the country (25.3%) living below the national poverty line in 2020 (World Bank, 2021).

The national economy has rapidly transitioned away from agriculture, constituting 13.5% of GDP and 19% of total formal employment in the country in 2020 (World Bank, 2021). Today, a labour out- migration, primarily by men but also by women, plays an important economic role in Kyrgyzstan; and remittances provide a wage supplement for recipient households and are also used for investment and acquiring land and farm machinery (Lehrmann 2021). However, a large proportion of the population remains dependent on agriculture for subsistence, and agriculture (cultivation of land and tending to livestock) provides an important source of employment, income, and food security for rural people (USAID FTF, 2021). Pastureland and the related care for livestock play a crucial economic and cultural role in Kyrgyz life.

While 55% of the country's land area is characterized as agricultural land (World Bank, 2021), nearly 85% of that agricultural land is categorized and used as pastures and less than 7% of the country's total land area is arable (World Bank, 2021).

Geographic and demographic characteristics distinguish the north and the south of Kyrgyzstan regarding agricultural activities. In the north, wheat is the primary commercial crop grown; much of this is in the flat and irrigated Chui valley bordering Kazakhstan. In mountainous areas, cropping opportunities are limited by geography and climate, and livestock herding, mainly sheep, is the main agricultural activity. The bulk of the population of the south lives along the fringes of the Ferghana Valley that is shared with Uzbekistan and Tajikistan and provides fertile soil and an excellent climate for tobacco, cotton, fruits, and vegetables. The south has only about half as much arable land as the north. Over half of the country's total population lives in the south (Giovarelli and Akmatova, 2002).

In general, work on family farms and household plots is largely performed by women, who also play a key role in selling outputs (Lehrmann 2021). On pastures, livestock-raising is traditionally considered a male activity; however, women today play an important role in animal husbandry and care. Women are responsible for raising young animals, milking, processing, and preparation of dairy products for household consumption and for sale. Women are also responsible for marketing dairy products. Sometimes when men are busy with other activities, they are also responsible for animal health and breeding (Scalise and Undeland 2016).

Traditionally the Kyrgyz are nomadic people, and their reliance on the pastoral production system remains for rural households today: households migrate with herds, overwintering in lowland villages, moving to spring pastures in April and May, then to high altitude summer pastures in June, and slowly back to the villages after September harvests (Scalise and Undeland, 2016). During the Soviet era, all arable land and livestock became state-owned property to serve the collective production system composed of collective farms (organized as cooperatives) and state-owned farms. This forced a sedentary lifestyle upon Kyrgyz tribes, pushing them into the practice of Soviet collectivisation (Undeland, 2007). Following independence in 1991, many state and collective farms were dismantled (de-collectivised). Arable farmland and house plots were allocated in shares to individuals as part of farming households while pastureland is owned by the state is managed locally (Undeland, 2007; Scalise and Undeland 2016).

Legal reforms and political commitments on land and on gender since the end of the Soviet Union have protected women's rights and have included affirmative measures to support women's ownership, and use rights to land, as well as an improved role in management of pastures. However, while the experience of women on the two types of land differs considerably, common barriers to gender equity remain; these challenges mainly derive from patrilocal marriage traditions, patrilineal inheritance patterns, exclusion of women from decision-making and power, and social norms that prevent women from asserting and protecting their interests inside and outside of the home.



# 02. Characterization of land tenure arrangements

While both are considered agricultural land, arable land and pastureland have different formal tenure arrangements in Kyrgyzstan. Arable land is typically held in private ownership, whereas pastureland is owned by the state, which devolves management to the local level. Use rights are held by individual households. Forest land makes up only 3.4% of the territory and is also owned by the state; while important to certain communities (Undeland 2012), overall, forest land is less important to rural families than pasture and arable land and thus will not be covered in this case study.

## LAND GENERALLY

The Constitution (April 2021) recognizes private, state, municipal and other forms of property (art. 15) and provides that no one shall be deprived of it except by means of expropriation for public and state needs, which require a court decision and fair and prior compensation. The Constitution provides that land may be held in private or municipal ownership, except for pasture and forest land, which is owned by the state and may not be held privately (art. 16). Land may not be owned by foreign citizens or foreign legal entities.

Under the Land Code (1999, as amended 17 March, 2021), land can be held as "state, municipal, private and other patterns of ownership" (art. 4). State property is defined as lands allocated to state land users, forests, water areas, protected areas, lands of the agricultural re-allocation fund, pastures and other lands not transferred to private or municipal property (art. 4(2)). Private property is land owned by an individual or group of individuals under common or joint ownership. Amendments to the Land Code in 2009 prohibit private ownership of forestland and pastureland. Private landowners in Kyrgyzstan have the right to exclusive possession of land and can freely transfer the land by sale, lease, mortgage, or gift (art. 6).

## ARABLE LAND

Unlike other Former Soviet Union (FSU) countries, in Kyrgyzstan, the distribution of land and the break-up of collective farms were viewed as one process. While in some cases farms only reorganized on paper, the land reform legislation foresaw both distribution of land *and* the break-up of farms. The early reforms (1991-1994) principally focused on voluntary reorganization of failing state and collective farms and voluntary, individual withdrawal from collective and state farms. No rules were promulgated on how to divide the land or break-up farms, so each *oblast* (state) chose their own way based on local characteristics and demographics. For example, in Naryn where the population is almost entirely Kyrgyz, land was divided by clan whereas in Osh, where farmland is precious and scarce and where both Uzbeks and Kyrgyz live, much of the land was divided by *mahallya*, or neighborhood (Box 1).

The Constitution provides that land may be held in private or municipal ownership, except for pasture and forest land, which is owned by the state and may not be held privately ”



## BOX 1: MAHALLYA COMMITTEES

The Mahallya committees played an important role in farm reorganization and in land governance more generally. Mahallya committees exist primarily in Uzbek populated areas of the south. Maala is the Kyrgyz word for neighborhood, and mahallya is the Uzbek word for the neighborhood committee. Kyrgyz villages in the south may have a maala committee, but they are much more loosely organized and relate more to clans than neighborhoods. Quarter committees were Soviet institutions that were responsible for sanitation, order, and domicile registration in the designated quarter of the city. Each quarter in the south has several mahallyas, and these mahallyas perform the functions previously provided by the quarter committee plus more traditional functions of the mahallyas as they exist in Uzbekistan. Mahallyas are customary for Uzbek villages, and in Uzbekistan they are developed and supported by the State. The mahallyas deal with all issues of the neighborhood, including sanitation, disputes, festivities, roads, and cleanliness. They work closely with the court of aksakals (elders, informal leaders), the women's councils, and the village leader. Mahallya committees are elected and may have up to nine members. The positions are not paid; their revenues are fees they charge residents for providing letters of proof of residence or of the number of children in the family (to secure social benefits). The mahallyas report to the aйл okmotu who are the local government.

Source: Giovarelli and Akmatova (2002)



In August 1994, the Government promulgated the main regulations for the process of determining land share use right to arable lands.<sup>1</sup> All land within collective and state farms (except for land the government set-aside for later redistribution, village land, pastures, and other well-defined types of non-arable land) was required to be allocated as land shares. Such land shares were to be allocated free of charge for 49 years to farm workers, pensioners, invalids, and specified social sphere workers as individuals who met the criteria. Despite the individualized basis of allocation, land share certificates were distributed on a household basis, listing the names of each recipient’s family members and certificates were issued to the head of the household. The land share certificates for arable land had to be registered with the local government to be legally enforceable.

In November 1995, a presidential decree<sup>2</sup> extended 49-year use rights to agricultural land to 99 years. Heads of *oblast* and *raion* (state and district) governments were instructed to complete issuing land share certificates by December 31, 1995. The decree abolished the maximum size of plots that one family may use and reduced the minimum size of land plots to 5 hectares in all cultivation zones (and to 1 hectare for rural and suburban vegetable operations).

A constitutional referendum was held in October 1998 that allowed private ownership rights to arable land (as distinguished from long term use rights) and was passed by a majority of Kyrgyz voters. Prior to the referendum, a presidential decree was passed that outlined the concept of private ownership of land and provided that specific laws should be promulgated (if the referendum passed) that would establish and encourage a land market.<sup>3</sup> They included the Land Code, Peasant Farm Law, Mortgage Law, Law on Cooperatives, Law on Registration, and a law introducing land-related amendments to the Civil Code.

The entire package of laws was passed by the Parliament and signed by the President in 1999. The Land Code of the

Kyrgyz Republic was adopted on 2 June 1999. The Land Code automatically transformed use rights to agricultural land shares to ownership rights and placed a 5 year-long moratorium on the sale of agricultural land. The moratorium was intended to allow time for landowners to understand the value and meaning of ownership rights to land as this concept was relatively new to Kyrgyz people, and there was fear that unsuspecting farmers may be taken advantage of. The moratorium on the sale of land was lifted in January 2001.

In part to rectify failings in the first round of reforms, an additional 29,400 ha of land shares were allocated from 2004–2007 from the State Agricultural Land Redistribution Fund to over 80,000 citizens of the Kyrgyz Republic who had not received land during the previous allocations, including newly born children, women who moved to their husband’s villages after the land reform, and people who were not eligible under the land reform because they were not members of a state or collective farm. In total, more than 1 million hectares of agricultural land were allocated, and approximately 2.6 million people received land shares (FAO, 2016).

The average size of arable land allocated to farming households in Kyrgyzstan varies between the northern and southern regions. Namatbekova (2021) noted in a study conducted in the northern part of the republic that about 1910 women (of a total 3,823 recipients) in Jeti-Ogur municipality received shares averaging 0.56 hectares of irrigated arable land. In Naziman municipality, in the southern oblast of Osh, about 3,250 women received land shares out of the total 6,500 recipients (Namatbekova, 2021).

The way that arable land was allocated during the farm reorganization period has an impact on the ability of some women to benefit from land ownership. Land was distributed to households and not individuals during the land reform, and, because land is immovable, unmarried women who were allocated arable land as a member of

their parents’ household would not take that land (or its value) with them when they married and moved away to live with their husbands, as is customary. Those women might still legally own an unpartitioned share of the parents’ household land, but they do not use it or share in the profit from that land, and, subjectively, they do not view the land as their own. As well, the land owned by individual households is quite small, so partition of land among shareholders is not considered a useful outcome for anyone in the household.

Customarily, youngest sons inherit their parents’ land and are also responsible for their care, and since customs prevail in decisions on devolving property rights or when a land share holder dies, women also do not gain the opportunity to benefit from land ownership through inheritance. According to a recent study by Namatbekova (2021), about 42.1% of women between 26–60 years old legally own land shares within the northern and southern parts of the country, but do not use those land shares or benefit from them.

Women (especially young brides, divorcees, widows, and married women during their earlier years of marriage) find it hard to claim land rights for fear of going against traditional standard practices and rural customs. This has resulted in many giving up their ownership rights to male relatives (FAO, 2016; Namatbekova, 2021).

While Kyrgyz law provides women with equal rights to own, inherit, and dispose of property, including land, tradition dictates that women leave their birth families and their land shares with that family and move in with their husbands’ land when they marry. Although many women have the legal right to sell their land shares, and receive compensation, they rarely do this due to social norms that such an act would be considered “shameful” to the family. This was noted by 25% of women respondents within selected localities in the south and in the north in a small sample study by Namatbekova (2021).

PASTURES

Kyrgyzstan has vast mountain pasture resources accounting for 46% of the total territory (World Bank, 2018) and 85% of agricultural land (World Bank, 2021). Of the total pastureland in the country, 43% is categorised under summer (distant) pasture, while 30% is spring-autumn pasture, and 25% is winter (close to village) pasture. The State owns all pastureland, which is governed by the Land Code and the Law on Pastures (2009).

The Land Code devolves management of pastures to *aiyl okmotu*, who are self-governing rural communities or municipalities.<sup>4</sup> The Law on Pastures grants authority to the *aiyl okmotu* to delegate pasture management and administration to a Pasture Users’ Union (PUU) (Law on Pastures 2009, art. 5). The Pasture Users’ Union is defined and legally registered as a Territorial Body of Public Self Governance (TBPSG), which is further defined in law as a self-governing body comprised of residents of the municipal territory and whose purpose is to address issues of local importance (Law No. 101 of 15 July 2011 on Local Self-Government). According to the Law on Local Self Government, all residents of the municipality are automatically members of the TBPSGs (Law No. 101 of 15 July 2011 on Local Self-Government). When read together with the Law on Pastures, this means that all residents of a rural municipality are also members of the Pasture Users’ Union for that area.

Under the Law on Pasture, the PUU represents the interests of the livestock owners and other pasture users with respect to pasture use and improvement (art 5(1)) through the executive representative body, known as the Jayit Committee (JC) (art 6).

The Law on Pasture does not define procedures for election of the JC; however, it does state that the JC is formed from elected pasture users and includes the head of *aiyl okmotu* and members of the *aiyl kenesh*. In the absence of legislated procedures, the Pasture

<sup>1</sup> Government Regulation “On the Procedure for Determining Citizens’ Land Shares and for Issuance of Certificates Containing Land Share Use Right,” Adopted by Resolution No. 632 (August 22, 1994)

<sup>2</sup> Presidential Decree “On Measures for Further Development and State Support of Land and Agrarian Reform in the Kyrgyz Republic” (November 3, 1995).

<sup>3</sup> Presidential Decree “On Concept of Introduction of Private Land Ownership in the Kyrgyz Republic” (October 13, 1998).

<sup>4</sup> In Kyrgyzstan, state administration is decentralized to two levels: *oblasts* and *raions*. Towns and rural village clusters (*aiyl aimak*) are managed by their executive bodies (*aiyl okmotu*). Each *aiyl aimak* is made of a cluster of villages, the number of which can vary from two to 20 depending on the size of the population and location. *Aiyl aimaks* have elected councils known as the *aiyl kenesh* (Scalise and Undeland, 2016).





Department and Agency for Community Investment and Development (ARIS) have developed and promoted guiding procedures for formation and operation of JCs, and a Model Charter for the PUU (Scalise and Undeland, 2016). The JC are responsible for developing and implementing community plans to use pastures, monitor the status of pastures, issue documents, collect fees, and resolve disputes, as noted in the Pasture Law (Art 5) (Dörre, 2015; Scalise & Undeland, 2016) sustainable, and legitimized strategies for the management of natural resources. It remains frequently unnoticed that the policies and legal frameworks designed to regulate such local governance approaches oftentimes are externally initiated and top-down in nature, and frequently not adapted to local demands and capacities. Significant differences between the goals of such interventions and the lived reality and associated unintended effects were often concealed within the debates. A similar indication can be stated for Kyrgyzstan's pasture law, which demands that local communities are fully responsible for the management of pasturelands. The recent innovation in pasture law has not comprehensively resulted in the desired outcomes on the ground. Based upon a comparison of Kyrgyzstan's pasture-related legislation with the impacts of its implementation in the walnut-fruit forest region located in the south-west of the country, this article points out that community-based pasture management in local practice appears to have resulted in hybrid institutional arrangements comprising aspects of the existing formal legislation and local-specific informal regulations. Simultaneously, case-specific circumstances, particularly the constellation of uneven power holders and interest-driven players and their interactions, as well as the respective socio-economic conditions, highly influence the resource management performances on the ground. The actual outcomes do not necessarily correspond to the requirements of the formal legislation. They can even contradict the requirements of the formal legislation and generate subsequent problems. At a first glance, due to the assumed high participation of the immediate users and the belief in their supposedly intrinsic interest in eco-friendly resource use, community-based natural resource management (CBNRM). Thus, use rights are allocated according to the community plan for management and use of pastures and the annual plan of use of pastures.

Under the existing legal framework, women's and men's rights to use pastures are equal, because use rights to pastures are based on residence in a given municipality, and thereby male and female residents are members of the PUU. Likewise, the gender-neutral Model Charter for formation and operation of the JCs suggest that women and men have equal right to play a role in decision-making on pastures of the municipality that they reside in; there are no provisions that would exclude women from exercising the right to manage the pastures. However, in practice women's use of pastures and their role in pasture management are governed by traditional gender roles (Scalise & Undeland, 2016).

In practice, without considerable intervention, women do not participate in decision making about allocation and use of pasture resources, and in general their interests are not considered or prioritized in pasture management and governance (Scalise and Undeland, 2016). Men and women both tend to perceive pastureland management as a male task, one that is physically demanding and more related to infrastructure development than to the care of grazing households and upkeep of livestock. The rare women who participate in JCs are the exception rather than the norm and are more likely where pastures are abundant or where pasturing livestock is of less economic importance. (Scalise and Undeland, 2016). Men's priorities in pasture management reflect their responsibilities for grazing animals and thus their focus on infrastructure maintenance, such as repairing roads and bridges. At the same time, household income and food security are largely dependent on roles that women play in pastures – the safety, health, and quality of the livestock, the production, consumption, and sale of animal products and by-products – but these are not the focus of pasture management priorities covered by JCs (Scalise and Undeland, 2016).

Thus, women's needs when it comes to pastures differ from those of men, as women are responsible for the care of the animals themselves and the wellbeing of households who use pastures. The result is that degradation of pasture resources due to poor governance impacts women and men differently and women bear a disproportionate burden because they play a lesser role in pasture management and decision making and cannot influence decisions that impact their uses of pastures.

Without considerable intervention, women do not participate in decision making about allocation and use of pasture resources



## 02. Institutional And Regulatory Framework For Women's Land Tenure

### LEGAL AND POLITICAL CONTEXT FOR WOMEN'S RIGHTS

Kyrgyzstan has ratified several key international human rights conventions on gender equality, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (10 February, 1997) and the Optional Protocol of CEDAW (22 June, 2002), and has enacted a number of laws and policies supportive of gender equality. The Constitution of the Kyrgyz Republic, amended 2010 and 2021, reaffirms protections and respect for human and civil rights and freedoms and recognizes "universal human principles and values."

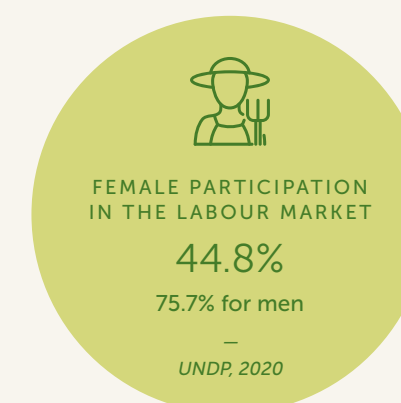
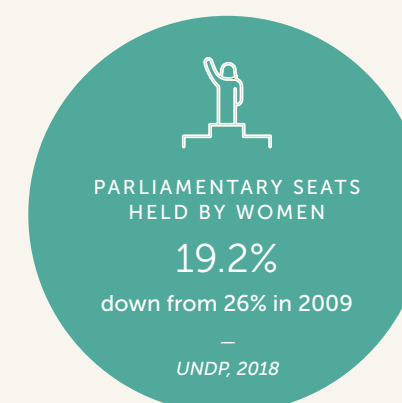
The Constitution (2021) guarantees both men and women equal status and prohibits any form of discrimination based on their origin, gender, race, nationality, language, religion, political and religious convictions, or any other conditions and circumstances of a personal or public nature (art. 24). The Family Code (2003, as amended 1 August, 2020) affirms the equal rights enshrined in the Constitution and affirms that men and women have equal opportunities to realize their rights, and have equal personal and property rights (art. 3). Art 21 of the Constitution establishes that the state will help develop the culture of the people in accordance with values, customs, and traditions that "do not infringe on human rights and freedoms." However, there is concern among some that this is as an erosion of human rights, should they conflict with traditional values. Hence, practices such as bride-kidnapping (*ala-kachuu*) and early marriage could become a common practice again, despite being forms of violence against women (Akisheva, 2021).

The Law "On State Guarantees of Equal Rights and Equal Opportunities for Men and Women" was adopted in August 2008 to achieve equity between women and men in all spheres of society. The law establishes state guarantees for the provision of equal rights and opportunities to men and women, and prohibits acts based on traditional or

customary laws that contravene the principles of equality. It also sets out provisions for implementation of the law, establishing reporting requirements and systematic data collection by state bodies and local government authorities, as well as enforcement processes.

In 2012, the Kyrgyz Republic adopted its first long-term National Gender Strategy (NGS) on Achieving Gender Equality by 2020 in compliance with CEDAW. The strategy outlines the following five pivotal areas for achieving gender equality: (i) strong, effective institutional mechanisms; (ii) economic empowerment; (iii) an education system that promotes gender equality; (iv) access to justice for women; and (v) gender-equitable political participation (ADB, 2019). Towards implementation of the NGS, the country has developed a series of National Action Plans (NAP) for Gender Equality, the most recent of which outlines measures to support women's economic empowerment, advance education for women and girls, eradicate discrimination, expand access to justice, promote gender parity in decision-making, and expand women's political participation in decision-making. In 2020, the government announced new commitments to strengthen its NAP (UN Women, 2020).

Despite these commitments, the Kyrgyz Republic suffers from high and rising gender inequalities. The country has a Gender Inequality Index value of 0.369, ranking it 82 out of 162 countries in the 2019 index. In 2019, 19.2% of parliamentary seats were held by women (down from 26% in 2009) (UNDP, 2018), and female participation in the labour market is 44.8 percent compared to 75.7 for men (UNDP, 2020).





WOMEN’S RIGHTS TO LAND AND PROPERTY

The Family Code (2021) governs rights to property that arise in the context of family or marriage. When it comes to property rights, the Family Code’s coverage is limited: it only applies to privately held land and not to pasture or forest land which are owned by the state, and which make up most of the land in Kyrgyzstan. In addition, to the extent that the Code’s provisions relate to the marriage relationship, the law only applies to legally recognized, registered marriages and does not cover those marriages which are not formalized (art. 31).

The Family Code provides for joint ownership of marital property. Marital property is property which is acquired by either or both spouses during the marriage; any property that belonged to a spouse before the marriage and any gift or inheritance received by one spouse during the marriage is considered the personal, separate property of that spouse, and is not jointly owned unless otherwise established by the marriage agreement (art. 34). Jointly owned marital property is used and managed by mutual agreement of the spouses (art. 36).

Marital property that is jointly owned is divided equally upon divorce unless otherwise established in the marriage agreement (art. 45).

Kyrgyz formal law governing succession does not distinguish between male and female heirs (Civil Code 1142). Spouses and children are ranked first in the order of heirs when the deceased dies intestate<sup>5</sup> (art. 1142). The laws governing inheritance provide that a spouse’s right to inheritance under intestate succession does not affect the surviving spouse’s other property rights that relate to their marriage to the deceased (art. 1150); when read alongside the Family Code’s provisions on marital property (provided above) this suggests that the surviving spouse has the right of survivorship<sup>6</sup> (ownership of the whole) for all property of the jointly owned marital property.

In practice, there is significant gender inequality in land ownership<sup>7</sup> in Kyrgyzstan. Though data is limited and dated, survey data from 2012 reveal that women report themselves as owners of agricultural land much less often than men (Table 1).

Under custom, women’s property rights are secured through male relatives: property rights, including land, animals, and pastureland-use rights, are attributed to him. Women enjoy access to these resources as they belong to that family or the associated clan (for pastoral communities), which men head (Scalise & Undeland, 2016). In the event of a divorce, generally, the land and house remain with the husband unless he leaves the village to marry another wife, as practised in rural areas (Giovarelli & Akmatova, 2002). For women-headed households and households where men are absent due to labour migration, women tend to rely on the male relatives of their husbands to gain access to pasture. In some cases, women apply for pastures from the PUU, with variable outcomes (Scalise & Undeland, 2016). In pastoral communities, animals are inherited by the youngest son, with daughters inheriting animals only if their parents have no male child (Undeland, 2007).

Thus, despite a relatively positive legal environment for gender equality, and gender-neutral land and property laws, gendered traditions and social norms work together to prevent the realization of gender equality in practice. And this inequality in land and property rights is also experienced in other aspects of life, though it may be experienced differently for women based on their age, marriage type, education level, and in some cases ethnicity or region. Likewise, gendered social norms and cultural practices are often linked to land, resource, and property rights, and to land and resource governance. For example, across ethnic groups and rural and urban areas, men are seen as the head of the household, and if the household is multigenerational, the husband’s father is also a key decision-maker; the husband’s mother also has a voice in decision making; the younger wife in the household is largely excluded (Tugelbaeva et al, 2018). This suggests that women largely do not have intrahousehold authority to make decisions on land and how it is used, managed, or disposed of and further relates to whether women will in practice make decisions in governance or decision-making bodies outside of the household, including pasture user unions. The limited role of women in governance and decision making on pastures is justified in part because it is believed that the man of the house owns all the property in the marriage (Tugelbaeva et al, 2018). Thus, even in multi-generational rural households where there is male labor out-migration, elder male (and sometimes elder female) relatives will be responsible for decision making on pasture and arable land to the exclusion of women (or sometimes of younger women, especially daughters-in-law) in the household.

Similarly, while legal provisions give daughters and sons equal rights to inherit private property, gendered traditions and beliefs are more influential in how inheritance works in practice. Sons are overwhelmingly preferred for inheritance of land and property due to the view that sons will take care of parents in their old age; and sons are considered bearers of the family name, while daughters are considered temporary members of the family who, once married, is lost to her birth family for good (Childress, 2018). The practice of bride kidnapping is also linked to property; while it is not necessarily supported by most Kyrgyz people, and is illegal, the practice continues and is largely justified if the male cannot afford the dowry that would be needed for the marriage to take place (Tugelbaeva et al 2018). Polygamy, too, is practiced and is linked to property; some justify polygamy if the man has enough wealth and property to support more than one wife separately, and others report that it can be a way for a single woman to improve her opportunities for economic support (through her husband) because otherwise her economic options are limited (Tugelbaeva et al, 2018).



Male preference permeates all aspects of Kyrgyz cultural life and rationalizes property rights and transfers occurring across a person’s lifetime. For example, male children receive a house and household plot from their parents when they marry, whereas female children typically receive a dowry of moveable property (household items) when they marry. If a woman is widowed or divorced, she will be expected to return to her birth home, taking only their dowry with her if she can (USAID, 2010), though she is not often received by her birth family who considered her lost to her married family. Similarly, education choices for girls are driven by whether the education will result in a good marriage for her, whereas for boys it is for his personal attainment. Male preference shows in other cultural practices as well: rituals for male babies are always practiced, while those for girl children are often forgotten or unknown; and funerals for men tend to have more and more highly valued animals slaughtered compared to a funeral for a woman (Tugelbaeva et al, 2018).

In addition to under-valuing women and women’s assets, Kyrgyz cultural and social norms for appropriate behavior of women and girls lessen the chance that women can meaningfully engage in land and resource governance and decision-making. Girls are expected to stay home, not be in the presence of men or elders, not to talk or laugh loudly, to be submissive, obedient, patient, and are under significant pressure to maintain a reputation as a “good” woman (Tugelbaeva et al, 2018). These traits work against a woman being able to meaningfully engage in governance decision making, particularly at the local level, particularly if it means disagreeing with men. There is also the strong norm that a wife has a duty in marriage to maintain peace and harmony, manage any conflict, and to endure even the most trying circumstances (Childress, 2018). These norms around marriage and family in Kyrgyz culture tend to disempower women in governing bodies or decision making and to reinforce their obligation to preserve the family. Kyrgyz social norms emphasise the importance of social standing, and an entire family’s reputation can be damaged by the behaviour of a single member, so women are under great pressure to maintain the status quo (Childress, 2018). Combined, these have the effect of proscribing the potential role that women can have in using land to serve their own needs and interests.

These social norms and practices are also evidenced in rates of violence against women in Kyrgyzstan, which is in turn an added risk for women who might seek to access, promote, or protect rights to land and property. According to the Kyrgyz Republic Demographic and Health Survey (2012), 23% of all women aged 15-49 years have experienced physical violence at least once since age 15 years, and 13% have experienced physical violence within the past 12 months. Among ever-married women, one in four has been a victim of physical violence, 4% have experienced sexual violence, and 14% have suffered emotional violence inflicted by their current or most recent husband (Childress, 2018, citing DHHS, 2012). However, domestic violence has not been subject to serious research in Kyrgyzstan; it is believed by experts to be higher than the official data suggests, and that social sanctions, fear for their children’s wellbeing, and lack of alternative options appear to be drivers of under-reporting (Childress, 2018).

Table 1. Women’s land ownership in Kyrgyz Republic (FAO 2016)

	Rural		Urban	
	Men%	Women%	Men%	Women%
Own land jointly	28.8	26.2	9.7	8.5
Own land alone	21.8	3.3	12.4	2.0
Own land both jointly and alone	5.9	13	1.6	5.3
Do not own land	43.4	57.5	75.9	84

...women report themselves as owners of agricultural land much less often than men ”

<sup>5</sup> Intestate succession is when inheritance of property is managed by law rather than by operation of a will of the deceased.  
<sup>6</sup> The right of survivorship is a legal term referring to the right of a surviving spouse to inherit the whole of the jointly owned marital property when her/his spouse deceases. This is distinguishable from a situation where the surviving spouse inherits from the deceased as an heir, in which case for intestate succession, would means she inherits according to the order of succession provided by law.  
<sup>7</sup> This is distinguishable from land registration data, as land ownership data derives from DHHS studies and is based on the opinions of respondents about ownership, not on documented ownership. See Kieran et al. (2015).



# 03. Interventions

## LAND TITLING AND REGISTRATION OF PRIVATELY HELD ARABLE LAND

A constitutional referendum in 1998 allowing private ownership of land paved the way for the formalization of land registration procedures and subsequent land titling in Kyrgyzstan.

The objective of the land reform was to support the development of markets for land and property by developing a comprehensive and well-functioning land and property registration system. The State Agency for Registration of Immovable Property Rights (Gosregister) was created in 1999 by Presidential decree, and was responsible for facilitating, formalizing, and monitoring land registration.

Through World Bank and other donor financing and technical support, Gosregister established the legal and administrative basis for land registration, created, equipped, and staffed 50 offices around the country, and developed a computerized title registration database. Large-scale systematic registration program began in urban and municipal areas in 2000 and was extended into rural lands in 2004. Land certificates were issued under the land component of the World Bank-funded Agriculture Support Services Project (ASSP) (1998-2008). This component was to support four main areas: (i) completion of the distribution of land and non-land assets throughout the country; (ii) establishment of policies and procedures for auctions and/or leasing of land from the Land Redistribution Fund (LRF); (iii) capacity building of government agencies and farming communities; and (iv) establishing a legal and regulatory framework for land market development (World Bank, 2008a). The majority of rightsholders received their certificates through the ASSP.

The Land and Real Estate Registration Project (LRERP) (2000-2008) followed on that work by setting up a system for registration of land rights and subsequent transactions. The LRERP supported the implementation of the systematic land registration program and developed and implemented procedures for regularizing titles having incomplete or contested documentation. As of December 2007, over 2.4 million land parcels and real estate objects (houses, apartments) had been registered (World Bank, 2008b). A follow-on project (Second Land and Real Estate Registration Project, 2009-2013) registered an additional 190,000 land and real estate objects and registered some community pasture lands (World bank, 2008b). By 2012, 92% of the country's privately held lots were officially registered (Center for Public Impact, 2018).

The World Bank project did not explicitly address gender in its implementation, though it did incorporate recommendations from a Swedish International Development Cooperation Agency (SIDA) study on gender-related issues and a World

Bank-financed study on women and land into project implementation (World Bank, 2009). Additionally, SIDA-financed gender awareness training was presented to Gosregister staff. Overall, through its technical assistance during the drafting of the Law on State Registration of rights in Immovable Property, the World Bank project ensured that land registration would treat both genders equally in terms of identification of rights holders, and in the exercise of rights granted by the Law (World Bank, 2000). In its implementation of the law through systematic titling, the project delivered equal rights protections for spouses, resulting in positive outcomes for women: women's names appeared on over half of the land titles issued (FAO, 2016).

Additional donor projects further supported land market development and land rights regularization in Kyrgyzstan during this period. USAID implemented the Land Reform and Market Development Project (LRMD) (2005-2008), which aimed to stimulate the land market through more effective and transparent land administration and increased public access to land data. In rural areas, the project focused on improving land administration, removing legal barriers, and developing mechanisms to facilitate transactions for agricultural land. Follow-on project work under LRMD II (2008-2009) promoted legislative reforms aimed at supporting more efficient land markets. SIDA co-funded and implemented the Strengthening of Land Administration in Kyrgyzstan project (2006– 2010), which provided technical assistance to improve Gosregister's capabilities to efficiently deliver integrated geographic and land information. There is no data on whether women and men are engaged in the land market equally if at all, and no data on whether subsequent transactions – sales but also inheritances and gifts – are being registered, thus it is not possible to know whether the registry reflects the current reality of rights to land.

The Agricultural Land Redistribution Fund (LRF) was created under the Ministry of Agriculture, Water Resources and Processing Industry of the Kyrgyz Republic. Management of the LRF land was given to local councils (Ayl Okmotu) that were tasked with leasing the reserved land to farmers through auction, tender, or direct allocation. This process is now regulated by the Model Regulation on the Conditions and the Procedure of Leasing out of LRF Land. The initial Model Regulation was adopted by Parliament on April 15 2002 and was revised and adopted by Parliament on June 29, 2007. The regulation requires all local self-governance units (LSGs) to develop a Strategic Plan (including classifications and a map of the LRF land) for the LRF's use (USAID 2008)

USAID's Land Reform and Market Development Project (LRMD Project, 2005–2008) was actively involved in developing new State policy for use of the Land Redistribution Fund (LRF). The LRMD project developed a methodology for strategic planning for future use and management of LRF land. As of 2008, over 130 AOs had completed this process and had developed their strategic plans, which classify land according to its quality and usefulness to the community. The planning process also identified the worst land in need of substantial investment, with the aim of reclassifying land identified as the most difficult for use in agriculture to another "target use" category, most likely pasture land (USAID, 2008).

House plots, as differentiated from farming plots, were handled differently than farming plots in the titling and registration interventions. Under the Civil Code and Land Code, rights to house plots are held by the owners of the residence. Thus, if both spouses jointly own the house, the plot of land is likewise owned by both spouses and should be titled and registered in joint ownership. However, according to one source, household plots were registered solely in men's names because of the belief that men are the heads of the households and if the male household head is the registered owner, the rights of his spouse and others in the household are automatically protected (USAID, 2010).

Data from 2012 suggest that 12.3% of privately registered farmland is in women's names, and 87.7% in men's names (Kieran et al, 2015)

## PASTURE GOVERNANCE AND MANAGEMENT REFORMS

Traditionally, the Kyrgyz people, especially in the country's central and eastern parts, have been engaged in transhumant livestock grazing, migrating with herds following the natural grass vegetation cycle. Livestock is crucial for ceremonial traditions and insurance for rural families in times of financial emergencies. All households in Kyrgyzstan own some livestock for these purposes. However, pastureland was traditionally the domain of men, and men's interests typically dominated pasture management decisions.

A major reform to the way that Pastures were managed came with the Law on Pastures in 2009. Under that law and the laws on self-government, mentioned above, women have the legal right to use and manage pastures equally with men by residing in the village and thereby being members of a Pasture Users' Union (PUU). However, after the adoption of the law, in practice, women did not engage in pasture management. Women overall lacked information about community pastures, how to access them, and how they were managed. They also lacked information on the pasture reforms. And women's lack of information and participation in pasture management had an impact on their livelihood options, because their interests were less likely to be considered in pasture management plans, which determined how pastures were used, maintained, and improved. (Scalise and Undeland, 2016). IFAD supported an intervention to address these challenges, through its Livestock and Market Development Project which is described in Box 2 below.

### BOX 2: THE LIVESTOCK AND MARKET DEVELOPMENT PROJECT (LMDP)

The LMDP project ran in two phases from 2013 to 2019 in Naryn and Issyk-Kul oblasts. In addition to having a quota for 30% women in Jayit Committees, the LMDP project sought to improve women's participation in the Jayit Committees and their active engagement as pasture user union members, including being able to influence the development of and contents of Community Pasture Use Management Plans. The project was designed to mainstream gender but an early evaluation of progress suggested that gender mainstreaming recommendations were not being achieved. To address this, the project incorporated additional measures including additional analysis of women's perspectives of pasture management and women's needs from pastures, identification of key barriers and targeted outreach and communications of gender issues with women and men in targeted PUUs.

Another crucial area of intervention related to grant-making. One project element included making grants to JCs to support priorities identified in the community pasture management plans.

For instance, the LMDP's investment and grant opportunities are designed to help support JC implementation of their Community Pasture Management Plan. After the project team noticed that women were not playing an increased role in the JC, there was a concern that women's interests would not be equally represented in the Community Pasture Management Plans and would therefore not be supported by these investments. The amount and frequency of investments were made on the basis of the PUU meeting a number of different criteria intended to provide incentives for certain institutional behavior. One measure of success was the inclusion of women on the JC. Another measure of success was how well women's interests were represented on the Community Pasture Management Plan. It also required that 25% of grants covered interests of women.

The final project report suggests that the number of women on JCs tripled as part of project activities but only 1 PUU out of 127 has a woman as the Chair. Also, the project report did not report on the qualitative objectives of women's involvement in the JCs, and it remains unknown whether women's participation on the JCs had the effect of ensuring that women's interests were included in JC priority-setting and planning.

Adapted from: Scalise and Undeland 2016; and IFAD 2019



## 04. Access To Land Justice For Women

Land disputes are responsible for at least 30% of the caseload of the Kyrgyz courts, due in large part to the rushed process of large-scale privatization, continued legal reforms, corruption, and errors and misinterpretation of laws by judges (Danaker, 2021).

The role of *aksakal* courts in mediating disputes is enshrined in the 2002 Law on Aksakal Courts, which provides that the courts have the right to consider cases on property and family disputes, the division of common joint property of spouses, marriage relations, and disputes over watering between land users (art. 15), and the courts continue to resolve family disputes (Commercio, 2021). The courts range in formality and procedural rigor: while the law provides that the consent of the parties is required for a case to be considered by an *aksakal* court (art. 22), cases are commonly heard by the courts in the absence of either the plaintiff or the defendant (Breyer, 2016). The courts often charge a fee for their services, payable by the prevailing party, which varies according to the nature of the case and the preferences of the judge. In *aksakal* courts, it is not uncommon for female plaintiffs to experience discrimination and are often advised to endure their grievance and not spread conflict outside the family (Nazarova, 2017).

According to a 2017 survey, the courts have expansive authority regarding property disputes, family law cases, and minor disputes (Danaker, 2017). While *aksakal* court members held important positions in Soviet times, are generally educated, and have technical knowledge related to land, irrigation, and animals (Breyer, 2016), aside from NGO- and donor-led trainings, *aksakal* judges do not receive any formal training, including training on the law and constitution (Danaker, 2017).

In many cases, a fear of stigma for claiming inheritance or settling a divorce may lead women to prefer to access the formal legal system (Fredman, 2019). In a 2014 UNDP study asking women where they would seek help for various types of disputes,<sup>8</sup> most women indicated that they preferred courts only in inheritance and divorce and marital disputes, at rates of 67.4% and 77.9%, respectively; in case of land disputes, 45.8% of women said that they would turn to local self-government institutions (UNDP, 2014). A general lack of awareness about where to turn in case of problems exacerbates limited access to formal courts for rural women across much of the country (UNDP, 2014).

Enforcement poses a further barrier to women's land and property rights. Both the formal and *aksakal* courts lack concrete enforcement measures. A decision by the formal court lacks adequate institutional mechanisms for ensuring enforcement, and court verdicts on civil matters are generally recognized as unenforceable, particularly in the south of the country (UNDP, 2014). Likewise, *aksakal* court decisions lack any formal authority for enforcement, and the party having the least amount of local influence – often women, youth, and people with disabilities – encounter especial difficulties realizing favorable decisions by the court. Ultimately, *aksakal* courts' ability to enforce their decisions depends on the extent to which their communities respect the institution, a level of esteem that varies depending on the individuals on the court, their level of influence within the community, and the relative power of the parties to a dispute. Less powerful parties (such as women in property division proceedings, who are often not originally from the village where the conflict arises) are likely to have more difficulty enforcing a favorable *aksakal* decision than those having broad influence in the community (UNDP, 2014).

A general lack of awareness about where to turn in case of problems exacerbates limited access to formal courts for rural women across much of the country ”

<sup>8</sup> The six types of legal problems were: land disputes (non-marital or inheritance), labor disputes, domestic violence, inheritance disputes, divorce/marital land disputes, and violence against children.

## 05. Conclusion



Women play a critical role on arable and pasture land in the Kyrgyz Republic. While legal reforms and political commitments on land and on gender have protected women's rights and have included affirmative measures to support women's ownership and use rights to land, as well as an improved role in management of pastures, common barriers to gender equity remain. These challenges mainly derive from patrilocal marriage traditions, patrilineal inheritance patterns, exclusion of women from decision-making and power, social norms that prevent women from asserting and protecting their interests inside and outside of the home, and gender roles that affect women's time poverty and ability to engage in governance processes that impact them. To address those barriers would require a significant investment in social and behavioural change, particularly those that can challenge the definitions of masculinity and femininity that limit women's autonomy to engage in self-directed decision-making.



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The **FAO** Gender and Land Rights Database

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## INITIATIVE CONSORTIUM



The Center for International Forestry Research (CIFOR) and World Agroforestry (ICRAF) envision a more equitable world where trees in all landscapes, from drylands to the humid tropics, enhance the environment and well-being for all. CIFOR and ICRAF are CGIAR Research Centers.

Alliance



Climate change, biodiversity loss, environmental degradation, and malnutrition. These four interconnected global crises have put at stake the wellbeing of our planet for years. Fueled by COVID-19, their impact on agriculture, landscapes, biodiversity, and humans is now stronger than ever. Reversing this negative trend is a challenge, but also an opportunity for bold choices and integrated solutions. Established in 2019, the Alliance of Bioversity International and the International Center for Tropical Agriculture (CIAT) was created to address these four crises, maximizing impact for change at key points in the food system.



INTERNATIONAL  
FOOD POLICY  
RESEARCH  
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The International Food Policy Research Institute (IFPRI) provides research-based policy solutions to sustainably reduce poverty and end hunger and malnutrition in developing countries. Established in 1975, IFPRI currently has more than 600 employees working in over 50 countries. It is a research center of CGIAR, a worldwide partnership engaged in agricultural research for development.

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