



OUTLOOK ON GENDER AND LAND IN THE MEKONG REGION BRIEF

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Background

Gender equity is integral to good land governance. Gender equity ultimately emphasises fairness. Gender-equitable land governance ensures that men and women can participate equally in their relationships to land, both through formal institutions and informal land administration and management. It implies that the processes and institutions of land tenure governance are transparent, consultative, and participatory, and that the different interests, needs and priorities of all people with respect to land, regardless of their gender, are addressed. It is also essential for sustainable economic development.

The *Outlook on Gender and Land in the Mekong Region* identifies strategic priorities to meaningfully strengthen gender-equitable land governance

across the region. The Outlook provides a basis to guide potential policy and action. It starts by framing gender and land in the Mekong region (Cambodia, Lao PDR, Myanmar, and Viet Nam) in conceptual, international, and regional contexts, and then reviews land-related policy and legal frameworks and their gender-specific provisions. This includes a look at family and inheritance laws and at land registration and titling initiatives, as well as at implementation issues. Broader land-related economic issues are also addressed, including large-scale land acquisitions and the integration of agricultural production into regional and global markets, and key institutional issues relating to participation in land governance, access to land justice and customary tenure. Emerging themes are drawn out and recommendations are offered.

Regional and International Policy Context

In recent years, gender and land issues have become hot topics on the global policy agenda. Cambodia, Lao PDR, Myanmar, and Viet Nam have broadly similar development trajectories and diverse geographies encompassing everything from mountainous forests to low-lying paddy fields. While political and economic systems vary across the region, many gender issues are broadly similar, and ethnic minority women are often the group most discriminated against.

Gender and land governance are framed internationally within the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (the VGGTs), the Sustainable Development Goals (SDGs), and the Convention on the Elimination of All Forms of Discrimination against Women (the CEDAW). All parties to the CEDAW – which include those of the Mekong region – agree to condemn discrimination against women in all of its forms and to pursue a policy of its elimination by all appropriate means and without delay. Within the Association of Southeast Asian Nations (ASEAN), the key framing policy is the 2017 Declaration on the Gender-Responsive Implementation of the ASEAN Community Vision 2025 and the SDGs, which led to the ASEAN Gender Mainstreaming Strategic Framework 2021 – 2025. Promoting women’s meaningful participation in decision-making is a key commitment of this Declaration.

Emerging Themes and Recommendations

Policy Strengthening: Policy frameworks across the Mekong region generally provide an adequate basis for gender equity with respect to land, especially in Viet Nam. Of concern is the ‘gender blindness’ of many statutory provisions in all four countries, including some constitutional provisions.

- **Recommendation:** Strengthen policy frameworks through explicit provisions for gender equality and amend Constitutions to explicitly prohibit gender-discriminatory social norms.





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Customary Tenure: Customary tenure systems and practices vary significantly across the region. The practical process of defining and mapping customary tenure practices, boundaries, and governance mechanisms can be cumbersome. The late inclusion of gender concerns may constitute an unwelcome ‘add-on’ to already complex methodologies.

- **Recommendation:** To enhance efficiencies and ensure an accurate understanding of customary tenure arrangements, a fully gender-inclusive approach must be deployed from the start, with clear provisions for implementation.

Ethnic Minorities and Indigenous Rights: Across the region, many marginalised people are from indigenous or ethnic minority groups; often these are also the most vulnerable people, and women tend to be the most disadvantaged among them.

- **Recommendation:** Administrative and procedural approaches to land governance need to systematically address the vulnerabilities of ethnic minorities, especially ethnic minority women.

Legal Ambiguities: Legal frameworks across the region are ambiguous with respect to the status of customary versus statutory tenure.

- **Recommendation:** Legal ambiguities should be resolved through comprehensive legislative reform, including at the level of regulations and by-laws.

Land Investments: Evidence suggests that women receive fewer benefits and bear greater costs from concession-based land investments in the region, due to gender inequalities at household- and community-levels.

- **Recommendation:** Legal requirements for Free, Prior and Informed Consent (FPIC) and Environmental and Social Impact Assessments (ESIA) are necessary, but accountability measures and law enforcement need to be robust and sensitised to women’s inclusion and rights. Programmes to strengthen local governance capacities will be key, as will embedding measures to ensure gender-equitable participation within FPIC.



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Land Administration: All countries in the Mekong region have implemented land registration and titling initiatives over the past few decades. Some initiatives have taken steps to address gender equity and women's rights, but results have been mixed.

- **Recommendation:** Greater recognition of differences between women (and between men) is needed. Unmarried, divorced, and widowed people's rights must be protected, while greater levels of choice are offered to married couples, in addition to encouraging joint titling within marriage where appropriate. Likewise, there is a need to review and harmonise family and land laws with regard to gender equality in property rights.

Policy-implementation Gaps: Many policies across the region, where implemented effectively, would support gender equity in land governance. However, there is a large gap between these policies and their implementation in practice. All four Mekong countries that are the focus of this Outlook face varying levels of technical and resourcing (in)capacity to implement policies and laws.

- **Recommendation:** The everyday operational and procedural details of how, and by whom, laws and policies are implemented is what matters. Coordination among development partners is needed to avoid duplication of effort and promote synergies.

Participatory Land Governance: Local land governance is crucial, including the need to embed gender-equitable community participation in the processes and institutions of land management at local levels.

- **Recommendation:** Accountability mechanisms are needed and must be enforced. Training, capacity building and gender sensitisation initiatives are needed to enable effective and participatory land governance that is not just representative of local elites.

Gendered Social Norms: Gender-related values, practices, belief systems, and traditions are often deeply-rooted norms that develop slowly over time. These may attenuate legal efforts to ensure gender equity with respect to land. Changing social norms, though inevitably complex, is possible.





- **Recommendation:** Civil society and government can work together with local champions of change, both women and men, to promote gender-equitable values. Development partners can help with funds and technical support.

Capacity Strengthening for Action: Above all is the need to strengthen the capacity of diverse actors. Many efforts have been made to improve gender equity in land administration, land registration, access to land justice and participation in decision-making with respect to land. To date, lack of cohesion, joint-action and follow-through have undermined impact.

- **Recommendation:** There is a need to foster a community of practice on gender and land at both national and regional levels in the Mekong to encourage cross-learning and experience-sharing, co-operation in advocacy on key issues, and building critical mass for meaningful change.

Forests and Climate Change: While the Mekong region is home to many forested areas, deforestation and illegal logging continue apace. In addition, some areas are vulnerable to rising sea-levels, drought, and other climate-related shocks and pressures. Women are among the most vulnerable within at-risk communities.

- **Recommendation:** An ASEAN-based regional approach on gender and climate change is needed to address the negative effects of deforestation and climate change on ethnic minorities and other vulnerable communities, and the relatively more disadvantaged women among them.

Knowledge and Data Gaps: While there have been significant gains in our understanding about gender and land, much remains to be learned. A lack of comparable land data across the Mekong region, including consistent, sex-disaggregated data at national- and sub-national levels, presents a major challenge for identifying issues and tracking progress to address these issues.

- **Recommendation:** Relevant, gender-disaggregated data should be developed through careful programme and project design at local levels, as well as within relevant national reporting mechanisms. More research is needed on the long-term impacts of policies, laws, and socio-economic change.



High Priority Recommendations

Gender equity is integral to good land governance, and gender is always important. Looking forward, priority actions are needed to:

- Improve women's meaningful participation in community leadership and decision-making at both family and community levels;
- Widely recognise and implement women's rights to own/inherit land on terms that are equal to those of men, and have the same powers around land use decision-making, including representation in national, sub-national, provincial, and local land management institutions and governance bodies and in decision-making about agricultural investment;
- Improve women's capacity and understanding of land tenure issues and legal frameworks to enable them to meaningfully engage in decision-making about land;
- Ensure women's access to land administration services and land titles in their own name (not just in joint names) despite illiteracy and socio-cultural barriers;
- Promote greater focus on issues of women's land access and inheritance rights in ethnic minority communities, paying particular attention to rights under customary tenure arrangements;
- Encourage greater commitment at the regional level to agree about standards and indicators for monitoring gender equity of land governance and support national data collection to generate best-in-class gender-disaggregated comparative data so that progress can be tracked; and
- Cultivate a vibrant community of practice relating to gender and land in the region to support the design and implementation of measures to improve gender equity in the governance of, and access to, land.

At the level of policy and legal frameworks, all four countries could follow the recommendations relating to gender and land made by the CEDAW Committee in their most recent formal review of Cambodia. These include that they should: take steps to reallocate or distribute land to women; give special attention to indigenous, ethnic minority and rural women in informal settlements; and establish systematic gender assessments when adopting or revising laws. At the level of the land administration programme and project design and implementation, all four countries could likewise pay more attention to creative innovation and draw more on evidence-based global good practices.

There is a role for development partners to collaborate with governments and civil society in developing clear monitoring indicators and mechanisms and supporting iterative approaches. This would include being more ready to encourage the adaptation of global good practices, so that solutions are specific to national and sub-national contexts and are developed in partnership with local communities. Finding what works best in the local and national context to support gender equity in land matters will lead to better outcomes for all people in the Mekong region – young and old, women and men, married and single, rich and poor – regardless of educational attainment, dis/ability, ethnicity or gender.





This brief is a summary of the full document: Daley, E., Campbell, N. Y., Lowry, J. (2024). *Outlook on Gender and Land in the Mekong Region*. Vientiane: Mekong Region Land Governance.

Available online at: <https://www.mrlg.org/publications/outlook-on-gender-and-land-in-the-mekong-region/>

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Suggested citation: Daley, E., Campbell, N. Y., Lowry, J. (2024). *Outlook on Gender and Land in the Mekong Region*. Brief. Vientiane: Mekong Region Land Governance.



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The Mekong Region Land Governance Project (MRLG) aims to improve the land tenure security of smallholder farmers in the Mekong Region and has been operating in Cambodia, Laos, Myanmar and Viet Nam since April 2014. MRLG is an initiative of the Government of Switzerland, through the Swiss Agency for Development and Cooperation (SDC), with co-financing from the Government of Germany and the Government of Luxembourg.

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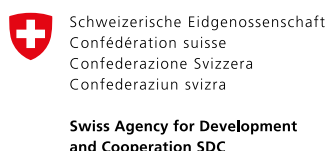
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