

Thematic Study

Towards gender-equitable
land policy and lawmaking
in the Mekong Region

Alice Beban,
Joanna Bourke Martignoni,
Sochanny Hak,
Hue Le,
Daovy Kongmanila
and Dien Thi Nguyen

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Research team

Dr. Alice Beban (Senior Lecturer in Sociology, Massey University, Aotearoa New Zealand)

Dr. Joanna Bourke Martignoni (Senior Researcher, Geneva Graduate Institute, Switzerland)

Dr. Sochanny Hak (Senior Researcher, Analyzing Development Issues Center, Phnom Penh)

Dr. Hue Le (Senior Researcher, Viet Nam National University, Hanoi)

Dr. Daovy Kongmanila (Lecturer, National University of Lao PDR, Vientiane)

Dr. Dien Thi Nguyen (Senior Lecturer in Sociology, Viet Nam National University of Agriculture, Hanoi)

Reviewers: Renée Chartres, Robert Cole

Proof reading: T.A. Garraghan

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Abbreviations

AC	Agricultural Cooperative
CEDAW	Convention on the Elimination of Discrimination Against Women
CF	Contract Farming
CSO	Civil Society Organisation
DAI	Department of Agro-Industry, MAFF
FAO	Food and Agriculture Organisation of the United Nations
FNN	Farmer and Nature Net Association
FPIC	Free, Prior and Informed Consent
GAD	Gender and Development
Lao PDR	Lao People's Democratic Republic
LWU	Lao Women's Union
LFN	Lao Farmer Network
MAFF	Ministry of Agriculture, Forestry and Fisheries
MoJ	Ministry of Justice
MoWA	Ministry of Women's Affairs
MoNRE	Ministry of Natural Resources and Environment
MRLG	Mekong Region Land Governance
NGO	Non-Governmental Organisation
REDD+	Reducing Emissions from Deforestation
UN	United Nations
VNFU	Viet Nam Farmers' Union
VWU	Viet Nam Women's Union
VYU	Viet Nam Youth Union



Executive summary

This study explores the extent and effectiveness of gender-equitable consultation mechanisms to ensure the inclusion of the views and experiences of diverse groups of women in processes of developing laws and policies on land, resource governance and agriculture in Cambodia, the Lao People's Democratic Republic (Lao PDR) and Viet Nam. Through a literature review, interviews and workshops, the research provides insights into the ways in which gender-equitable consultation might be achieved in the region.

Inclusive consultations are crucial for effective law and policymaking on land and resource governance, ensuring that these instruments advance the human rights of all people. International human rights standards require the creation of effective mechanisms and institutions to ensure gender equality by promoting the participation of diverse groups of women in all stages of law and policymaking processes. Standards include the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the CEDAW Committee's General Recommendation no. 34 (2016) on the rights of rural women, the Food and Agriculture Organization of the United Nations (FAO) Voluntary Guidelines on the Governance of Land Tenure (FAO, 2012) and the gender dimensions of the Guiding Principles on Business and Human Rights (United Nations Human Rights Council, 2019). However, largely as a result of failures to adopt inclusive, participatory methods, existing laws and policies in the Mekong region often overlook gendered inequalities, failing to confront structural discrimination within social and political institutions (Chant, 2016). Most land and resource governance interventions remain divorced from transformative feminist approaches to gender and development and fail to comply with international human rights standards (Cornwall, 2016).

Public consultations on land and agriculture in the Mekong region primarily follow top-down pathways involving government agencies, international organisations and select civil society organisations (CSOs) which privilege the perspectives and knowledge of a narrow range of 'experts' who often have no lived experience of rural realities. The current legislative and policy processes are opaque, and government actors often lack capacity to develop inclusive, participatory and gender-responsive mechanisms to guarantee that local knowledge and experiences are integrated into national laws and policies on agriculture and resource governance. There is a tendency among governments in the region to seek external expertise

and to view legislative drafting on agriculture and natural resources as a purely technical exercise rather than as a dynamic, political process that must be connected to local realities if it is to effectively promote and protect the human rights of all social groups. In addition, the prevailing discourse on regional development emphasises individual self-reliance, resilience and empowerment, overlooking accountability structures to ensure meaningful consultation with local communities. Corporate actors in the agriculture and natural resource sectors are able to benefit from government tax incentives without any obligation to conduct gender-responsive human rights due diligence, including obtaining the free, prior and informed consent (FPIC) of local communities affected by their activities. Additionally, the culture of non-confrontation and compromise throughout the region leads to the law being used as a negotiating tool rather than as a mechanism for the enforcement of binding human rights obligations.

The political infrastructure for gender in the Mekong region is largely housed in women's ministries, parliamentary committees and mass organisations. While these institutions have broad reach, women's organisations tend to focus on set of narrowly defined 'women's issues' such as the elimination of domestic violence, child and maternal health and the creation of clean communities. When gender equality is addressed in land and agriculture consultations the discussion is limited to ensuring gender parity within decision-making structures. Equal representation of women within land and resource governance structures is vitally important, but insufficient for ensuring that inequitable power relations are challenged and transformed.

A paradigm shift is needed towards inclusive consultative spaces that incorporate a variety of views and knowledge into normative instruments on agriculture and resource governance. The aim is not to train local people to comply with pre-defined policies and standards, but to base policymaking on existing experiences, needs and expertise of the communities themselves, and to translate technical processes into concepts and strategies that are locally relevant.

Transformative community consultation processes approach consultation as listening to diverse communities and reflecting upon the ways in which their aspirations and concerns can best be implemented through policies and legislation. This shift asks policymakers, CSOs and researchers to move from asking 'how can we help women find their voice?' to 'how can we listen better?' (Beausoleil, 2019).



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Recommendations

At regional and national levels

1. Incorporate diverse gender perspectives throughout the policy and lawmaking cycles, emphasising the range of different knowledge and expertise already present in local contexts. Facilitate community engagement through formal and informal networks and creative consultation mechanisms to provide meaningful opportunities to hear all voices.
2. Recognise and value women's knowledge and contributions in agriculture and resource governance. Promote the idea that 'women's concerns' include land and agriculture by drawing attention to the linkages between issues such as control over land or contract farming agreements and gender-based violence. Provide support to enhance engagement on gender in land and agriculture through awareness-raising and training for staff in ministries of women's affairs, women's unions and CSOs, including farmers' associations and producer groups.
3. Carry out training on gender-responsive facilitation models and methods for officials conducting consultation workshops. Facilitate approaches such as small group discussions that enable greater participation and a wider range of voices to be heard.
4. Ensure that consultation occurs early in the policy and legislation-drafting cycle rather than once the instruments have been adopted. Participatory lawmaking entails wide consultation from early in the process and requires review and inputs from relevant women's rights and gender institutions on all land and agriculture laws.
5. Produce a separate gender impact report or gender audit based on consultation results for each law reform/new law proposed (as is the case in Viet Nam).
6. Incorporate community-based monitoring tools into consultation processes (such as those developed by the Global Network for the Right to Food and Nutrition) to create accountability structures for government and corporate actors.
7. Support feminist networks and alliances across the region. Beyond the institutionalisation of formal consultative processes, existing coalitions should be more effectively harnessed to encourage the formation and reinforcement of lasting country and regional networks focused on gender-equitable

land rights and policymaking in the context of agro-investments.

8. Support women in informal leadership roles at the local level, enabling the voices of diverse groups of women to be heard. Identify women who hold visible roles in community networks, producer groups or kin networks and support these women to empower others and to foster connections across communities. Be mindful of potential challenges (such as increased labour burdens and negative reactions from male family members or authorities). Focus on enabling women leaders in their chosen areas and facilitating connections with others in similar spaces (Kent, 2014).
9. Improve gender-disaggregated data collection for informed lawmaking and monitoring. There is a dearth of information about what works to ensure effective participation of women in consultations for law and policy reform in the region. Record the gender of feedback providers in consultation processes and make these statistics publicly accessible.
10. Broaden the discourse around gender, recognising gender as both relational and intersectional. Gender is not only about women but a concept that forces us to examine the relationships between women and men – as well as people who identify as transgender, nonbinary or intersex – and how these work in different contexts, including how gender difference intersects with other identity attributes. To achieve this, provide capacity building and training for decision makers, leverage social media and share examples that challenge harmful gender stereotypes.

At sub-national level

11. Provide ongoing gender-responsiveness training for district and provincial officials to encourage people to recognise women's value, support women staff in upskilling opportunities, and to effectively listen to communities and relay their concerns to higher levels. Although district-level government officials play a key role as intermediaries between rural people and national governments, gender is rarely a priority and officials often see their role as transmitting information downward rather than taking ideas upward.

At community level

12. Support improved knowledge and training of the junior officers who conduct field consultations on law reform to enable inclusive processes. Community consultation processes should be open in scope. Long-term relationships and creative, less top-down workshops elicit more extensive participation. Informal small group discussions, creative visual exercises and transect walks can enable women to share their views.
13. Conduct consultations in languages people are most comfortable with and at convenient times and places. Ethnic minority women are often excluded from consultation processes. If translators are required, minority women should be supported to train as translators. Visual tools and plain language help to convey ideas. The use of videos and cartoons to convey information about gender in the context of forest tenure discussions provides a useful model (FAO, 2018).
14. Develop online consultation tools for broad rural use that are currently used primarily by urban publics. However, caution should be taken to identify barriers to access and to overcome issues of censorship and safety. Further research is necessary in this area to understand gender implications.
15. Make conducting separate consultations with groups of women and men the norm at the district level as per the Voluntary Guidelines on the Governance of Land Tenure. At the same time, recognise that community engagement must be context-specific and flexible to accommodate changing social dynamics.
16. Establish institutional mechanisms to enable the insights developed through local consultations to be fully integrated into draft laws and policies on agriculture and resource governance at an early stage in the process. These drafts should be presented for consultation and validation by local communities at several different points in the development cycle.
17. Implement participatory political methodologies such as the guide on feminist food policymaking (FIAN International, 2020) adapted for use in this research.



1. Introduction

Securing the livelihoods and land tenure rights of smallholder farmers during agrarian transition poses significant challenges. While development programmes in Southeast Asia and elsewhere have attempted to incorporate the perspectives of smallholders into policies and legislation on agriculture, land and resource governance, most of these initiatives have failed to consider gender differences within smallholder farming households and communities. International human rights law and many national policy frameworks recognise the importance of diverse perspectives in shaping laws and policies and emphasise the need for inclusiveness and gender equality in access, use, ownership, transfer, inheritance and control of land and resources in rural areas. Deliberate, concrete measures to achieve gender equality should be woven into all stages of legislative and policy processes.

Gender-equitable consultations refer to inclusive and participatory processes that involve individuals of all genders in decision-making, policy and legislative development. Consultations are one part of a gender-equitable law and policy process, which should also include instruments such as gender audits, gender-responsive budgeting, and training for law and policymakers on gender equality. Consultations will not necessarily lead to better laws if decision makers are not willing or bound to accept and integrate the outcomes from the consultations into draft legislation.

Gender-equitable policy and legislative processes aim to ensure fairness and equality for all people. When discussing land and agriculture, it is important to consider who can own and control land and have a say in decision-making around the allocation of resources. However, current processes often overlook the experiences of marginalised groups and may even reinforce power hierarchies by limiting consultation to those with social and political capital (Carella and Ackerly, 2017; Mukhopadhyay and Prügl, 2019; Pham et al., 2021). Simply having equal numbers of men and women involved in consultations is not enough to guarantee meaningful change. We need to understand how gender interacts with other factors such as social class, ethnicity and age, and how this leads to different forms of discrimination. To create inclusive consultative spaces, we must challenge power imbalances (Elmhirst et al. 2015; White and White, 2012; Carella and Ackerly, 2017) and involve diverse perspectives at different levels of decision-making, from local village level to the national level

(Beban, 2021; Dwyer, 2022). Ultimately, consultation processes that support transformative gender relations can lead not only to better laws but also to addressing unequal power relations. Participation in equitable consultations may empower women – particularly women from ethnic minority and other marginalised social groups – to engage in further political activities thereby building momentum to confront and dismantle discriminatory social and economic structures.

This study focuses on understanding the existing gender-consultative infrastructure for national legal and policy reforms related to land and agriculture in Cambodia, Viet Nam, and Lao PDR. It provides recommendations for promoting more gender-equitable law and policymaking processes, particularly concerning the participation of women from various social backgrounds in the legal drafting process. The practical basis for the research encompasses consultations on legislative and policy processes that were planned or underway in the three countries at the time of writing. These include but are not limited to the Viet Nam Land Law revision; the draft Cambodia Contract Farming Law; and the draft Lao PDR Contract Farming Decree. The report seeks to inform specific actions to improve the consultation process for these laws and ensure that the consultations (i) adequately consider gender; and (ii) include the participation of diverse groups of women. Additionally, the study examines relevant examples of land and agriculture policies and lawmaking, including past processes.

The research conducted for this study involved desk studies of academic and grey literature to establish a baseline understanding of gender-equality mechanisms and their interactions with agricultural and resource governance institutions in each country and the region. Key informant interviews were conducted with 39 stakeholders from different governance levels and civil society. The research followed feminist research principles, valuing diverse experiential knowledge. Key stakeholders included a range of people who could provide different insights, from national-level policymakers to rural smallholders. Pilot community consultation meetings were held in rural communities in each country to gather perspectives and ideas on inclusive consultations and to observe gender dynamics. Although these pilots were limited in scope, they aimed to inform the development of more gender-responsive participatory approaches.

The report examines national lawmaking processes, with limited attention to regional and international-level actors. We focus on identifying barriers and opportunities for CSOs, national ministries, sub-national offices and academic institutions to be more engaged in legislative drafting. The analysis concentrates primarily on consultation processes in connection with agricultural and land governance legislation rather than on the content, implementation or monitoring of these laws. Limited data were available on the impact of consultation on gender equality outcomes, reflecting a broader lack of attention to tracking gender equality in national data in the region. It is important to note that a key underlying hypothesis of the research, in line with human rights-based approaches, is that participatory

and inclusive consultations at all stages of policy and lawmaking processes are required to ensure that these instruments effectively advance gender equality.

The report first examines the current state of gender equality in lawmaking in each of the three countries. We then discuss cross-cutting themes on barriers and opportunities for gender-equitable law and policy. We conclude with recommendations for the inclusion of the views and experiences of diverse groups of women in the development of laws and policies on land, resource governance and agriculture that affect them.



2. The current state of gender-equitable law and policymaking processes for land in the Mekong region

This section presents an overview of the extent to which gender-equitable consultation processes have been integrated into agricultural and land-related laws and policies in Cambodia, Lao PDR and Viet Nam. We first looked at the legislative obligations to engage in consultation, and then selected specific legal processes to assess the extent of gender integration within those contexts. Data were collected through a desk study, key informant interviews and observation of pilot participatory consultations. Each country profile concludes with a statement of actions to encourage a gender-equitable process in key laws or policies currently being drafted.

Cambodia

Key points:

- No official mandates for gender-equitable consultations in legislative development exist in Cambodian law and the legal requirements for consultation are weak.
- The Ministry of Women's Affairs (MoWA), ministry-level gender technical working groups and lower-level gender administrations are important sites for legislative input but lack financial resources and power to enact political change in areas of land and agriculture.
- The drafting process of the contract farming (CF) law has been lengthy, lacking in transparency, limited to select CSOs and inter-ministerial groups, and subject to delays based on political changes.
- Pilot consultations and interviews highlight the importance of gender in contract farming arrangements, including access to information, negotiation assistance and conflict resolution. However, gender has not been explicitly discussed in consultation over the CF law and the draft law appears to be written in gender-neutral language with no discussion of differential concerns.

- Agricultural cooperatives (ACs) can be a vehicle through which local concerns of women and men can be communicated to higher levels. To do so, positive measures should be taken to ensure they are gender-responsive and inclusive and promote women leaders of ACs

The Constitution of the Kingdom of Cambodia contains guarantees of equality and non-discrimination,¹ and gender equality provisions have been enacted in legislation, including in laws on domestic violence, trafficking and joint land titles. However, there are no explicit legal requirements for gender-equitable consultations in law, and the extent of consultation in various land and agriculture laws has been variable. In general, under the Constitution and Circular 03 on guidelines for legislative drafting,² three institutions can initiate the lawmaking process: a member of the National Assembly, a member of the Senate, or the prime minister. Consultation takes place in two phases. In the first phase, the relevant institution organises discussions with stakeholders including other affected ministries; sub-national administration officials; civil society; and the private sector on social, economic and financial issues. In the second phase, the relevant administrative body consults again on the technical, social, cultural and political aspects. The draft law is then submitted to the Office of the Council of Ministers and is reviewed in technical meetings, inter-ministerial meetings and a plenary session, in which the draft can be put forward to the National Assembly. In the parliamentary stage, the draft law undergoes four stages: drafting, standing committee, commission and plenary. Discussions and reviews involving legal experts and interested groups are conducted before the proposed law becomes the final draft. However, the extent to which these consultations occur and are considered has been criticised by CSOs and international organisations in recent years (United Nations, 2014).

¹ This reflects the provisions in the international human rights instruments to which the country is a party, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of Racial Discrimination (CERD), and CEDAW.

² Circular No. 03 on implementation and guidelines on procedures and rules for drafting laws and other legal documents, signed 24 May 2013.



When consultations are carried out, restrictive gender norms and patronage politics limit women's ability to influence law and policymaking (Lamb et al., 2017). During consultations, women leaders in government and civil society describe the impact of dominant gender norms on their self-perception and treatment, emphasising women's need to study issues more deeply than men to avoid being perceived as ill-informed. At the same time, women also fear repercussions for being too assertive when voicing their opinions (UN Cambodia, 2022).

National policies tend to take a top-down, formal approach to including women in land and agriculture frameworks, overlooking the need for fundamental institutional transformation.³ This can also be the approach taken by some CSOs. Cambodia's Roadmap for Food Systems for Sustainable Development 2030 aims to empower women and promote inclusive governance in the food system. However, reconciling power asymmetries and differing development agendas between smallholder farmers and agribusiness remains unclear. The Roadmap lacks specific implementation responsibilities but emphasises the importance of multistakeholder and multisectoral dialogue for just, inclusive and participatory planning. This presents an opportunity for farmers' associations and civil society groups to engage in policymaking.

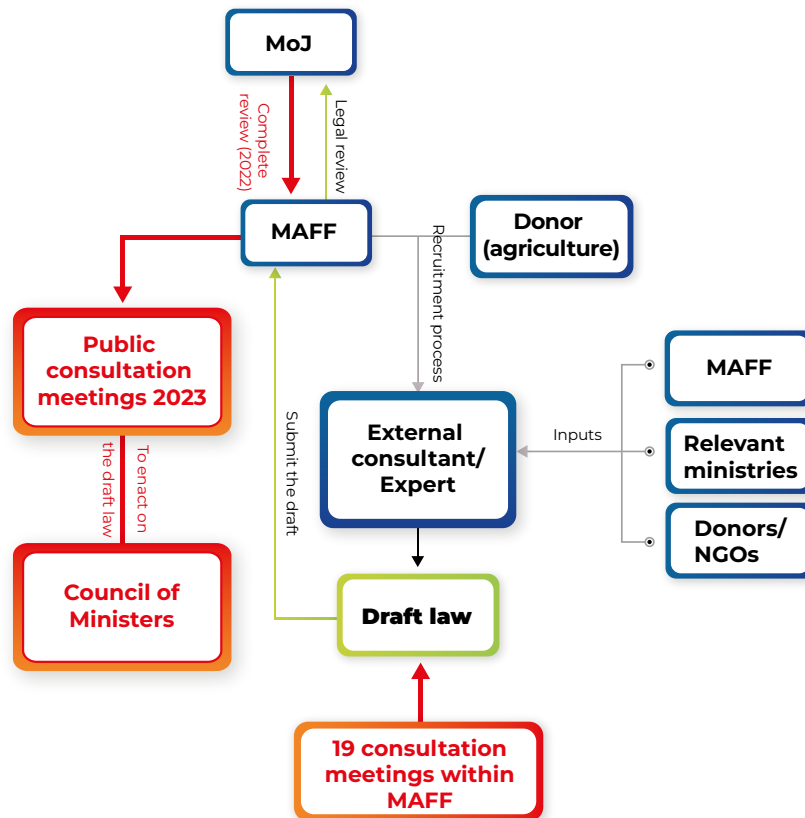
The devolution of political and fiscal authority to sub-national governmental actors also provides potential pathways towards more inclusive legal

and policy processes that can connect rural people's needs with national lawmakers. Reforms aimed at encouraging decentralisation stalled in 2017 and have been plagued by inadequate budgetary allocations from the central government. However, recent policy documents promote the concept of localised, community-based food and resource governance systems through the creation of community forestry and fisheries management committees and ACs. These ACs have the potential to be a key conduit for farmers to raise their concerns to higher levels of government and influence the legislative process. Our pilot consultations revealed that ACs vary in levels of gender equity, and this variability shapes women's ability to participate. We carried out two pilot participatory consultations with AC members and farmers and found that one of the two communities demonstrated robust participation from diverse farming families, including meaningful involvement of women, and effective communication with farmers and local authorities. The second community demonstrated limited involvement with farmers, and less involvement of women in positions of authority. We attributed the more gender-equitable model of participation in the first community to several context-specific factors including strong female leadership in the AC and among informal women leaders; regular AC meetings and communication channels; strong ties with local authorities; established trust through a community rice bank; and transparency in sharing financial information with the community.

³ The gender provisions in laws and policies, including in individual and collective land titling and family laws on inheritance, have been difficult to implement in practice. In some cases, they have resulted in unintended negative consequences for rights holders because policy and legal provisions automatically assume that both spouses have equal rights over land, which can undermine women's land rights in matrilineal communities.

Contract farming legislation drafting process

The government considers the enactment of a CF law to be crucial for investor trust and for safeguarding smallholder farmers and companies. The diagram below illustrates the ongoing drafting process:



1. The drafting process began with support from the USAID-funded HARVEST II programme. A Japanese consultant collaborated with the Department of Agro-Industry (DAI) of the Ministry of Agriculture, Forestry and Fisheries (MAFF) to develop the initial draft after consultations with core DAI staff, relevant ministries, institutions and HARVEST II staff.
2. To revise the draft, DAI and the consultant conducted 19 consultation meetings within MAFF. The initial draft was completed in March 2020 and submitted to the Ministry of Justice (MoJ) for legal review.
3. MoJ had not yet completed their review at the time of the study. After the review is complete, DAI is expected to conduct further consultations and make the final submission to the Council of Ministers. However, the timeline and process for public consultation and submission to the Council of Ministers are unclear. Changes in key government positions have added to delays, though this may also present an opportunity to conclude the legislation.

Barriers to gender-equitable consultation in Cambodia

Lack of transparency in the lawmaking process and risks of derailment if the political environment changes. CSOs often remain uninformed about land legislation reforms or receive limited feedback on how their concerns have been considered. In the case of the CF law, the drafting process began in 2019 and included 19 consultation meetings. However, these meetings had limited participation, mainly involving officials from the Ministry of Commerce and HARVEST II programme partners. Meetings with other ministries and MAFF line departments aimed to collect inputs for the draft law rather than facilitate comprehensive consultation. Some participants from outside MAFF did not receive an outline of the draft law and are uncertain about the extent to which inputs from external stakeholders have been integrated into the law. CSO interviewees noted that it was very difficult to have effective input when no draft was forthcoming.

Donor support for legal reforms in the land sector has dwindled, leading to a shift in focus from policy to technical support. Interviewees reported that the HARVEST project had moved away from a policy focus due to the difficulty in producing tangible outputs and the complexity of relationships with government, including a lack of transparency over the lawmaking process. The proposed amendments to the Agricultural Land Law, previously open for civil society consultation, have disappeared from

the parliamentary agenda. As a result, discussions on CF arrangements and ACs have overlooked critical issues such as land tenure security and rural land accessibility, hindering an integrated, human rights-based and gender-equitable approach to Cambodia's land sector.

Perception that gender-neutral is sufficient. The current draft CF law has not yet been made available to stakeholders outside MAFF and was not accessible to review for this report. In the presentations made by DAI outlining the draft law, there was no mention of gender. None of the interviewees within government or CSOs knew of any discussion of gender in the consultation meetings and, in the workshop attended by the national researcher for this report, there was no record kept of the gender of attendees. The current sub-decree on CF and the notes in DAI presentations discussed farmers in general, with the key stakeholder referred to as the farmer group or agreement party. Women can be a signatory party but there is no specific requirement that a particular number of women must participate in a committee of a farmer group/cooperative, or that women represent a signatory party. When gender is erased through the neutral language of 'farmer' or reference to a signatory party, this can reinforce the status quo whereby men are usually considered to be the head of the household and the main party in dealing with agricultural traders and state authorities.



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Government representatives interviewed felt that general reference within legislation was adequate to cover all people and gender-specific reference is not necessary. A representative from DAI explained that “gender equity is not specifically included in the draft law because the law represents a broad perspective that is applicable to all situations. DAI will develop policies or guidelines after the CF law is adopted which would consider the gender perspective”. The representative from DAI was clear that gender mainstreaming is integrated into all levels of MAFF from the national to local level, but it was not clear how this was implemented. This appears to be a case of mainstreaming weakening a more substantive gender agenda. CSO interviewees felt that, considering women’s central role in agriculture, gender is “a big loophole in the law”. Our pilot consultation workshops revealed the different lived experiences that women and men have, and how these experiences shape the issues they consider to be most important to address and the avenues they have for support and legal assistance. However, these differences are made invisible when there is no explicit discussion of gender in guidelines for consultation or in law and policy mechanisms.

The consultation process for the draft law has primarily focused on conflict resolution mechanisms, leaving out broader gender concerns and other aspects of legislation. While CSO interviewees felt that the focus on formalising conflict resolution mechanisms could be positive for women, this limited scope may create challenges for smallholder farmers, particularly women and those with limited resources, as they may struggle to access formal mechanisms. Smallholder farmers who took part in the pilot consultation workshops had concerns about multiple aspects of the contract farming process beyond conflict resolution mechanisms that have gender implications. These include details of pricing, input provision and training. Women farmers said they were not clear on these details as men usually deal with traders and are also likely to be responsible for contract negotiations (Gironde et al., 2021).

Overburdened and isolated women leaders.

Women interviewees at all levels of government from the commune level through to ministerial level noted the heavy burden they are forced to take on in their roles. One commune councillor explained that, as the only woman on the Council, she has responsibility for all portfolios on gender, women and children, as well as leadership of the local AC. While the councillor is committed to inclusive participation, this is a challenge as there is no existing mechanism for monitoring whether the community concerns she raises are taken into consideration by the commune

or higher levels of government. The councillor tries to monitor this herself through informal discussions with commune leadership. At the ministerial level, a MAFF official said that the technical working group on gender has little authority within the ministry and few opportunities to build networks with others in similar positions of gender expertise in other state institutions.

Absence of strong capacity and understanding of land issues among those likely to represent women’s interests.

MoWA has played an effective role in driving legislation on topics considered ‘women’s issues’ such as girls’ education and the domestic violence law. However, MoWA has limited influence in the land and agriculture sectors and severe budget constraints compared with other institutions (Joshi et al., 2022). Even initiatives on women’s economic empowerment sponsored by MoWA tend to focus on rural women as entrepreneurs in off-farm businesses rather than recognising them as smallholder farmers. MoWA has connections from the national level down to provincial, district, and commune-level gender focal points. With this said, decision-making tends to be top down and MoWA has little involvement in the farming sector. A civil society interviewee noted that MoWA is not part of the Contract Farming Coordination Committee and should be included to raise the profile of gender issues in the CF law. A representative from DAI argued that since MAFF has its own gender technical working group it is not necessary to involve officials from MoWA. The rationale for this is that “the law is very technical, and only technical staff from the ministries concerned have the capacity to work on it; MoWA works on issues to do with women and they are already overburdened”. However, it is worth noting that other interviewees raised concerns that the gender technical working group mainstreamed in MAFF had little voice and power.

Civil society space in Cambodia has shrunk since 2017 due to restrictive laws and pressure on CSOs working on land issues (Beban et al. 2020 ; Human Rights Watch, 2022a). Despite the challenges, CSO interviewees felt it is still possible to lobby/advocate to advance the rights of rural people in connection with gender equality. The Gender and Development (GAD) Network comprises 31 non-governmental organisations (NGOs) and CSOs working on gender equality and, together with the NGO Forum, is active in lobbying and advocacy for legal reform. GAD members interviewed were appreciative of collaborations with MoWA on domestic violence legislation and girls’ education but felt that MoWA’s focus on laws and policies directly pertinent to



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women is too limited. Even if MoWA does not take action to propose engagement or consultation on draft legislation, the GAD Network continues to advocate for raising the concerns of women in a raft of policy areas. For example, the network mobilised its members to give input into the draft Law on Public Order (drafted by the Ministry of Interior in 2020) without engagement from MoWA. The GAD Network gained a copy of the draft law early in the process through its networks, undertook legal analysis, canvassed members for inputs and submitted a collective statement to the Ministry of Interior, MoWA and donors. GAD members interviewed noted that land and agriculture laws including the proposed CF law will have specific impacts for women and should be considered from a gender perspective, but they have not yet been informed about any possibilities for their network to offer input.

ACs are viewed by the government as a vehicle to build the capacity of farmers and play a significant

role in CF. Each AC is governed by a Board consisting of 5 to 11 members. The Boards are required to have at least one woman, and often have more. The Farmer and Nature Net Association (FNN) is a non-profit network that acts as a coordinator of AC groups. The network has more than 100 collective members and provides coordination for both companies and ACs in implementing CF. FNN also engages with AC Board members to gather their perspectives and is open to adopting a more gender-responsive approach. Due to the significant role ACs play in CF in Cambodia, our interviews and pilot consultations suggested scope to work with FNN and with individual ACs on enabling a more gender-responsive approach in their work. The approach would include actively strengthening meaningful and inclusive participation by all AC members, canvassing the views of all members including women from different backgrounds, and providing support for communicating these views to higher levels of authority.

Country recommendations: Cambodia

- **Reinforce efforts on gender-equitable consultations that engage communities, with a clear mechanism for incorporating insights.** Several major donors in the land sector are hesitant to continue engaging in legislative drafting processes due to the lack of transparency, uncertainty and the length of time. Meaningful participation may be undermined if people feel that their involvement produces no results, potentially eroding trust in the law.
- **Set a requirement for legal drafters to produce a report summarising the inputs received in consultations, disaggregated by gender.** The report should detail how the inputs have been addressed and should be clearly communicated with rural people who took part in consultations.
- **Strengthen connections between government institutions representing the interests of women and CSOs focused on land/agriculture and gender to amplify the voices of women and advocate for gender-responsive input into lawmaking.**

MoWA, ministry-level gender technical working groups and lower-level gender administrations play significant roles in legislative input. However, they often face financial constraints and lack the power to drive political change. Stronger connections with entities such as the NGO Forum, the GAD Network and FNN could advance the rights of women through advocacy on gender-responsive policies and legislation.

- **Promote the active participation of women – especially those from disadvantaged backgrounds – in agricultural cooperative Boards.** Agricultural cooperatives are a vehicle for engaging rural people's views in legislative processes. Encouraging cooperative representatives to establish connections with local and central government bodies and CSOs (including FNN) will help bridge local concerns with national-level legislative processes. These efforts can complement the technical support provided by DAI and donors such as USAID.



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Lao PDR

Key Points

- Draft laws and policies tend to be initiated within government departments in a top-down process. This creates few entry points for civil society or stakeholders other than the ministries concerned to have input into the drafting cycle.
- CSOs and international NGOs have been active in seeking guarantees on gender equality in land and agricultural legislation. Their influence is limited however, and they are often unaware of new proposals for laws and policies on agriculture and resource governance.
- Some CSOs and international NGOs have been more closely involved in technical studies to inform the planning of legislation, including a contract farming decree (under pre-planning at the time of writing). There is a need for public consultations that give voice to all concerned stakeholders to ensure resulting legislation includes gender equality provisions, including within proposed contract templates and grievance mechanisms.
- Lao government institutions generally focus on gender equality as the achievement of numerical parity. Emphasis on meeting quotas of women at consultations may lead to the same women being invited to participate in all consultative processes. These women tend to have more social capital and are able to speak official Lao language, potentially marginalising other voices including ethnic minority women.
- Intersectional understanding of how class, ethnicity, political affiliation and age shape gendered power relations is mostly absent.
- The Lao Women's Union (LWU) has reach from the national to the local level and is strong in gender training on issues considered applicable to women such as domestic violence and child and maternal health. These issues are seen as separate from land and agriculture. As such, the LWU is rarely viewed as a relevant partner by policymaking institutions to be consulted in the process of developing laws and policies on land and agriculture, including contract farming.



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The Constitution of the Lao PDR contains several broad guarantees of gender equality and non-discrimination in Article 29, Article 35 and Article 37. The equal rights of women to be consulted and to participate in decision-making in political, economic, social and cultural life are enshrined in specific legislation including the Law on Gender Equality (2019). The law requires all government organisations, including ministries and sub-national agencies, to create gender action plans, raise awareness about gender equality and empower women in their organisations (Articles 26–29). The National Action Plan on Gender Equality 2021–2025 is designed to implement the principles of the Law on Gender Equality by developing national policies and legislation in line with international standards on women’s rights and strengthening gender equality institutions. The Law on Making Legislation (2012) requires national and provincial consultations before laws are finalised and enables the Women’s Parliamentary Caucus of the National Assembly to comment on laws ‘concerning women’ before their adoption. It also provides that if legislation is inconsistent with the provisions of international treaties – including CEDAW – then these shall prevail and national legislation must be amended (Articles 7 and 9). However, the Law on Making Legislation does not mandate gender-responsive consultation processes for laws and policies such as CF or responsible agriculture investments that are not viewed as concerning women.

In Lao PDR, the consultation process for initiating legislative decrees on resource governance and agriculture is limited to officials in relevant national government departments. Once a draft is finalised at the ministerial level, the public are invited to provide comments. The process for legislative drafting is set out in regulations established by MoJ. Some progress has been made with the inclusion of the LWU in the technical working group on climate change. However, in general, laws and policies relating to agriculture and resource governance have not been developed with the full and equal participation of women and fail to address crucial issues of structural discrimination (Asian Development Bank, 2022). These legislative instruments also lack reference to the Law on Gender Equality, which would support the use of gender-responsive consultative processes to address gender inequalities in agricultural laws and policies.

Over several years, the Department of Policy and Legal Affairs under the Ministry of Agricultural and Forestry worked together with FAO to devise

a ‘roadmap for improving the policy and legal framework for contract farming development in Lao PDR’ (Government of Lao PDR, 2019). While there was a vague mention of the need to include specific provisions on gender equality within new norms on CF, these ideas were not retained in the set of recommendations for functional reform that emerged from consultations with donors, a Brazilian expert and the Department of Policy and Legal Affairs (Government of Lao PDR, 2019). In practice, despite the rapid acceleration of CF in Laos in recent years, smallholder farmers rarely have the opportunity to provide input into related policies and legislation, with women having even less opportunity than men. In interviews concerning CF and agricultural investment, officials from the Provincial Agriculture and Forestry Office noted that investors have more influence over laws and policies on land concessions or farming contracts and farmers “do not have opportunity to draft the policy; they just follow when it is ready”.

In this study, we sought to focus on the specific drafting mechanisms for the CF decree during interviews with stakeholders. However, it was difficult to gain clear information from government officials on the process since this was at early stages of initiation at the time of the research.⁴ The lack of dissemination outside of technical contributors meant that other stakeholders (for example, senior LWU staff, academics and CSO representatives) had little or no awareness of proposed legislative reforms and had not been asked to provide input. Although some legislation is passed quickly, laws are often not translated directly into practice and few people are aware of their formal rights, particularly in rural areas (Gueye, 2021). The CF decree has nevertheless been under study for a significant period and could offer an avenue for wider public feedback if opportunities are provided at the right stage of the process. Although feedback and ideas from local contexts may occasionally be communicated to national-level institutions, including feedback channels to the National Assembly, policy formulation generally occurs from the top down. Decisions by the central leadership are generally accepted due to a pervasive sense of risk around criticism of internal government processes. It remains to be seen whether a more open and gender-equitable consultative process can be supported for the CF decree, given the wide impact this legislation could have on rural women and men throughout the country.

With regards to the broader process of drafting decrees on agriculture and natural resources,

4 Development of the Lao CF decree was initiated at the end of 2023 and intended for drafting during 2024.

officials from the Ministry of Natural Resources and Environment (MoNRE) and the Department of Agricultural Land Management described the steps involved in drafting and consultation:

1. The decree is drafted by the unit responsible for the legislation, led by experts in land management.
2. The department responsible for the legislative work prepares a meeting to pass the draft, inviting relevant experts to comment on the draft legislation.
3. The committee makes changes according to the comments of the meeting participants.
4. The revised draft legislation is discussed within the responsible department to reach consensus.
5. The draft legislation receives approval from the Minister of Natural Resources and Environment.
6. Once the draft is finalised at the ministry, it is sent to other government departments. In the case of the Agricultural Land Decree, the draft is circulated to Agriculture and Forestry Offices at the provincial and district level, representatives from relevant ministries including MoNRE and MoJ, and the National Assembly.
7. Once line offices have completed the review of content, consultation meetings are organised with villagers to collect any feedback and make adjustments where needed.
8. The draft is open for public consultation via the MoJ consultation platform. The notice is posted on the Lao PDR Official Gazette for two months, allowing the general public to provide comments.

As lawmaking is top down, the consultation mechanisms described above are often performative rather than meaningful opportunities for diverse social groups to influence policy and legislation from their inception. Meetings to discuss drafts of legislation at the village level were described as PowerPoint presentations shown to village authorities and representatives of mass organisations (including the LWU). Time was given to ask clarification questions but no space was provided to articulate the issues that mattered to communities or to express divergent opinions that might be used to amend or improve upon draft legislation or policies prior to their adoption.

Even within this restricted political space, there is some room for CSOs and donors to influence legislative processes. Pressure to ensure transparent consultations comes partly from the Lao PDR's ratification of international trade, environmental

and human rights agreements (Dwyer and Ingalls, 2015). In addition, the commitment of the Lao People's Revolutionary Party to a socialist model of a responsive one-party state enables some input into policy and lawmaking when this is politically expedient for Party leadership (Kenney-Lazar et al., 2022). The government has become more conscious of the social and environmental shortcomings of its policy on 'turning land into capital' and has incorporated some of the human rights and sustainability reforms being advocated for by CSOs and donors (Kenney-Lazar et al., 2022). The revised land law was approved in the National Assembly by a very narrow margin by Lao PDR standards (64 percent of lawmakers). This was partly because the law controversially left out important elements with gender implications, including restrictions on land speculation, land ownership ceilings and the requirement that a married couple's property contain the name of both the husband and the wife (MRLG and LIWG, 2021). The narrow margin suggests that the National Assembly may be becoming a space for greater debate and potential influence from civil society, including with respect to mainstreaming gender equality into laws and policies on agriculture and natural resources.

Barriers to gender-equitable consultation in Lao PDR

Narrow understanding of both gender and participatory consultation. Understanding of gender-equitable consultation is very limited in scope at the national level. Several government and CSO interviewees indicated that the gender dimension of participation in consultation processes was not aimed at encouraging women generally but is "mostly done on their position", meaning that "if women were promoted to decision-making positions, then they will be able to share their views". Government officials pointed to the increasing proportion of women in public sector positions as evidence that legal drafting was gender equitable. A representative from the Department of Agricultural Land Management noted that the Ministry of Agriculture and Forestry follows the guidelines on gender equality from the Asian Development Bank, with women's participation set at 25 percent but "in reality, women participated more and sometimes they spoke more than men". In state-run consultations on laws and policies related to land and natural resources at the local level, participation is often viewed by women as 'coming to meetings', while men define participation and consultation to mean 'making decisions' (Vixathep, 2011).

In FPIC consultations over Reducing Emissions from Deforestation and Degradation (REDD+) development – which had explicit guidelines for gender-responsive participation – women were largely absent, joining only if men were not available (Ramcilovic-Suominen et al., 2021). Household obligations, language barriers and not being sufficiently prepared to speak up in the presence of village and state authorities were given as reasons for women not attending the meetings. These same barriers were articulated by several of our interviewees. Cultural norms related to women's roles in enabling harmony and consensus and respecting the role of teachers was also thought to limit their willingness to actively contribute. Where participatory consultations did take place, some marginalised groups felt that discussions focused on pre-determined topics. People with less power in the community kept quiet during meetings even if they disagreed because they were concerned that the government would open more village land to plantations if they did not reach consensus on a land use plan (Suhardiman et al., 2019). This study argues that consultations, as with land policy more broadly, are political processes that can both serve to amplify the voice of those marginalised in formal politics but can also serve the interests of more powerful groups and sustain unequal access to land.

Restricted civil society space for work on agriculture and resource rights. Civil society in Lao PDR operates in a limited space. While local NGOs do exist, they are generally confined to activities that focus on health, farming, food and education that are seen as less politically sensitive than land issues. NGOs have had limited success pushing for reforms to enable gender-equitable consultation. In the preparation of the Land Law (2019) and its consideration by the National Assembly, civil society actors (including the Land Issues Working Group, MRLG, Oxfam and Village Focus International) advocated for a mechanism to ensure inclusive and participatory FPIC before any local development projects, but this was not accepted by the drafters or the National Assembly (MRLG and LIWG, 2021). Space for exchange on the technical content and implications of policy reforms for vulnerable groups has arguably gradually expanded, including through a series of national multi-stakeholder dialogues on responsible agricultural investment from 2021-2023. Such platforms could be harnessed to respond more effectively to gender concerns within national policy debates.

Academia is not considered as politically sensitive as CSOs. Events such as the National Research for Development forum (2014) show the potential for academics to contribute to critical land policy

debate. The successful forum brought together researchers and policymakers for debate on land and resource issues, predominantly in Lao language. Interviewees noted that the increased numbers of women studying agriculture and returnee graduate students with training in gender issues and critical social science perspectives should be supported and connected. However, academics are also subject to political pressures if they speak out on controversial issues, and the recent crackdown on social media freedom reiterates the difficulties faced by those who are seen to challenge the state.

Limited influence of the LWU in promoting a broad women's rights agenda. The key institutions for promoting gender equality in government are the LWU, the National Commission for the Advancement of Women, Mothers and Children (incorporated into LWU), and the Women's Parliamentary Caucus of the National Assembly. The LWU has constitutional mandates for women's advancement and has authority under the Law of the Lao Women's Union (2013) to represent and advocate for the rights of women and children. Because of the strong network from the national to village level, the LWU is in a unique position to influence policies and lawmaking. However, the LWU tends to focus on disseminating information from the state to the people rather than the other way around. Interviewees saw the function of the LWU as "raising the level of rural women's knowledge", with representatives at the district level playing a key role. Government institutions on land and agriculture view the LWU as an important vehicle to transmit information about land rights, such as women's rights to use and transfer land that women bring into marriage.

LWU campaigns that seek to influence legislative process have focused on traditional gendered areas of policy, such as laws on gender equality and domestic violence, and campaigns to keep the environment and home beautiful. Little focus has been on land and agricultural policy. While the LWU lacks authority on agricultural issues, the Lao Farmer Network (LFN) is a key stakeholder that may also represent an institutional mechanism to enhance engagement on gender issues. Interviewees suggested that identifying and supporting active female LFN leaders at the local level may enable meaningful connections to be made between gender and agriculture.

With connections from the village to central level, the LWU has the potential for much greater communication of local people's views up to senior government lawmakers. Our interviews found that some LWU representatives are active and potential

levers for change, but many are overburdened and under-resourced. Budgetary constraints limit LWU work at local levels. LWU policies at the central level and recommendations at the provincial level are well defined. However, district-level representatives complained that lack of budget constrained local implementation.

Even when women are included in committees and in the workplace, their influence is limited at higher levels. Low levels of representation in land-related offices and in the Party Committee and People's Council at provincial level limit the ability of LWU representatives to push for change. One LWU leader noted that she is the only female Council member among nine people and, while she has some authority to mediate land and agricultural issues at the local level (including involvement in neighbourhood land disputes), this is limited at higher levels. LWU representatives also tend to be selected from among women who have had more access to education and are often from wealthier or more politically connected families. An official from the District Agriculture and Forestry Office explained that when consultation meetings over the Land Law were held at the village level, about 80 percent of attendees were women. However, intersectional power relations shaped whose ideas were heard. The executive board of the local LWU expressed their opinions, but "ordinary women were not heard".

Country recommendations: Lao PDR

- **Mainstream gender-responsive consultative mechanisms into all ongoing and future initiatives and legislation.** This should be in line with the Lao PDR's commitments under various human rights instruments (including CEDAW). Initiatives and legislation should include land-related agricultural investments, such as sub-laws governing land concessions and contract farming arrangements and related development of procedural guidelines for local government officials.
- **Expand the scope of what are considered 'women's issues' and laws 'concerning women' that form the focus of women's representative institutions to include land rights and issues around agro-investments such as contract farming, concessions and leases.** The LWU has the potential to play a much stronger role in discussions on the intersection of gender issues and land and agriculture. This widening of scope should also be extended to the Women's Parliamentary Caucus of the National Assembly, which has decision-making powers over the final content of legislation.

- **Provide support and capacity-building resources to policymaking institutions and mass organisations in addition to the LWU to integrate a gender-equitable approach into their work.** This could be particularly relevant to farmer's unions and production groups.
- **Pursue opportunities for embedding gender perspectives within agricultural teaching and research programmes.** Academic institutions such as the National University of Laos are a potential forum for greater discussion and research on the gender impact of specific land and agricultural law reforms and policies. In general, academic institutions and researchers in Lao PDR are not subject to the same level of scrutiny as CSOs.
- **Strengthen solidarity networks at local, regional and international levels through identifying and supporting informal leaders and facilitating connections with others in similar spaces.** Informal leaders – women who are active within communities but not holding formal positions – can gather and share the views of rural women and provide mutual support.
- **Engage the LWU, LFN and academics to push for reform and develop conversations about gender mainstreaming in legal and policy frameworks on agriculture, land and resources.** Extend support to other existing platforms such as women's associations of the Lao Chamber of Commerce and Industry as focal points for concerns of women in the reforms of these frameworks.





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Viet Nam

Key points:

- Regulations on policy consultation in general and specific suggestions for amending the Land Law in Viet Nam are good on paper in terms of gender mainstreaming provisions, but have not been well implemented to date.
- Lawmaking is top down, emerging from central government priorities with very limited opportunities for rural people to influence the process.
- Only a few localities organise policy consultation workshops in accordance with legal requirements. The process generally does not result in opinions from local people being included in proposals for legislative and policy reform. There is lack of clarity and transparency in the way consultation workshops are convened, the content of the workshop and how to provide opinions.
- There is no mechanism to monitor the comments that are received or accountability for which comments are addressed and which are not.
- State officials generally only present the parts of the law that they think are important to the locality when they hold consultation workshops rather than the entire law, leading to an incomplete understanding of the law.

In Viet Nam's single-party political system, overall direction for land policies is set by the Communist Party's Political Bureau. In recent years, decentralisation of important administrative functions (including land use planning) to provincial and district levels has improved public input into policymaking. However, Viet Nam scores 'weak' on the World Bank's Land Governance Assessment Framework.⁵ Despite a strong legal framework on gender equality, women in Viet Nam continue to experience discrimination and stereotyping and often lack economic and political opportunities (Oxfam Viet Nam, 2022). While women's participation in local and central government has increased in recent years, and women play active roles in academia and CSOs, many women do not have an equal voice in decisions that affect their lives. The 2003 Land Law (amended in 2013) is mostly gender neutral. The law states that land use rights certificates should be jointly issued to husbands and wives but limited studies suggest they are more likely to be issued in men's names in practice because joint certification is costly and requires knowledge of complex administrative processes.⁶ Gendered division of labour and societal norms restrict women's participation in decision-making. Only 23 percent of agricultural cooperatives are led by women, and women (particularly those from ethnic minorities) are significantly under-represented in planning and decision-making processes related to agricultural production.

⁵ For more information on scorecards, see <https://www.worldbank.org/en/programs/land-governance-assessment-framework>.

⁶ The 2013 revision also contains clauses on reissuance of land use rights in both names where these were previously only held by the husband or wife, though also with a fee. Since 2014, all land use rights held by both spouses must be certified in both names.

Viet Nam has relatively well-developed legislation on gender equality,⁷ including the Law on Gender Equality⁸ and the National Strategy on Gender Equality (2021–2030). The Law on Gender Equality mandates that all draft laws/ordinances must include gender mainstreaming. The law also stipulates that the Viet Nam Women's Union (VWU) has a central role in implementing the Law on Gender Equality in law and policy, including participating in policy development, legislation and monitoring its implementation. The 2015 Law on Promulgation of Legislative Documents (amended 2020) mandates that when legislation is related to gender equality, draft laws shall be appraised by MoJ and reviewed by the National Assembly Committee on Social Affairs. However, there is ambiguity in defining when a draft law is related to gender equality, which may allow policymakers and drafters to use gender-neutral language and ignore potential adverse gender impacts (UNFPA, 2021).

The formulation of laws and policies in Viet Nam is carried out by both the Communist Party of Viet Nam and state systems. The Party allows the government to develop laws for approval by the National Assembly. Once a law is passed by the National Assembly, the government develops decrees to guide implementation and line ministries prepare circulars to implement the regulations mentioned in the decree. Line ministries typically include policy recommendations in an annual policy agenda for consideration by the National Assembly and/or government. While needs assessments for new policies are usually conducted by the relevant ministry, detailed studies to inform policy formulation are rarely undertaken (Human Rights Watch, 2022b).

In terms of consultations around the Land Law, provisions in the Law on Promulgation of Legal Documents state that MoNRE is responsible for collecting comments twice: during the proposal writing period (30 days) and drafting of the law (60 days) (Viet Nam Law and Legal Forum, 2021). The lead agency summarises and sends the submissions to MoJ along with the application documents for appraisal. The dossier submitted by MoNRE must include a policy impact assessment report, which should include a gender impact assessment. Gender impacts are evaluated based on the analysis and forecast of economic and social impacts related to opportunities, conditions, rights and benefits of each gender.

Interviewees described three consultation processes for laws and policies related to land:

- *Workshops organised at the local level:* These workshops are generally limited to invited guests – local authorities (village head and commune head), Head of Viet Nam Farmers' Union (VNFU), Viet Nam Youth Union, VWU, the Viet Nam Fatherland Front and others at the request of the district/provincial government organising the meeting.
- *Publicly collecting opinions online:* This refers to the website of the public authority. The district's website may publicly disclose land use plans and enable consultation of district-level decrees and circulars. However, there is no regulation for online consultations on law development. Interviewees noted that few people know about the online platform and the format is not user-friendly, involves scrolling through technical documents and it is not obvious how to submit feedback. Interviewees suggested it is generally urban people and academics who provide feedback online. In rural areas, men may have more access to online options than women.
- *Submitting feedback through agencies and collectives:* Independent experts can send their opinions through workshops and conferences organised by national agencies and CSO collectives – for example, through professional associations such as the Viet Nam Society of Soil Science or Viet Nam National Real Estate Association.

MoNRE is responsible for developing and completing the draft dossier. The draft amended Land Law was released for public feedback from January 2023 to March 2023 after being submitted to the National Assembly for consultation. Respondents reported that the revision process of the Land Law is led by a Revision Committee consisting of 130 members, of which 25 are women.

Barriers to gender-equitable consultation in Viet Nam

Lack of clear criteria for assessing whether legal drafting is gender-equitable. Several interviewees commented on the lack of concrete criteria for assessing whether legal drafting is gender-equitable and assessing commune-level rural development targets for gender equality. A government report claims that the implementation of regulations on mainstreaming gender equality issues in the

7 The Constitution of the Socialist Republic of Viet Nam stipulates that male and female citizens have equal rights in all fields. The Social Insurance Law (2006), Law on Residence (2006), the Law on Domestic Violence Prevention (2007) and the Nationality Act (2008) all contain provisions to protect the rights of women.

8 The Law on Gender Equality was first introduced in 2006 and reviewed in 2021.



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development of legal documents has ‘not achieved high results and has not been implemented with high quality’. In the drafting stage, the editing agencies and the governing bodies ‘have not paid attention to the implementation of regulations on mainstreaming gender equality’ (Ministry of Labour, Invalids and Social Affairs, 2020).

Limited opportunity for influence in consultation meetings. Interviewees agreed that consultations over land and agriculture legislation did occur at multiple levels. However, they noted that meetings often occur once drafts are written, with limited ability for people to influence the process. During the Land Law revision, district-level authorities have held consultation meetings at the commune level in some areas. One VNFU leader recalled that government authorities held one consultation meeting in her commune on the proposed changes to the Land Law three years prior. She felt there was scope in this meeting for men and women to ask questions and tell their stories. However, the meeting invitation was limited at commune level to the chairman/chairwoman, secretary and other government agencies. At the district level, only the chairman or chairwoman could participate and others were not invited. Furthermore, the VNFU leader felt that the consultation meetings she has attended in the commune are not effective because they consist primarily of a prepared presentation by officials and are more like a training course than a chance to share opinions. She noted that “people just sat there and listened... Presentation doesn’t solve anything”.

Similarly, participants in our pilot participatory consultation in the Red River Delta (a half-day participatory workshop with four women and seven men) felt that current consultation processes did not give them a voice. They observed that district officials had come to their village to conduct consultations but these were limited to speeches and PowerPoint presentations, with minimal dialogue and limited ability to ask questions beyond the narrow focus of the meeting. Participants in the pilot consultation brainstormed ideas for how they would like to be engaged in the legislative process. Recommendations included strengthening the VWU and engaging village and commune officials and villagers with informal positions of authority as conduits to communicate information about local priorities to higher levels of government. The possibility of utilising biannual voter dialogue meetings as a platform for agenda-setting on agriculture and land use topics was also proposed.

Lack of gender-disaggregated consultation meeting reports. Interviewees who took part in consultation meetings for the Land Law amendment reported that little attention was given to gender in the meetings, either in substantive discussion or in process. The names and gender of attendees were recorded but the specific details of who said what were not documented. This limits the ability to know who was able to raise issues in the meeting and what topics were viewed as integral to the discussion.



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General tendency for men to dominate consultation processes. Interviewees noted that women rarely participate in the consultation process and when they do attend meetings, they rarely share opinions. Some improvements in gender equity in community consultation procedures have been observed. Interviewees noted that women now speak up more than before and they ask questions. There is scope for women's meaningful participation at local consultation meetings and some interviewees described good practice examples of women's participation. One NGO Director recalled a consultation meeting that he felt was more effective, in which people broke into small groups with local officials in one group and other villagers in other groups. He noted that this enabled people to speak more candidly because "when there are officials in the meetings, people just don't speak. They would like to avoid conflicts". Holding discussions in small groups can include separating groups by gender to enable more people to speak.

Encouraging signs of women's active participation were also observed during our research. A VWU representative from an area where agriculture is feminising as men migrate out for labour opportunities noted that women have begun attending consultation meetings and village planning meetings in large numbers. This potentially disrupts the norm of having only one person from each household attend, which usually defaults to the man. The Viet Nam research team also attended a workshop on mainstreaming gender equality in the revised land law, held on 12 October 2022 in Ninh Binh, Red River Delta. The workshop had a female facilitator and a

higher proportion of women than men among the 26 participants. We observed lively discussion with debate and opinions from both men and women. Speakers also recognised the need for greater transparency of the legislative process and increased opportunities for consultation with a wide group of stakeholders.

Lack of capacity of officials facilitating consultation processes. The ambitious schedule for local-level consultation meetings is difficult to meet and is often not followed in practice. Interviewees who had attended consultation meetings for the revision of the Land Law felt that the facilitators (usually from district-level offices) were underprepared and sometimes this led to the discussion being transformed into a debate over local land conflicts between individual community members rather than a broader, more systemic overview of the proposed legal and policy changes. An NGO Director who had observed commune-level consultation meetings felt they were rushed and ineffective; "the interviewer just wanted to get the job done, they did not take this seriously". With such a heavy schedule of consultation meetings and the uncomfortable conditions travelling to rural areas, the charge of carrying out consultation meeting facilitation can be put onto junior staffers in the district office. They spend only a short time in the village and the ground-level organisation is generally done by the village head (usually male), who prepares invitations and the venue prior to the district officials arriving. The NGO Director recalled that in the meetings he observed, the village head and leaders from the Veterans Union were sometimes the only people in attendance.

Restricted space for civil society. Vietnamese civil society has become more restricted, with previously active NGOs now operating as social enterprises with a depoliticised agenda. Local NGO leaders we interviewed were sceptical of the possibility for political influence. However, these local NGOs do work with international NGOs and donors to channel gender concerns into environmental policy through supporting relevant ministries in policy development, and by carrying out gender-related studies through research institutions and NGOs with support from international agencies (UNEP, 2020). The CSO sector participated in the draft Land Law amendment consultation process prior to COVID-19. The Green Livelihood Alliance (an alliance of environment- and land-related NGOs) participated in consultation meetings. However, interviewees who were part of these processes were not confident that their recommendations would be considered.

Lack of authority and influence of the VWU on land and agriculture issues. The Ministry of Labour, Invalids and Social Affairs and the VWU are two important agencies that provide direct advice to the government on the development and implementation of gender-related laws and policies. As one researcher noted, the VWU is “still under the Communist Party so they definitely have to talk in the Party’s language”. The VWU is active in areas considered women’s issues, including women’s entrepreneurship, domestic violence, the gender equality law and clean environments. However, land issues are seen as highly political and more difficult for the VWU to take on. The VWU’s focus on traditional women’s issues means that the representatives we spoke with felt sidelined in discussions of land and agriculture and reported that invitations to take part in consultations over land law are rarely sent to the VWU. The implication of this is that gender loopholes are only discovered during the implementation process. VWU representatives also noted that gender equity initiatives are often introduced in a way that felt forced or foreign, rather than acceptable in the context of Vietnamese society. This limits the uptake of these initiatives and legal mandates.

Country recommendations: Viet Nam

- **Establish clear guidelines for gender-equitable consultations and defined responsibilities of consulting agencies.** Vietnamese law mandates gender-sensitive consultation processes to be carried out under the Law on Gender Equality. Recent laws emphasise transparent communication and citizen engagement (such as the 2020 Directive No. 43/CT-TTg on improving the quality of legislation,

strengthening the legal system and enhancing the efficiency of law enforcement).

- **Promote substantive gender equality beyond formal equality.** Gender equality has been institutionally associated with the advancement of women under the responsibility of the VWU and the Ministry of Labour, Invalids and Social Affairs. These institutions can be further supported to challenge gender biases across sectors and ensure full inclusion of women beyond the standard focus on formal, largely numerical equality.
- **Provide early support for the VWU in the lawmaking process.** The VWU has proven its effectiveness in legislative processes concerning ‘women’s issues,’ such as with the Law on Gender Equality and gender-based violence legislation. However, the challenge lies in establishing the relevance of gender equality within the land and agriculture sector to position the VWU as an authoritative entity on these matters. Support for the VWU includes analysing issues, communicating information to members, raising gender awareness in proposed laws, conducting inclusive meetings and relaying concerns to ministerial-level VWU representatives.
- **Support and enable women’s leadership within the VNFU.** There is potential for increased influence from the VNFU because it is seen to have legitimacy to make recommendations on areas of farming including agricultural land use planning for crops and livestock. A female head of the commune-level VNFU felt that there is scope for gender issues to be considered if women leaders in the VNFU are supported.



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3. Cross-cutting governance barriers to gender-equitable law and policy

Gendered power relations in policy and practice.

Cambodia, Laos and Viet Nam are traditionally patriarchal in socio-political relations even though there is a wide diversity of gendered power relations among ethnic groups in the region. Gender equality has been mainstreamed into national policies, within government institutions and in certain legislative instruments. This includes through the enactment of constitutional and legislative provisions on equal rights and non-discrimination on the grounds of sex in relation to land titling and inheritance. However, in practice, patriarchal customs and practices often reinforce and perpetuate gender inequality and there is an absence of oversight and monitoring of the implementation of statutory non-discrimination provisions.

Limited resources and authority of women's institutions.

National government ministries and mass organisations responsible for promoting and protecting women's rights in each country tend to be underfunded. Confounding (and contributing to) this issue is that such organisations are generally not viewed as having legitimacy or authority to engage in legislative or policy processes beyond the narrow range of topics that are considered women's issues – namely, violence against women, child and maternal health and nutrition. This makes it difficult for these institutions to have influence over the legal drafting process and has resulted in recent draft laws on land and agriculture being 'gender blind' in their approach. In both the revised land law in Lao PDR and the draft Cambodian contract farming law, it is assumed that the law is neutral and therefore there is no need to incorporate gender-responsive language.

Declining civic space. The extent of public consultations on land and agricultural laws and policies varies between countries and is also subject to change over time. Growing authoritarianism and restrictions on civil society space has affected all three countries in recent years. In Lao PDR and Viet Nam, there is limited scope for raising voices up to central government level. Women's unions have representatives within ministries to join policy discussions but their ability to influence policy varies depending on the ministry and representatives. The provincial government is an important site of influence in all three countries (particularly in Lao PDR, where the province is responsible for agribusiness concessions) and district and commune levels are an important forum for people to bring their grievances with the state. The

responsiveness of local government depends on political timing. For example, during moments of crop failures and economic difficulties (such as the fall in rubber prices), local state actors have been observed to be more inclined to engage in inclusive consultation.

Community-level factors and selection bias.

At the community level, agriculture and land-based consultations on state policies tend to favour men. This is sometimes explicit through inviting heads of households – traditional power relations often mean that the man will represent the household, especially if it is seen as an important meeting. Traditional roles and women's labour burden at home make it difficult for women to attend meetings in the community. Women's participation in meetings does not ensure their voices are heard nor that they have space to set the agenda. There is a tendency for the same women to join meetings – those who are more educated or higher class, have privileged relations with authorities, or women from technical departments (such as finance) who do not have experience in the land or agriculture sectors. However, interviewees note that these norms may be changing due to both migration structures (where young men are leaving rural areas for labour migration) and to gender-responsive programming where women are specifically invited to consultations.

Major **action points** for improvement that emerged from the interviews and pilot consultations in Cambodia, Lao PDR and Viet Nam are outlined below.

Promote grassroots consultation processes with enhanced participation.

Top-down processes were unquestioned by most of our interviewees. The assumption was that the central level would develop laws and communicate these downward. The impetus for new legislation most commonly comes from within government or with some level of influence from outside donors. Draft legislation is first completed by experts (both national and foreign) with an assumption that, in some instances, technical issues such as contract farming require specific expertise not found in country. In Lao PDR, village-level consultations were normally limited to authorities and mass organisation representatives. Interviewees in all three countries noted that consultations are often held at the end of the process. Consultations are viewed as information-sharing exercises to seek people's support for legal and policy frameworks that have already been

adopted rather than listening to people's concerns to set policymaking agendas. Public opinions tended to be equated with technical and procedural questions about how laws work, which could be answered by the specialist attending the meeting, sometimes with no record of what was said.

Increase the collection of gender-disaggregated data. A simple record of the gender of consultation attendees is generally kept. However, there is no record of who provided which inputs and no ability to trace back to understand how voices from different groups were captured. This issue reflects the broader problem of a lack of gender-disaggregated data on land and agriculture across the three countries, and a lack of in-depth qualitative analyses of gendered impacts of laws and policies in the land and agricultural sectors.

Amplify local voices and means of feedback. The voices of local people were often disregarded even when consultations did take place. Interviewees from the three countries expressed difficulty in understanding how legal drafting committees reached their conclusions and whether they considered people's opinions gathered during consultations. None of the participants who had previously engaged in consultation processes received any feedback after the consultations. As the Commune-level Head of the VFU noted, "opinions are just heard and left there, this doesn't solve anything...Anyone with influence, money, or relationships can still do things." This lack of response perpetuated a sense that opinions were merely heard but had no impact, contributing to a lack of trust in the effectiveness of consultative processes.

Close accessibility and information gaps. There is a scarcity of publicly available information in plain language during consultations, hindering meaningful participation. Even well-educated individuals working in academia and CSOs struggled to navigate government websites and remain unaware of consultation processes and developments related to draft legislation.

Understand, recognise and address diverse barriers to women's participation. Country and local contexts vary widely in how gendered power relations manifest. This means that any top-down government policy is unlikely to be responsive to local dynamics. In Cambodia, women in our pilot consultations took more active roles than male counterparts, in large part because men were working away from the village, but this was not the case in Lao PDR. Common reasons cited for women's limited involvement in political decision-making included family responsibilities,

time poverty, language barriers, illiteracy, lack of confidence and limited knowledge. The idea that structural inequality is a result of an individual failing was repeatedly expressed by our respondents. Government officials saw women as responsible for not making the time to 'improve' or 'develop' themselves and for not being courageous. Officials talked about the need to "train women to be brave... and overcome their shyness". We note that this focus on gender training may be beneficial, but it is also often seen as only relevant to women, and therefore risks adding to the burden of women to change without also encouraging change in men and in gendered institutional structures. Ethnic minority norms cannot be separated from gender when considering participation. Ethnic minority women and men encountered specific challenges in consultations conducted in languages other than their own. Intersectional factors such as age, political position, ethnicity and wealth influenced the possibilities for meaningful participation.

Move gender equality beyond numbers. The assumption that equal representation of women in government structures ensures a gender perspective in laws and policies falls short of achieving substantive gender equality. Women's representation at sub-national levels remains limited, and views may not represent the perspectives of all women, particularly those from disadvantaged backgrounds. Mere representation does not guarantee meaningful participation or lead to the transformation of unequal power structures.

Enhance the role of women's unions. Women's unions in Viet Nam and Lao PDR focus on issues that are assumed to be specific only to women and lack authority in land and agriculture matters. Their role is seen as transmitting information and promoting adherence to norms without acting as a channel to convey local concerns to higher-level authorities. Women's participation in decision-making positions in other mass organisations – particularly in farmers' associations and producer groups – is also limited.

Reject timeworn stereotypes and discrimination. Officials often perceive women as less knowledgeable, which undermines their full participation in consultation processes. Gendered stereotypes pigeonhole women's contributions to narrow areas of expertise, such as care work and domestic violence, rather than recognising their broader capabilities. For example, in Lao PDR, a District Head of Agriculture and Forestry noted that "the level of knowledge of women is not high...However, women are given the opportunity to contribute ideas in all the work they are responsible for." Here, the idea that women can

contribute ideas ‘in the work they are responsible for’, something we saw repeated across interviews, tends to relegate women’s knowledge and ability to share ideas to narrow areas linked to the household and family. This limited understanding hampers the transformative potential of laws and policies.

Increase the value placed on women’s expertise and leadership. Despite being recognised for specific skills in negotiating or mediating conflicts, women are not acknowledged as leaders or decision makers in drafting legislation and policies that address these issues. The performative nature of women’s participation undermines their meaningful inclusion in policymaking processes because their voices are often not seen as authoritative or knowledgeable about farming or natural resource management. However, there does appear to be an important window of opportunity opening for the engagement of more diverse groups of women in consultations on law and policy development in the wake of increased attention by international and regional actors to women’s human rights within climate change and disaster risk reduction frameworks.

Highlight linkages between gender concerns and land laws and policies. The authority of women’s organisations in the legal drafting process on land and agriculture is limited in part because linkages between land laws and gender are not well understood. The prevalence of domestic violence, which is core to the work of the LWU, VWU and MoWA in the respective countries, is closely related to land governance and to issues such as indebtedness. However, these connections are often not made clear in policies or laws. Recent studies suggest that domestic violence rates may increase when communities are embroiled in land conflicts with agribusiness concessions (Kent, 2014) known that women who have access to land in rural areas – and thus gain economic independence – are more likely to be able to leave a violent relationship (Mehrvar et al., 2008). Making these conceptual links between land and issues such as domestic violence could enable land conflict to be understood as something that could be legitimately addressed by institutions such as MoWA in Cambodia, women’s unions in Lao PDR and Viet Nam and government-led gender equality mechanisms.



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4. Conclusions

The idea that contemporary law and policymaking processes require validation through targeted public consultation and debate appears to be widely accepted in political discourse across the Mekong region. However, the interviews and pilot consultations show a gap between the theory of consultation and participatory policy and lawmaking and how these ideas have been applied in practice. Legislative and policy processes on land and agriculture in Cambodia, Lao PDR and Viet Nam are characterised by lengthy delays, an absence of transparency, a lack of coordination and information-sharing between different ministries and levels of governance, and implicit and explicit limitations on participation by civil society.

A crucial consideration that arises in connection with gender-equitable consultations in these processes is the widely repeated view that there is no need to integrate a gender perspective into technical negotiations on issues such as contract farming, agricultural cooperatives or responsible agricultural investment as these are gender neutral, apolitical topics. However, feminist theorists and women's human rights advocates have highlighted how concepts and ideas which are interpreted to be generally applicable to all people often have specifically gendered political effects.

In this study, we sought to take a feminist political ecology approach to analysing the state of gender equality provisions and opportunities for including

gender-responsive consultative mechanisms in legislative processes. This meant co-designing the research with teams led by women researchers from each country and enabling each research team to adapt the co-created interview and pilot consultation guides to ensure they best suited the context. A political ecology approach also asks us to recognise that gender relations are constantly in flux. In all three countries, the farmers we spoke with for this study reported that climate change-induced droughts and floods are already affecting their ability to farm; migration is transforming gender dynamics in some areas; and some young participants no longer saw themselves as farmers. However, there is little understanding of how these changing contexts are reshaping gender relations and what this may mean for the ability of rural women and men to meaningfully participate in legislative processes that affect their lives.

The importance of promoting a shift towards a feminist approach to gender equality in agricultural and resource governance laws and policies underpins most of the recommendations and suggested areas for future research that flow from this preliminary study in the three countries. Such a transformation will require reframing the purpose of consultations so that they become about listening and dialogue, as well as valuing the expertise and knowledge that rural people already have in the areas of agriculture and sustainable resource governance.





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Appendix

Key concepts

Feminism is a political idea that seeks to challenge gendered injustices, identify and redress unequal power relations and promote equality.

Feminist political ecology provides a theoretical and practical approach to the analysis of land use governance and its institutional arrangements by recognising the need for transformative change that considers the social, environmental and political dynamics of natural resources (Rocheleau, 1996; Elmhirst, 2011).

Gender is the process through which differences based on presumed biological sex are defined, imagined, and enacted (Butler, 2004). Gender is therefore not constant nor predetermined, but rather becomes salient through discourses of gender, and the performance of subjectivities (Nightingale, 2006). While gender is often taken to be synonymous with 'women', it is not just a 'women's issue' but involves relations between all people. The meanings that are attached to gender are dynamic and depend on the specific context in which they are being negotiated. They are also conditioned by their intersection with factors such as social class, ethnicity, age, ability, geographic location and migration status. Gender roles are based on social and cultural norms which have led to gender disparities in access to and control of assets and resources. Due to their gender-defined roles in society and traditional patterns of marginalization, women are likely to carry the heaviest burdens from these changes and benefit less from the policies and programmes on agriculture and resources. Gender-specific differences in land and agriculture must be considered in the design and implementation of laws and policies.

Gender equality refers to the equal rights, responsibilities and opportunities of women, men and gender non-conforming persons. Equality does not mean that women and men will become the same but that people's rights, responsibilities and opportunities will not depend on their gender. The equality standard used in international human rights law – including Article 2 of the UN Convention on the Elimination of Discrimination Against Women – is that of substantive or de facto equality. To achieve this equality of outcome will require governments and other duty bearers (including international organisations and businesses) to take appropriate steps to identify and remove barriers to the participation of different groups of people in land governance institutions. Women have been historically discriminated against in many areas of social and economic life, including property rights and political decision-making. To ensure the substantive equality of women, it will be necessary to adopt specific policies, laws and programmes to proactively redress this disadvantage. In the context of land governance, an increasing number of international policy instruments – including the Voluntary Guidelines on the Governance of Tenure and the Sustainable Development Agenda – affirm gender equality as a core principle in land governance and tenure policies and legislation.

Gender equality and land rights: Recent research produced by land rights organisations highlights the complexities and nuances of concepts such as tenure rights (Doss and Meinzen-Dick, 2020). This work has identified the various bundles of rights that are relevant to secure tenure and equitable land governance and how the ability to exercise these rights is dependent on gender and other dimensions of power. Of note is the interaction between customary and formal legal norms as well as the relevance of family law regimes in the equal capacity of women and men to exercise decision-making rights over land and natural resources.

Truly gender equitable land policies and laws require equal say for all in shaping the legislation that will affect their rights and access to land. Numerical parity among men and women has long been considered the standard for gender equality in consultations around policy and legal drafting. Not only is this rarely achieved in practice, but it is also clearly not sufficient. A paradigm shift is needed towards inclusive consultative spaces that incorporate the whole spectrum of gendered views and knowledge while challenging and breaking down structural inequality.

This study brought together a regional team of experts to probe existing infrastructure and mechanisms for gender equitable consultations in the context of land policies and laws in Cambodia, Laos and Vietnam. It provides a comprehensive analysis of barriers to gender equity and policy recommendations at national and regional levels to transform the way policies and laws incorporate the perceptions and needs of women and men.

The Mekong Region Land Governance Project (MRLG) aims to improve the land tenure security of small-holder farmers in the Mekong region and has been operating in Cambodia, Laos, Myanmar and Viet Nam since April 2014.

MRLG is a project 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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