

What Works for Women's Land and Property Rights?

What we know
and what we
need to know

Evidence Brief Do Inheritance Reforms Work for Women?

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Advancing Women's Land and Resource Rights

Women's land and property rights are an important component of economic and social development as well as critical to human rights for women. There is a growing body of evidence linking women's land and property rights to important social and economic outcomes for women. Yet there is a gender gap in relation to land and property rights around the world where women are significantly disadvantaged relative to men with regard to land rights. They own a smaller share of agricultural land globally, and are disadvantaged in the management, control, and potential opportunities of land rights (Doss et al., 2013).

Globally, women's rights to inherit are largely unequal. Most customary tenure systems are patrilineal¹ (Murdock, 1967) and tend to favor male inheritance, in some cases selecting one son over other sons and all daughters. In matrilineal tenure regimes, property may devolve along the female blood line, but control and management rights may still be held by men. In formal or statutory tenure systems, OECD data (from 2014) suggests that 55 out of 160 countries around the world have laws that discriminate against women's inheritance (Organisation for Economic Co-operation and Development [OECD], 2014).

This summary of the strength and availability of evidence on inheritance interventions² is based on a review of online literature, academic databases, and discussions with global and national actors including practitioners, researchers, and activists. Based on identified gaps, we propose a way forward for collecting evidence on interventions related to inheritance that will strengthen women's land and property rights to inform practice and ultimately close the gender gap.

This evidence brief builds on the analysis and findings of our report, "What Works for Women's Land and Property Rights? What Do We Know and What Do We Need to Know?" (Scalise & Giovarelli, 2020).

¹ The Ethnographic Atlas shows that out of 583 societies for which data on the distribution of inheritances are available, 282 are characterized as unequal (247 of which implement primogeniture).

² Based on available data in October 2020.

Introduction

Inheritance rights for women are part of the international development and human rights legal and policy framework. An indicator under Goal 5 (Gender Equality)³ in the 2030 Development Agenda uses equal inheritance for sons and daughters, as well as for surviving spouses, as a proxy to show progress on target 5a. The International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) calls on states to address discrimination of women with regard to land and inheritance. Yet, since 2009, only five of the 190 countries needing inheritance reforms have passed new laws: the Ivory Coast, Ecuador, Mali, Timor-Leste, and Togo. If this pace continues, equality in property rights for women will be a long time coming (World Bank, 2019).

A. What Do We Know About Inheritance Laws?

The right to inherit is distinctive within the set of property rights that make up a tenure system because the right is not realized until an event of uncertain timing occurs, i.e., the death of the property rights holder whose rights will devolve to the inheritor (or heir) at the time of death.⁴

In customary tenure settings, custom and culture determine who are the heirs. In some cultures, an heir's "inheritance" is given while the rights holder is still alive (for example, at the time of marriage). In this case it is technically a gift, though it is spoken of informally as an inheritance.

In formal law, heirs are determined either by laws of intestacy (when one dies without a will) or by a testamentary will.

Spousal inheritance rights

In formal law, a spouse's right to inherit is determined by the marital property rights regime that applies to the property in question. For example, if property in a marriage is considered separately owned by each spouse, then the surviving spouse may inherit a portion of the deceased's property as an heir under the laws of inheritance, but not necessarily. On the other hand, if property in a marriage is considered jointly owned in its entirety with the right of survivorship, then the surviving spouse maintains ownership of the whole, but becomes a sole owner when the other joint owner (spouse) dies.

In many customary tenure settings, the right of a surviving wife can depend on a number of factors outside of her control: polygamous marriages, minor children, married children, male children, payment of dowry or bride price, completion of customary marriage rites, relationship of the widow to the deceased's family, or whether the land has special cultural value (e.g., sacred or burial sites).

Legal change: Wives Inherit

- There is evidence that changes to inheritance rights are linked to positive outcomes for women. For example, women who live in communities with high levels of women's property and inheritance rights are more likely to engage in non-agricultural, self-employed work and have higher savings and higher individual and household expenditures (Dancer, 2017; Peterman, 2011).

³ SDG Goal 5 is to achieve gender equality and empower all women and girls. Target 5A, is to "undertake reforms to given women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national law." See <https://sdgs.un.org/goals/goal5>

⁴ Inheritance is sometimes used to describe *inter vivos gifts* where a rightsholder (e.g., a parent) allocates his/her property to a child/children while they are still alive.

- When widows inherit land from a deceased spouse, there is strong evidence that land investments (fallowing, use of fertilizer, intensive tillage techniques) are higher than when someone else inherits (Dillon & Voena, 2017).⁵
- Equal inheritance reforms can enhance women’s autonomy in household decision-making, positively impacting decisions to invest in women’s education, improving women’s labor force participation (Sapkal, 2016), decreasing the probability of female circumcision, and delaying marriage and child-bearing (Harari, 2016).
- More equitable inheritance customs can positively predict gender and class equality in social and political realms (Hager & Hilbig, 2019).

Daughter’s inheritance

Daughters’ legal right to inherit under formal law is generally a matter of whether or not the legal system is pluralistic with more than one set of laws for different religions or different inheritance rules depending on whether a family follows custom or not. For example, in India, the Hindu Succession Act was amended to give daughters and sons equal inheritance rights. However, the Muslim Personal Law (Shariat) Application Act of 1937 provides that female heirs receive half of the property given to male heir of equal status. In Lesotho, those who follow customary law of African descent may pass their property to the oldest son while people of European descent can pass their property as they wish. In Zambia, the Intestate Succession Act (1989) is narrowly construed not to apply to any customary or ancestral land.

In many customary tenure settings, the right of a daughter to inherit can depend on a number of factors: marital status, whether the system is matrilineal or patrilineal, payment of dowry or bride price at the time of marriage, whether there are sons as well as daughters, or whether the land is family or ancestral land. Daughters can face pressure to renounce their inheritance and sign it over to their brothers. It is not uncommon for women to renounce property inherited from a deceased parent to preserve important relationships in their birth family. Italy and Jordan have legal safeguards to protect against coerced renunciation.⁶

Legal change: Equal inheritance for daughters

Much of the evidence for the effectiveness of changing laws on inheritance comes from India, where the Hindu Succession Act was amended to allow for equal inheritance between sons and daughters. Research findings include:

- The reforms increased daughters’ likelihood of inheriting land, although they did not close the bias gap. Females whose father died after the amendments in four states are 15 percentage points more likely to inherit land than those whose father died before the reform (Deininger, Goyal, & Nagarajan, 2013).
- Legal recognition of daughters’ inheritance rights can have an impact on women’s empowerment even in the context of poor enforcement and in spite of the persistence of deep-rooted social norms (Harari, 2016).
- In contrast to the earlier study (Deininger, et al, 2013) Roy found that the reform failed to increase the actual likelihood of women inheriting property. . Instead, parents appeared to be gifting their share of land to their sons to circumvent the law. However, parents also appeared to be compensating their daughters for such disinheritance by giving them alternative transfers in the form of either higher dowries or more education following the reform (Roy, 2015).

⁵ Across a variety of specifications, there was strong evidence of lower land investment in areas where widows do not inherit. Couples in non-widow-inheritance villages apply 13–18% less fertilizer, fallow 4–5% less land area, and use intensive tillage techniques on 3–5% fewer acres, relative to the averages among households with positive levels of each activity. (Those figures are 37–50% for fertilizer, 12–16% for fallowing, and 7–11% for intensive tillage if the baseline is against all households, including the zeroes). Investment is highest when the widow inherits, lower when someone in her family inherits, and lowest when the land reverts to the chief or another family member. Women’s concern over a possible loss of land reduces their investments in land quality even when their husbands are alive.

⁶ See both Hashemite Kingdom of Jordan, Personal Status Code 2010, Hashemite Kingdom of Jordan and Civil Code of the Italian Republic 1942 (amended 2000).

A study from Kenya finds that legal inheritance reforms that benefit women resulted in:

- A sizeable improvement in girls' education (both absolute and relative to boys' education) when education decisions were made post-reform (1981).
- A significant decrease in the probability of being circumcised for girls who were children or teenagers after the reform, mostly in ethnic groups where FGM is not universal to start with. The presumption is that their mothers had greater bargaining power within the family post-reform.
- Women who came of marriageable age after the reforms tended to delay marriage and childbearing, indicating increased bargaining power within her family (Harari, 2016).

The evidence from India also suggests caution. In one study there was a small but meaningful increase in female mortality caused by inheritance rights reforms (Rosenblum, 2015). Reform itself may not result in women's actual inheritance and can shift household decisions for distribution of wealth while her parents are alive (Roy, 2015).

B. Strength, Limits, and Availability of Evidence on Inheritance Rights Reforms for Women

Efforts to address women's inheritance rights have typically focused on making women's rights more "complete" through allowing women to acquire inheritance rights that they might not have under custom, and more "robust" through addressing enforcement of inheritance rights when under threat (see inset 1).

Common reforms that seek to address inheritance rights for women include:

- Laws that create the right for widows to inherit from their deceased spouse (often related to reforms in estates, succession/inheritance, marital property, and family laws). These types of interventions are creating formal rights for women that do not otherwise exist under informal systems or customary tenure systems. For this reason, they are more likely to benefit women than men because they address the historical disadvantage of women in marriage.
- Legal reforms that create equal inheritance rights for daughters and sons from deceased parents.
- Legal and regulatory reforms that address the risks to women in renouncing inheritance rights.
- Justice-related interventions, seeking to enforce legal right to inherit for women in formal courts, or alternative, traditional, and religious forums or with legal assistance.
- Information, knowledge and awareness-related interventions; seeking to inform women and men of their (often new) rights to inherit in the law.
- Support for women with administrative steps to assert inheritance rights (gaining birth certificates or identification cards).

Inset 1

Land tenure is secure if land rights are:

Complete

- More rights in the bundle of rights.
- Includes rights that relate to alienation and management, as well as use.

Durable

- Of a duration that allows a return on investment and economic stability.
- Duration of right is for a certain time.

Robust

- Enforceable when under threat.
- Recognized when benefit/opportunity attached to right arises (e.g., compensation).
- Can be exercised freely and without needing permission.
- Nature and scope of right are certain and are known to the right holder.
- Socially and legally legitimate.

Table 1 shows the availability and strength of evidence on interventions that improve women’s inheritance. The strength of evidence connotes the degree of rigor and quantity of studies related to that intervention category. The findings of the evidence connote the degree to which the evidence suggests that a particular intervention is effective, promising, ineffective, or not measured in terms of outcomes for women.

The table below presents information from studies that look at specific interventions. Much of the research does not look at whether an intervention impacts land tenure security for women, as measured by completeness, durability, and robustness of rights. Studies may identify one or two of the elements of tenure security without discussing how the others may be related; in addition, factors that influence tenure security are not necessarily static, so the results may change over time (Doss & Meinzen-Dick, 2018).

Table 1. Summary of evidence on interventions and factors that affect women’s land tenure security

	STRENGTH OF EVIDENCE		
	Fair Evidence	Emerging Evidence	More Evidence needed
Effective	<p>Changing laws for equal inheritance by sons and daughters</p> <p>(Deininger, Goyal & Nagarajan, 2013; Roy, 2008; Sapkal, 2016).</p>	<p>Legal reform giving women equal right to inherit generally</p> <p>(Harari, 2016; Peterman, 2011).</p> <p>Implementing inheritance rights through land administration reforms</p> <p>(Ali, Deininger & Goldstein, 2014; Peterman, 2011).</p>	
Promising		<p>Quotas for women in political seats can help enforce women’s right to inheritance</p> <p>(Brulé, 2020).</p>	<p>Improving the value of girls to the household through training on land-based livelihoods, working with boys, and community conversations</p> <p>(Landesa, 2013).</p> <p>Working with community-based mediators to ensure enforcement of inheritance rights</p> <p>(Ezer, 2012).</p> <p>Working with paralegals to facilitate resolution of inheritance-related disputes</p> <p>(Abbott & Rwica, 2014).</p>

KEY

Strength of Evidence

Fair Evidence: The question has been studied in peer-reviewed literature, in three or more studies
Emerging Evidence: The question has been studied in less than three studies or is limited in scope or geography
More Evidence Needed: Evident in practice or in grey literature but not yet rigorously studied

Findings in relation to effectiveness of interventions

Effective: Found to be effective in improving some aspect of women’s land tenure security
Promising: Found to show promise in improving some aspect of women’s land tenure security or findings not framed in terms of women’s land tenure security, but intervention touches on land and findings are related to economic and social outcomes

C. More Detail on What We Know: Arranged by Reform Action

Land administration reforms: Incorporating intentions on inheritance.

One way to reform inheritance practice is to integrate the intentions of inheritance in a land titling and registration program. In the only study considering this approach in Rwanda, land tenure regularization program required an explicit record of who would inherit a parcel, and this requirement significantly reduced succession-related insecurity. Children are 13 points more likely to inherit land. Gender bias was virtually eliminated, and girls' planned level of land inheritance was almost equal to boys' in male-headed households. In contrast, female-headed households were less likely to name daughters as inheritors (Ali, Deininger & Goldstein, 2014).

Governance/institutional change: changes to land tenure system.

A number of studies from Tanzania assess the impact on inheritance customs at the community level after broader land tenure reforms were in place. Findings suggest that women's property and inheritance rights are significant in promoting individual economic advancement for all women, especially in the areas of employment and earnings. These findings are based on changes in community-level customs over time after a change in constitutional law on how land is administered, and are not a result of strictly exogenous policy change (Dancer, 2017; Peterman, 2011).

Enforcement of rights.

In India, where quotas were in place for women's political representation at the local level, women were more likely to inherit property. However, political representation by women coupled with enforcement of inheritance rights had an unintended consequence—male resistance—that decreased women's inheritance from deceased parents. The backlash against women was strongest against those who were not able to negotiate acceptable alternatives to losing inheritance with their brothers. In contrast, women entering marriage around the time of the reform were able to claim their share of inheritance by offering up their dowry (typically paid to the new son-in-law for the marriage on the new wife's behalf and representing her share of family wealth). Effectively this represented a net gain for women, who parted with dowry in favor of inheritance in their own names (Brulé, 2020).

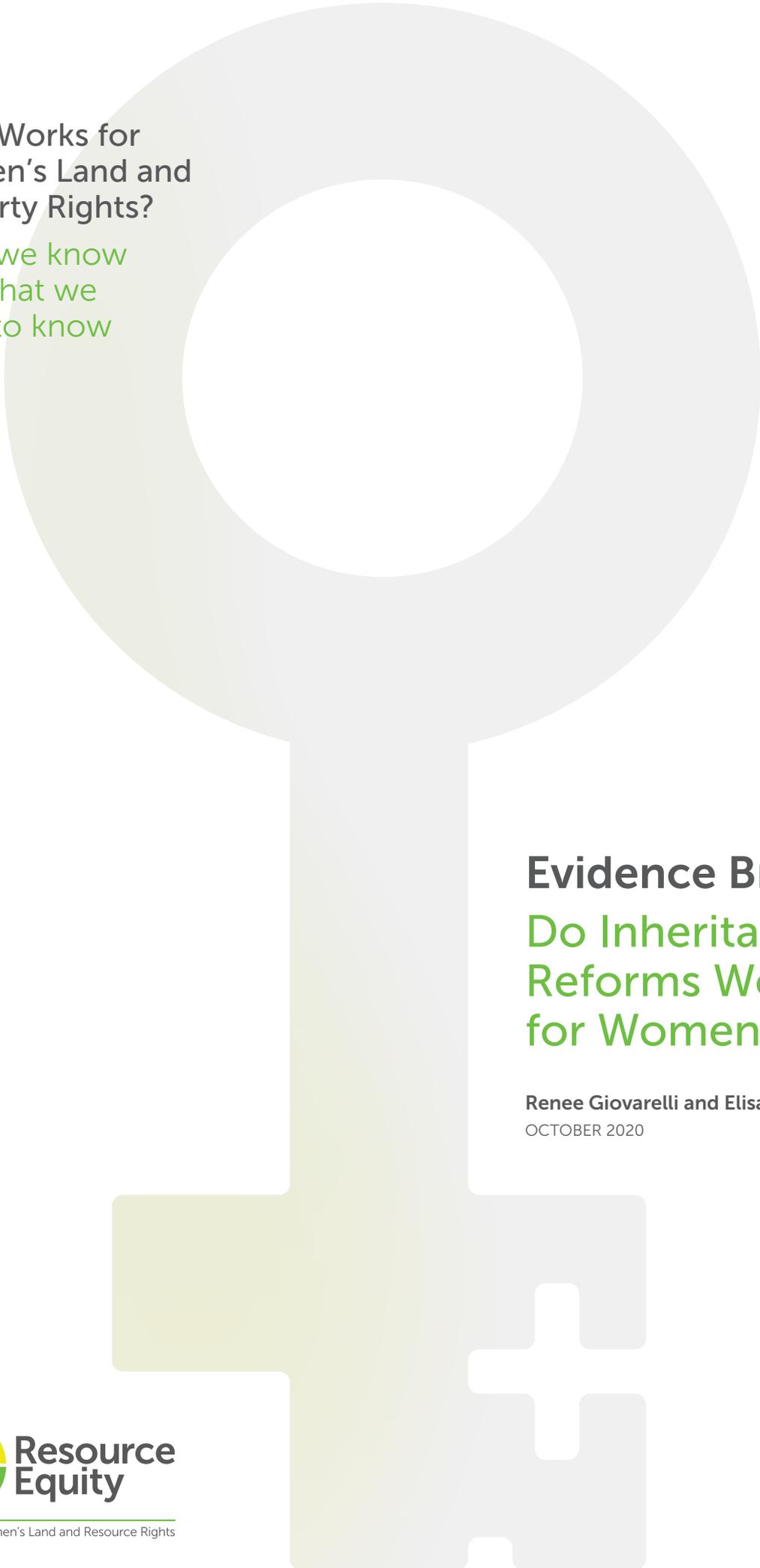
D. Recommendations for Intervention Research

There is a clear need for more evidence on the effectiveness of inheritance reforms to make a difference in women's lives. The studies that exist tend to focus on reforms in isolated countries from which it may be difficult to learn broader lessons. Moreover, they are focused on a very limited range of reforms. More research is needed to deepen and broaden our understanding of when inheritance reforms can play a role in improving women's rights and opportunities. For example, research on topics that include:

- Interventions that seek to ensure that women inherit in practice (e.g., implementation of laws, and/or enforcement of laws).
- Value to women of inheriting rights to collectively held lands.
- Intergenerational **sustainability** of interventions on inheritance.
- Experience of inheritance reforms on **women in different stages of life or with diverse life experiences** (e.g., never married, widowed, disabled, economically poor, with children, without children, remarried, etc.).
- A **variety of countries** to show the effectiveness of intervention types across tenure types and legal systems.
- How to effectively foster and **support social norm change around inheritance** to the benefit of both women and men.
- Positive and negative implications of women asserting inheritance rights against brothers (and related practices of renunciation).

References

- Abbott, P. & Rwica, J. (2014). *End-of-Line Evaluation: Beyond Raising Awareness Shifting the Power Balance to Enable Women to Access Land in Rwanda* [technical report].
- Ali, D. A., Deininger, K. & Goldstein, M. (2014). Environmental and Gender Impacts of Land Tenure Regularization in Africa: Pilot Evidence from Rwanda, *Journal of Development Economics*, 110, 262-275.
- Brulé, R. (2020). Reform, Representation, and Resistance: The Politics of Property Rights' Enforcement, *The Journal of Politics*, 82(4), 1390-1405.
- Dancer, H. (2017). An Equal Right to Inherit? Women's Land Rights, Customary Law and Constitutional Reform in Tanzania, *Social and Legal Studies*, 26(3), 291-310.
- Deininger, K., Goyal, A., & Nagarajan, H. (2013). Women's Inheritance Rights and the Intergenerational Transmission of Resources in India, *The Journal of Human Resources*, 48(1), 114-141.
- Doss, C., Kovarik, C., Peterman, A., Quisumbing, A.R. & van den Bold, M. (2013). *Gender Inequalities in Ownership and Control of Land in Africa* [Discussion paper]. International Food Policy Research Institute.
- Doss, C. & Meinzen-Dick, R. (2018). *Women's Land Tenure Security: A Conceptual Framework*. Resource Equity.
- Ezer, T. (2012, September 21). *Innovating Justice for Widows in Kenya*.
- Hager, A. & Hilbig, H. (2019). Do Inheritance Customs Affect Political and Social Inequality?. *American Journal of Political Science*, 63(4), 758-773.
- Harari, M. (2016). *Women's Inheritance Rights and Bargaining Power: Evidence from Kenya*. The Wharton School, University of Pennsylvania.
- Landesa. (2013, December). *Security for Girls through Land: Pilot Evaluation (2012-2013)*.
- Murdock, G. (1967). Ethnographic Atlas: A Summary. *Ethnology*, 6(2), 109-236. The *Ethnographic Atlas* shows that out of 583 societies for which data on the distribution of inheritances are available, 282 are characterized as unequal (247 of which implement primogeniture).
- Organisation for Economic Co-operation and Development. (2014). *Social Institutions and Gender Index Synthesis Report*.
- Peterman, A. (2011). Women's Property Rights and Gendered Policies: Implications for Women's Long-term Welfare in Rural Tanzania, *The Journal of Development Studies*, 47(1), 1-30.
- Rosenblum, D. (2015). Unintended Consequences of Women's Inheritance Rights on Female Mortality in India, *Economic Development and Cultural Change*, 63(2), 223-248.
- Roy, S. (2008). *Female Empowerment Through Inheritance Rights: Evidence from India*, Department of Economics, London School of Economics.
- Roy, S. (2015). Empowering women? Inheritance Rights, Female Education and Dowry Payments in India, *Journal of Development Economics*, 114, 233-251.
- Sapkal, R. (2016). From Mother to Daughter: Does Equal Inheritance Property Laws Reform Improve Female Labor Supply and Educational Attainments in India?, *Asian Journal of Law and Economics*, 8(1).
- Scalise, E. & Giovarelli, R. (2020). *What Works for Women's Land and Property Rights? What We Know and What We Need to Know*. Resource Equity. Retrieved from <https://landwise.resourceequity.org/records/3170-what-works-for-women-s-land-and-property-rights-what-we-know-and-what-we-need-to>
- World Bank. (2019). *Women, Business and Law 2019: A Decade of Reform*. World Bank Group. Retrieved from <https://wbl.worldbank.org/en/reports>



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