

# **Analyzing Non-Legal Barriers to Women's Land Ownership**

**Katriel Marks with Dr. Rhonda Phillips**

## **Problem Justification**

In every region of the world, women perform large amounts of labor in agriculture. Often, this is their main source of income. However, their ability to access that land is all too often tied to their relationships with males, especially husbands (Wangari, 2016). In the case that a husband passes away or a marriage dissolves, women are at a high risk of losing their access to land, and in the process, their livelihood. Despite many countries having laws that allow women to own and inherit land, these laws are commonly overlooked.

The benefits women experience when they are allowed to own land are numerous. Beyond simply serving as an asset and a means of food production, land can also be used as collateral for accessing credit (SIDA, n.d.). It also increases negotiating power within relationships and can empower women to have more say in childbearing. When they own their own land, women are not tied to potentially abusive relationships for their livelihood and often have higher levels of self-esteem. Additionally, increased levels of women's land ownership is correlated with higher levels of food security in communities (Hallward-Driemeier, Hasan and Rusu 2013). Analyzing and addressing barriers to women's land ownership will encourage the economic, social, and political empowerment of women across the developing world.

## **Research Objectives**

This paper seeks to investigate potential factors behind why women's rights to own land are often ignored despite laws permitting women to own and inherit land. We will correlate measures of gender equality as measured in the Global Gender Gap Index 2020 (economic participation and equality, educational attainment, health and survival, and political empowerment) to percentages of land held by women in a nation. We will also analyze commonalities between case studies on women's land ownership around the world.

### **Hypothesis**

We expect to find a high correlation between women's education levels and women's land ownership due to the need to read and sign documents as well as navigate complex legal systems in order to increase land ownership. Additionally, we expect women's political empowerment and women's land ownership to be highly correlated. In order for women to be elected or nominated for public office, they must be well-educated and highly-respected by their communities – two factors which would increase land ownership. In turn, they are more likely to understand the need for women's land ownership and shape legislation to assist other women in securing land rights. Other factors of gender equality will likely be correlated, but less strongly.

### **Literature Review**

Globally, women perform around 43% of farm labor, although the exact percentage varies between regions (FAO, 2011). Rural women in the developing world typically spend between 30 and 70 percent of their time on farm-related activities. If processing and preparing of food is included in that statistic, women spend around 60-80% of their time on agriculture and food-related activities. Despite their heavy involvement in agriculture, women are often deprived of the right to own land. The FAO

reports that on average, only around 18% of landowners in a given nation are women; this statistic varies from around 0.8% in Saudi Arabia to 50.5% in Cape Verde (FAO, 2020a). Owning land benefits women in many ways: it can provide a level of income security, increase their bargaining rights in the family and community, and help women accumulate capital (SIDA, n.d.). Many banks will lend to women only if they possess land or another form of capital, meaning that land can help women access credit. Land ownership can allow a woman to be less dependent on male relationships and can empower her to improve her own economic, social, and political standing (Silliman, 1996). Women in the developing world often have lower levels of participation in labor markets and experience wage discrimination, meaning that they have fewer chances to increase their economic standing outside the home (FAO, 2011). Additionally, women are expected to perform many other household tasks that take much of their time, such as obtaining water, firewood, and other resources as well as caring for children. For rural women, improving the equity of land ownership may represent the best way to increase their socio-economic standing.

As of 2010, women and men had equal rights to own and manage property in 112 countries (Almodóvar-Reteguis, 2019); 75 countries had placed at least some restrictions on women's property rights. The Middle East and North Africa tended to be the most restrictive, particularly around inheritance, while Europe and Central Asia had no property rights restrictions for women in any nation. In many of the nations where women's land ownership is restricted, access to land is acquired through *usufruct rights* – a woman must have a relationship with a man who owns land, typically a father, brother, or husband (Wangari, 2016). Typically, her access to that land ends when that relationship ends for any reason, be that death, disagreements, getting married, or getting divorced. The land then reverts back to a male. Having access to land is only the first aspect of ensuring women's land ownership rights, however. Even when women have the right to legally own land, they often lack the ability to control it and earn income from it. This is due to traditional customs of farming, decision making and earning an

income being considered masculine activities, whereas the care-taking aspects of agriculture are considered feminine.

Many nations in the developing world recognize many forms of law, such as constitutional and statutory law, customary law, and religious law (Rünger, 2016). Constitutional and statutory law covers the entire nation and is enforced through a national legal system, whereas customary and religious law tend to be localized and enforced less formally. While almost all nations analyzed by the FAO Legal Assessment Tool prohibit gender-based discrimination in their constitutions, fewer declare that customary law is superseded by this constitutional ban, and even fewer place religious law beneath constitutional law (FAO, 2020b). In many countries, customary and religious laws may discourage or not allow women to own property while constitutional law does allow women to own land. Women who live in countries where constitutional and statutory law does not supersede customary and religious law are likely unable to own property due to local restrictions and are not able to appeal to national courts. Those who live in countries where constitutional and statutory law does override customary and religious law still have to face enormous barriers to enjoy their right to own property. Illiteracy, threats, and lack of money could easily strip women of their ability to petition the courts for their right to own or inherit land.

At the international level, almost all countries (except Iran, Holy See, Niue, Palau, Somalia, Sudan, Tonga, and the United States) have ratified the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) (UN OHCHR, 2014). CEDAW includes language to guarantee women equal rights to own and administer property, as well as to guarantee equal access to credit, equal rights in the dissolution of marriage, and in all legal proceedings (UN OHCHR, 1979). Because CEDAW is an international treaty, it is legally binding to all signatories. However, similarly to domestic law, CEDAW is not enforced in a meaningful way in many countries.

The non-legal barriers that restrict women from owning land are numerous and often seemingly immutable. One study focusing on Khwisero Constituency, Kakamega County in Kenya found that the largest barrier to women's land ownership in that area was a lack of information (Wangari, 2016). Although land could legally be held jointly in the country, only 15% of households were aware of this. Land institutions in the county were not telling residents that land could be held jointly or by women. To make matters worse, Kenya's female illiteracy rate is significantly higher than the male illiteracy rate, meaning that women have a much lower chance of finding this information from sources other than word of mouth. Because of this, women often had many questions about land ownership and legal rights. Due to a cultural constraint on asking questions in front of men, they were unable to learn about their legal rights to own land.

Similarly, a study of the women in the Luhya Community in Kakamega County, Kenya found that there was a large amount of cultural resistance to women owning land (Mwagae, 2013); 49% of the community found it unacceptable for women to own land, and less than 12% said that women have equal rights to inherit and own land. For many, this was a difficult issue to discuss. Over one-fifth considered women's land ownership to be a taboo subject. In this community, women's land ownership was denounced at a moral level. Emphasizing the depth and permanence of these beliefs, the author stated, "Many are 'soaked' in strong retrogressive cultural beliefs that deem it immoral for women to own land and other land-based resources" (Mwagae, 2013). The enforcement and violence of this belief leads to women being forced off of their land if their husbands pass away or divorce them. This study also cited low literacy rates and low incomes as reasons women did not own land. In this case, although women are provided the constitutional and statutory rights to own land, culture, illiteracy, and low incomes form a trap that is difficult for women to escape.

In Ghana, women face both legal and non-legal barriers to land ownership. Ghana's constitution allows legal pluralism, meaning that constitutional, statutory, customary, and religious law are all valid

in the country (Rünger, 2006). Because of the complicated nature of Ghana's legal system, women seeking to gain legal rights to property are at a marked disadvantage. Similar to the women in Kenya, Ghanaian women often have lower incomes and lower literacy rates than men. For many women, facing a complicated, cumbersome legal system to the low level of resources at hand is an unachievable task. Beyond the rights to land itself, women also faced legal battles around marriage and sharecropping. In some communities, the common form of marriage did not involve the wife joining the husband's family, meaning that even if a husband wished to leave land to his wife, the woman would not be legally recognized as a valid inheritor. In case of divorce, women typically did not receive land. Additionally, if a woman was involved in a sharecropping arrangement with a relative or landowner, it was very easy for the owner to change the details of their agreement at any time because these agreements were typically only verbal. Women in Ghana were allowed to inherit land, but still faced large legal barriers to widescale land ownership. Just as in Kenya, the non-legal issues of low literacy rates, low incomes, and cultural resistance exacerbated the tedious process of navigating the national legal system.

Saudi Arabia has the lowest women's land ownership rate in the world at a mere 0.8% (FAO, 2020). However, Sharia law, of which Saudi Arabia's legal system is based, provides women full legal rights to own land (Almazi, 2016). Due to a cultural belief that men are responsible for caring for their families, men inherit twice as much property than women. While this provides men an unfair advantage, low levels of education for women and an expectation for married women to remain in the domestic sphere often lead women to turn over their inherited assets to their husbands. In this way, customs allow men to retain almost absolute control of the country's land. Women in Saudi Arabia also face similar non-legal barriers to those seen in Kenya and Ghana – low levels of education, low levels of economic participation, and cultural rejection of women increasing their own socioeconomic standing. In Saudi Arabia, customary law has completely superseded both statutory and religious law to the detriment of women.

While women in Latin America face less stringent customary law than their Saudi Arabian counterparts, they still must negotiate a legal and social system that discourages them from owning land. Historically, although women were allowed to own land, their husbands were able to choose whether or not to title the land jointly or individually because they were legally the head of the household (Deere and León, 2003). As a result, most land was titled only in the male's name, and in the case of divorce, he would receive all of the land as his own. As agricultural reforms swept the region in the 1970s, many laws were written with language that presumed most agricultural producers were male. Deere and León also found that women had substantially less bargaining power in international markets. Historically, women were forced to buy smaller plots of land at higher prices than men. Across the region, men owned larger and higher quality pieces of farmland than women.

Across the globe, themes begin to emerge. While there are differences between regions, many women face large, multifaceted barriers to owning land. Women consistently face lower levels of education and higher illiteracy rates, which compound the difficulty of accessing information about land ownership and navigating a legal system. They often have lower levels of income, making it difficult to purchase land or pay any necessary legal fees to own land. Their communities and families are often strongly opposed to women's land ownership, deeming it taboo and morally wrong. These case studies highlight the need for continued investment in women's education, as higher levels of education would improve literacy rates, legal understanding, and likely raise women's incomes. Investing more in women's education, however, requires a shift in cultural thinking surrounding gender roles. If women are able to obtain higher levels of education, they may also be deemed worthy of owning their own land. In order to truly change broad legal and cultural mindsets about women's land ownership, women must be included and represented in legislative bodies. Women in land governance would be likely to address some currently invisible issues in land ownership, such as a lack of disseminated information or adjacent legal issues such as considering males the legal head of the household.

In several of these cases, land ownership or agricultural labor have been gendered male. Rooij argues that the gendering of agriculture and farming continues to higher levels of agricultural development and agricultural policy, as typically farmers are gendered male and farm technology strives to be larger and stronger (Rooij, 2005). In order to spur true organizational change, Rooij argues that national ministries of agriculture should shift from an often technical focus with splintered sub-organizations to a broader, more integrated structure with gender equality as a core commitment. Changes and commitments towards gender equality from national level organizations could help influence long-standing cultural institutions to consider new ideas.

## **Theory**

In their book *Why Nations Fail*, Acemoglu and Robinson argue that nations will continue to see poverty decrease only if they have inclusive economic and political systems. Inclusive economic systems are those which “encourage property rights, create a level playing field, encourage investments in new technologies and skills” (Acemoglu and Robinson, 2012, p. 429). Similarly, inclusive political institutions “distribute power widely in a pluralistic manner” (Ibid, p. 430). Arguably, women who seek to own land do not face inclusive institutions. A lack of education, high levels of unpaid labor and otherwise low incomes, and cultural barriers have created exclusive institutions which do not create a level playing field or encourage investments in new skills.

Problematically, there is not much incentive for others to alter the systems which women face. By making it difficult for women to access land, not investing in women’s education, and not allowing them to freely participate in the workforce, men have greater access to land and an abundant supply of cheap labor. To alter this system would, in the short term, detract from the wealth of some men. In the long term, there is much evidence that equal land ownership for men and women is beneficial. While

gender inequalities slow development, as women are allowed to participate in the economy and improve their socioeconomic status, education levels, food security, and health all increase (Norton, Alwang, and Masters, 2010).

Following this theory of inclusive institutions, we would expect nations which create more inclusive institutions for women to have higher levels of women's land ownership. This means that nations and cultures that create a level playing field through equal education, economic opportunities, and political participation for both men and women should have higher levels of women who own land.

### **Data Collection**

Data for the measures of gender equality were collected from the Global Gender Gap Index 2020, and data for the percentage of land owned by women were collected from the FAO.

### **Empirical Model**

Data from the Global Gender Gap Index 2020 were correlated with the FAO's data on Percentage of total landowners who are female. The four sub-indices, economic participation and opportunity, educational attainment, health and survival, and political empowerment all factor into the overall Gender Gap Index.

The sub-indices are comprised of the following indicators:

1. Economic Participation and Opportunity: Women's labor force participation rate, wage equality for similar work, estimated earned income, percentage of female professional and technical workers, and the percentage of female legislators, senior officials and managers.

2. Educational Attainment: Literacy rate, enrollment in primary education, enrollment in secondary education, and enrollment in tertiary education.
3. Health and Survival: Sex ratio at birth, and healthy life expectancy
4. Political Empowerment: Women in parliament, women in ministerial positions, and years with a female head of state

The factors within each sub-index are given different weights based on their perceived importance. For example, under educational attainment, percentage of females enrolled in primary school is weighted heavier than percentages of women in higher education. The overall Gender Gap Index is then calculated by a simple average of each sub-index score.

The FAO's percentage of women landowners data is simply calculated by dividing the number of female landowners in a nation by the total number of landowners in that nation.

## Results

	<i>Gender Gap Index</i>	<i>Economic Participation and Opportunity</i>	<i>Educational Attainment</i>	<i>Health and Survival</i>	<i>Political Empowerment</i>
Gender Gap Index	1				
Economic Participation and Opportunity	0.696867389	1			
Educational Attainment	0.465292468	0.154227456	1		
Health and Survival	0.276932814	0.292111577	0.265483891	1	
Political Empowerment	0.824290791	0.246849204	0.209321598	0.056269843	1
Percentage women's land ownership	0.357174649	0.475840238	0.30371692	0.334625933	0.060287277

The above table shows results from a correlation analysis on the overall Gender Gap Index, the four sub-indices, and the percentage of women landowners. None of the sub-indices had a strong level of correlation with women's land ownership. This is probably because many of the variables that impact land ownership are not represented in the Gender Gap index, such as legal barriers and the amount of land available in a given area.

Economic Participation and Opportunity did have a moderate level of correlation, with an R-value of 0.48. One possible explanation for this would be that in order for many of the indicators to be higher in this category, the cultural stigmas against women working and advancing themselves socioeconomically must be overcome. The case studies reviewed from Kenya, Ghana, and Saudi Arabia showed cultural aversion to women working as well as women owning land, suggesting that these two factors are related. In many ways, women's participation in labor markets may be an equivalent to owning land for women outside of rural areas or outside of the agricultural sector. Normalizing women's participation in labor markets may be an important concurrent step to normalizing women's land ownership.

Educational attainment had a mild level of correlation with women's land ownership, with a R-value of 0.30. This sub-index included the literacy rate for females, which was noted by several authors as a major barrier to land ownership. However, the literacy rate for females was weighted very low compared to the other factors within the educational attainment sub-index. Enrollment in primary education was heavily weighted. In theory, high levels of enrollment in primary school should increase literacy rates. However, the quality of education may be highly variable. Although the educational attainment sub-index did not produce a high level of correlation, education is likely still critically important to land ownership as it is necessary for reading legal documents and navigating a complex legal system.

Health and survival also had a mild level of correlation with women's land ownership, with an R-value of 0.33. This sub-index is dominated by the ratio of females to males at birth. For almost nations, this is essentially even, leading to a high health and survival score. The only other factor in the sub-index is healthy life expectancy in years. This misses a key aspect typical healthcare challenges for rural women – access to healthcare and distance to a healthcare provider. Of all sub-indices, health and survival is the least logically related to women's land ownership. However, higher health and survival

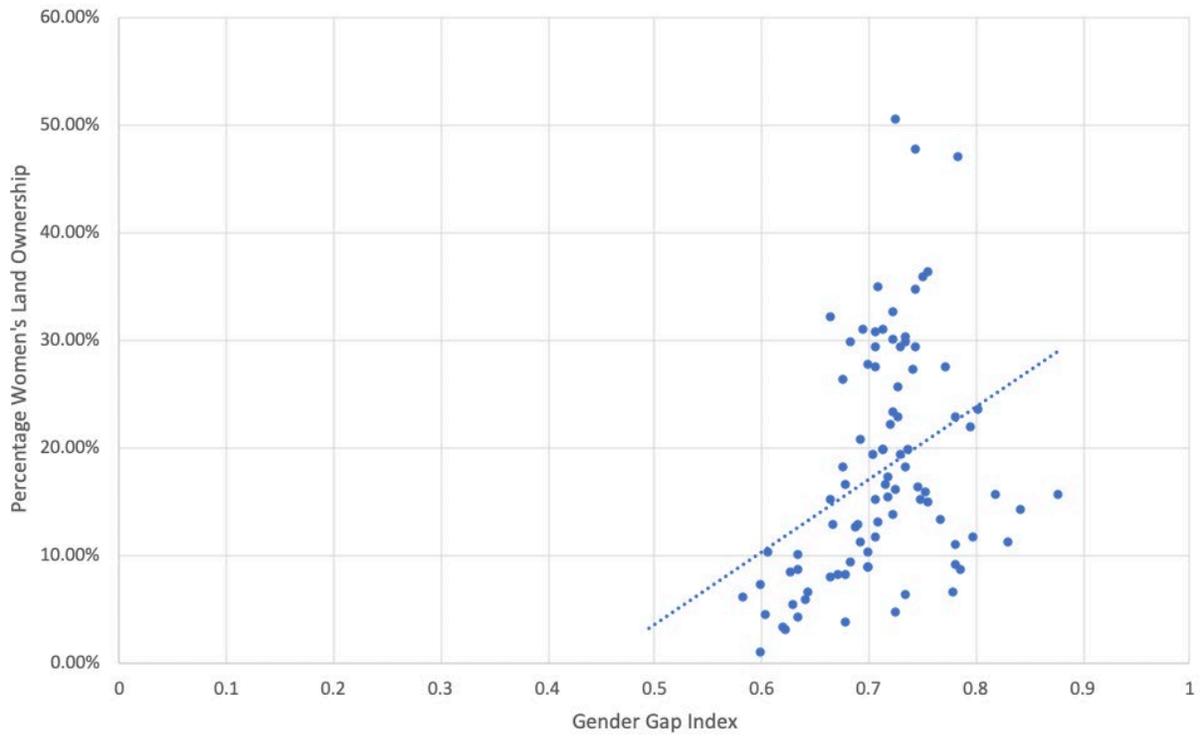
scores for women may signal increased cultural respect for women, which may impact other factors of land ownership.

Notably, political empowerment had a very weak correlation with women's land ownership, with an R-value of 0.06. This may partially be because of the way the political empowerment sub-index was calculated, which was entirely based on the percentage of women in high-level elected and ministerial positions. For nations which are slow to accept women in the workforce or receiving higher education, electing or nominating women to these high offices may be much more of a stretch than allowing women to own land. Including other factors in this measure, such as the right to vote and freedom of elections, might provide a better measure of political empowerment for rural women.

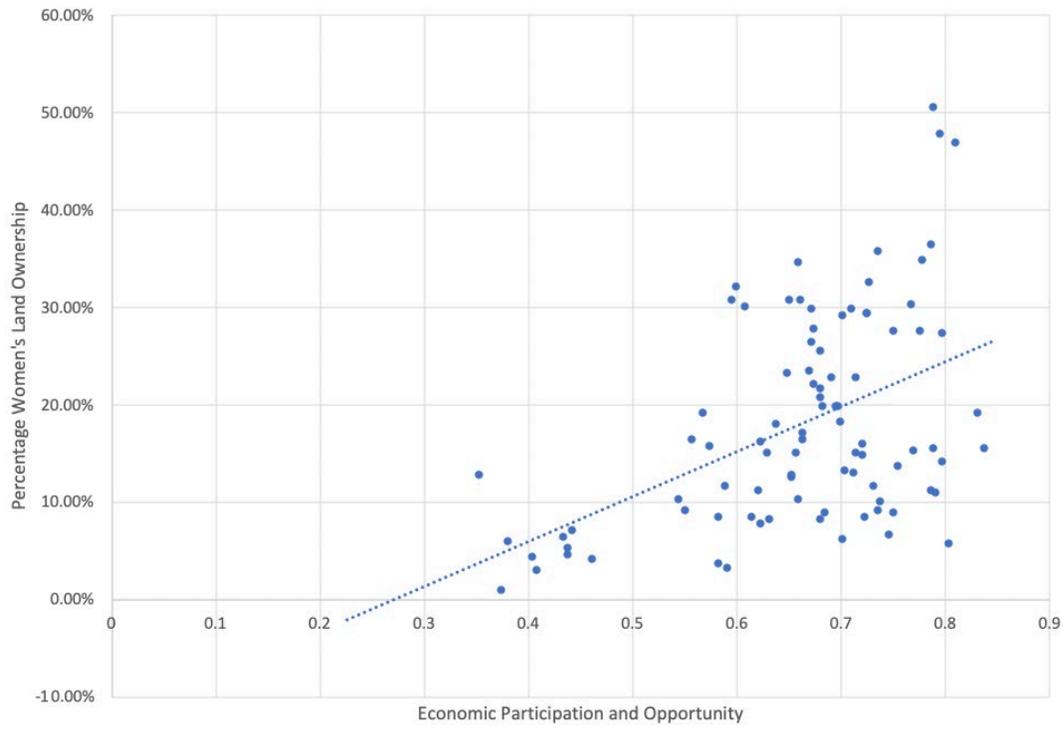
The overall Gender Gap Index had a mild level of correlation with an R-value of 0.36. However, as visible on the scatter plot of women's land ownership and Gender Gap Index scores, the trendline for this variable is fairly steep. Although each individual sub-index likely does not cover the specific aspects of gender equality necessarily for equality in land ownership, the index overall may begin to approximate a critical yet difficult aspect of the non-legal determinants of land ownership – how a society views women. A society with an overall favorable, respectful view of women will score highly on the Global Gender Gap Index even if the specific characteristics measured are not directly related to land ownership. However, that cultural level of respect should cause factors more closely associated with women's land ownership to be higher, even if they are not included in the Global Gender Gap Index.

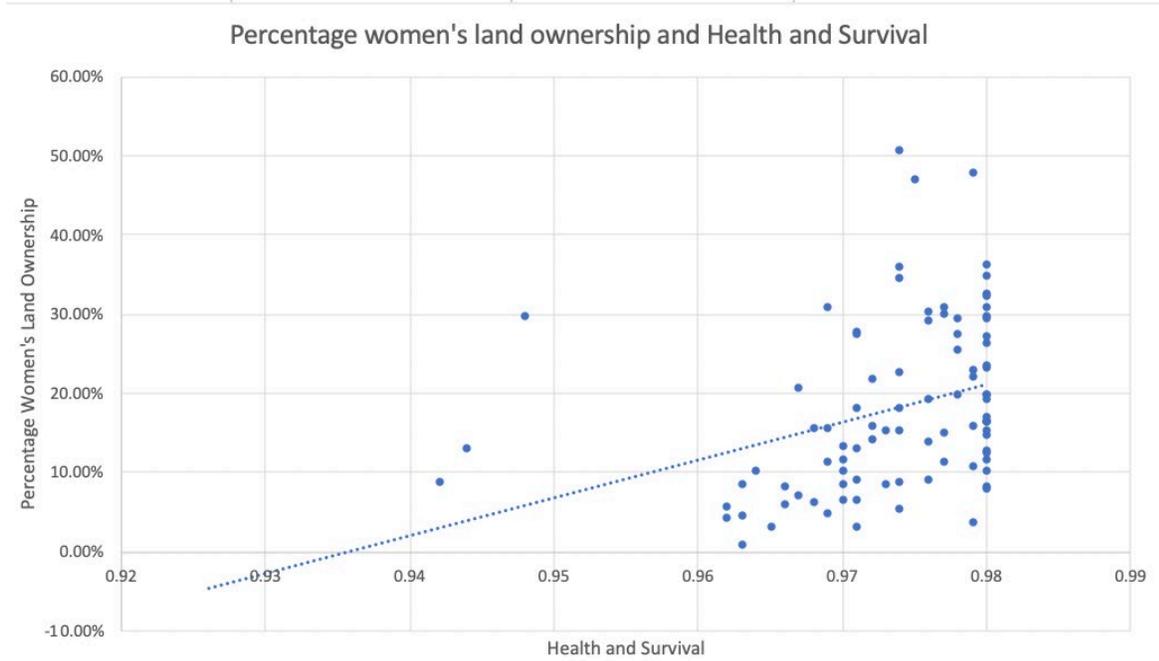
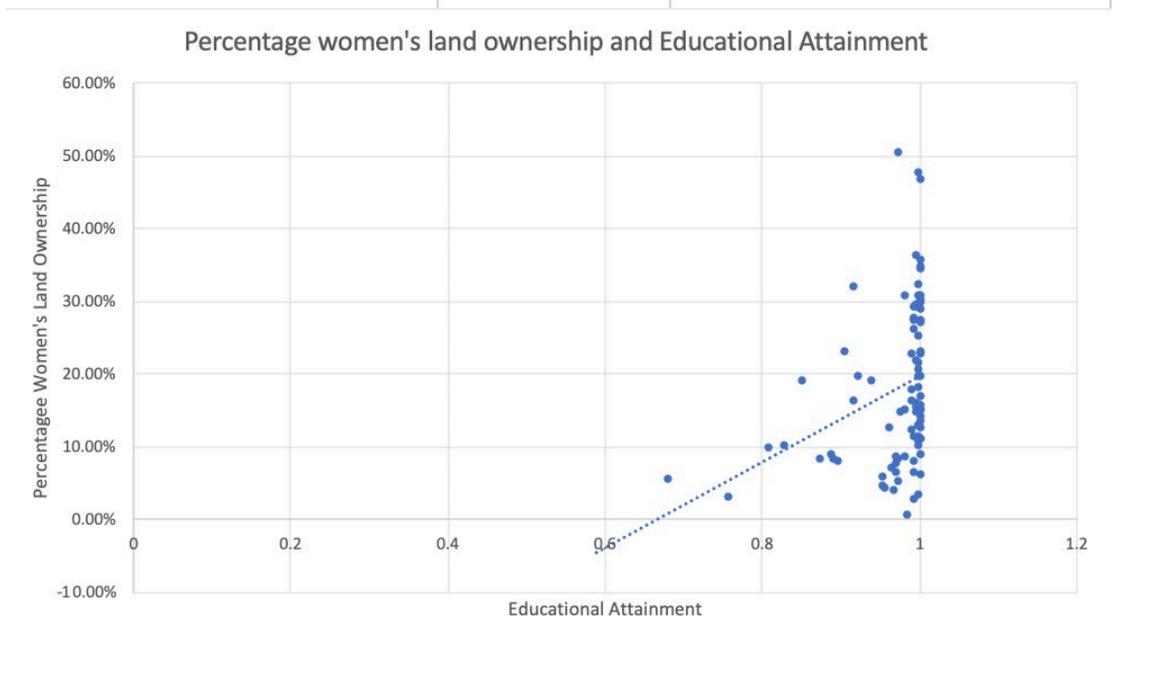
Below are scatter plots for women's land ownership and each sub-index as well as the overall Global Gender Gap Index.

Percentage women's land ownership and Gender Gap Index



Percentage women's land ownership and Economic Participation and Opportunity





From these scatter plots, it is evident that data from the educational attainment and health and survival sub-indices are skewed. Because of this, these sub-indices may not provide truly accurate results as to how educational attainment and health impact women's land ownership.

## Policy Implications

From these correlations, it is clear that increasing economic participation and opportunity would at least somewhat influence women's land ownership. For nations, this means allowing women to join the workforce if they so choose and barring discrimination in the job hiring process. It implies ensuring equal pay for equal work and encouraging women to pursue careers in technical fields. Many of the case studies referenced a lack of income and lack of access to credit as key financial barriers to land ownership, and these issues must also be addressed in order to increase land ownership among women. Many of these issues have roots in culture, however, as is it difficult or taboo for women to work outside the home or have a full-time job in many cultures. Making strategic organizational changes, like those suggested by Rooij, may help create more inclusive economic and social institutions for women.

Similarly, increasing literacy rates and knowledge of their rights should be a priority for nations. Almost all case studies referenced illiteracy and lack of knowledge, as well as a lack of access to knowledge, as key barriers to women's land ownership. Improving education would also improve economic participation and opportunity, as women would have more marketable skills to earn an income outside of agriculture if they so wished. Like the economic factors, these factors are also deeply ingrained in culture, as it is common for cultures not to value women's education, thus leading to lower literacy rates. Strategically improving education for women at the national level would both allow women to achieve higher literacy rates and create positive organizational change for women.

Additionally, large multinational NGOs and IGOs should be aware that the factors affecting gender equality in rural areas is often different than those affecting gender equality in urban areas. While the Global Gender Gap Index may appropriately measure gender equality in urban areas, it misses key aspects for rural women, including distance to healthcare facilities, time necessary to gather supplies such as water and firewood, and unpaid agricultural labor. Specific gender equality indices for

rural populations would provide further insight into how to spur rural development and women's land ownership.

## **Conclusions**

At its core, many of the barriers that women face around land ownership can be traced back to lower social status and cultural standing. A lack of education, access to information, and credit stem from economic institutions which do not place women on an equal playing field as men. Broad cultural change is needed to truly bring equality to women's land ownership. However, culture can be a very engrained, slow moving process. Luckily, there are actions available to communities and nations in order to aid women in gaining equality in land ownership, but also more broadly.

Communities and countries should increase women's education in an effort to increase literacy rates and provide information about land ownership rights. Additionally, every effort should be made to improve women's economic participation and opportunities, as this helps women build capital. At the national level, countries should consider restructuring key organizations in order to place gender at the center of their work. Slowly but surely, these actions should help to change the exclusive institutions that bar women from owning land, and in turn, contribute to healthier, wealthier communities.

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