

# Land and Poverty Conference 2016

Scaling up Responsible Land Governance

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## IMPROVING WOMEN'S ACCESS TO LAND AND PROPERTY IN THE ARAB STATES: THE ROLE OF INHERITANCE, DOWER, AND MARITAL PROPERTY

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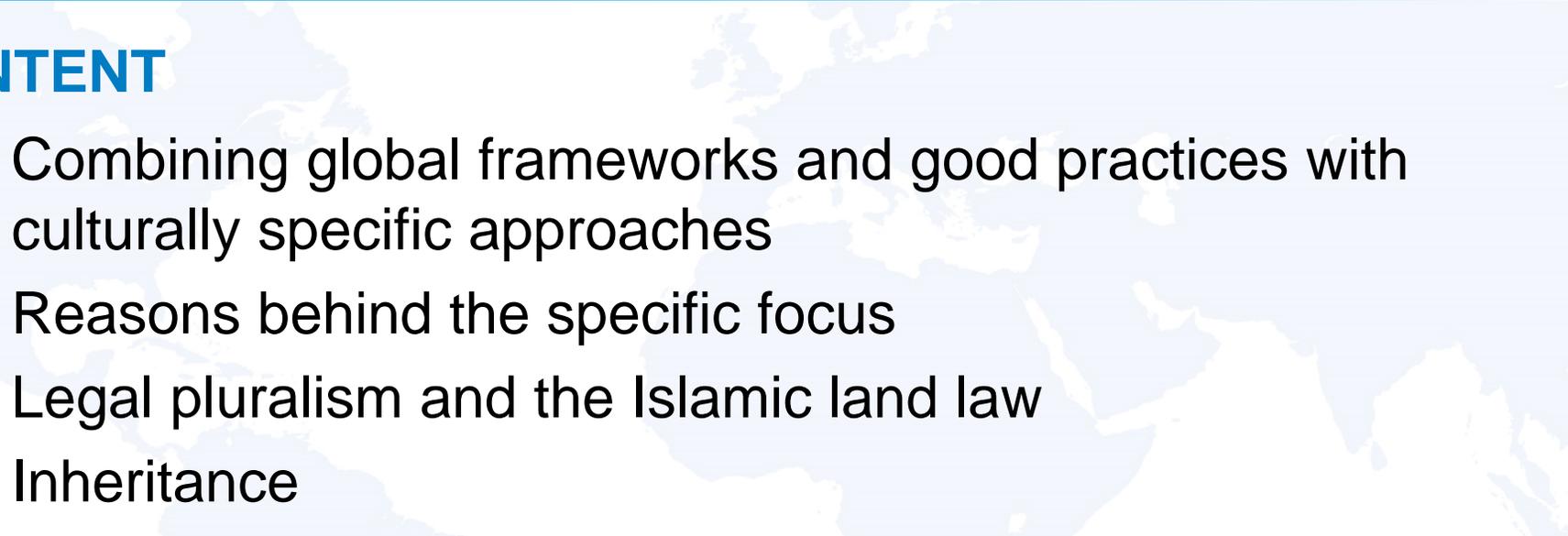
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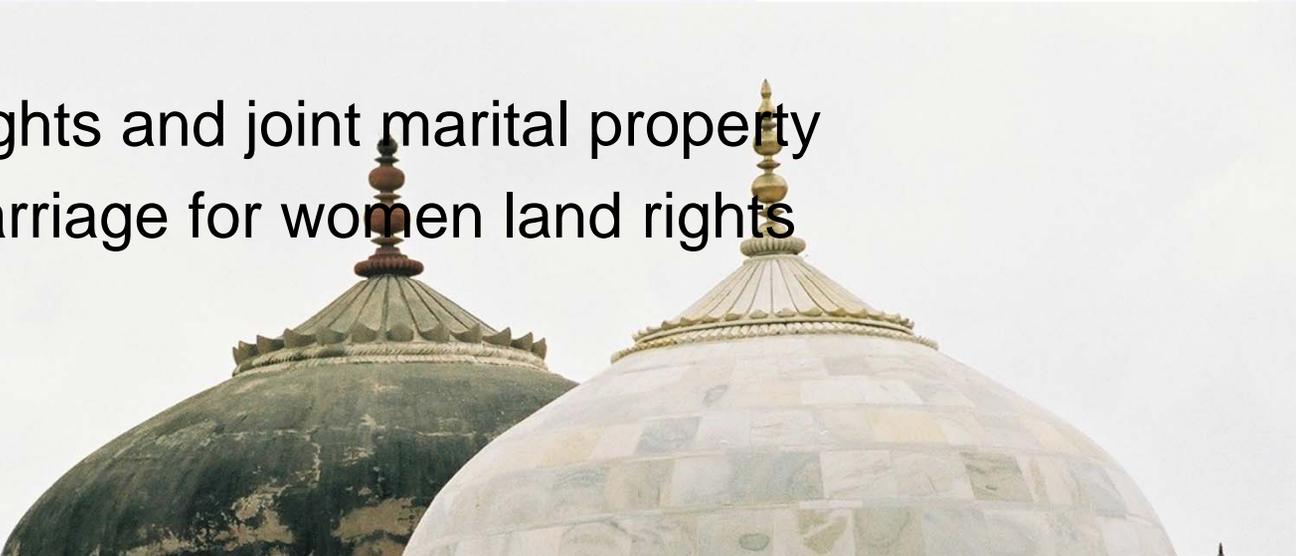
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## COMBINING GLOBAL FRAMEWORKS AND GOOD PRACTICES WITH CULTURALLY SPECIFIC APPROACHES

Through cross-sectoral international partnerships, the Global Tool Network develops and implements **pro-poor and gender-responsive tools and approaches** to increase access to land and tenure security for all.

While the tools developed have a global scope and application, LTN recognizes the **value of context-specific approaches** that are particularly appropriate for some key areas of work, such as women's access to land.





## COMBINING GLOBAL FRAMEWORKS AND GOOD PRACTICES WITH CULTURALLY SPECIFIC APPROACHES

**challenges** faced by women in the Arab world do not substantially differ from those faced by women in other regions.

However, 20 per cent of the world's population is Muslim and **principles and practices** reflecting Islamic land and – specifically – in the Arab region.

UN looks at these elements in the context of **legal pluralism** along with international legal frameworks, national customs and traditions to promote women access to justice in the Muslim world.

## COMBINING GLOBAL FRAMEWORKS AND GOOD PRACTICES WITH CULTURALLY SPECIFIC APPROACHES

The work being presented comes from the body of knowledge that will be collected in a set of guidelines provisionally called “**Achieving social and economic development by increasing women’s access to land in the Muslim world**”, with specific attention being paid to the Arab region.

**Learning** from what is working on the ground (ongoing initiatives, successful partners...).

Strategically thinking how to replicate, **upscale and institutionalize** these good practices.

## REASONS BEHIND THE SPECIFIC FOCUS



- Women in the Middle East and North Africa are lagging behind in their access to land and property rights.
- Poorly regulated tenure regimes
- Weak rule of law
- Gender discriminatory traditional practices and local norms
- Conflicts and displacement are severely affecting the region, with particular negative impact

## REASONS BEHIND THE SPECIFIC FOCUS

Access to land is key for women empowerment, livelihood and security, but also broader issues of **security, environmental sustainability, conflict prevention and mitigation** of the impacts of conflict on communities, women and vulnerable individuals, especially children.

Particularly crucial in the current **context of conflict and mass displacement**, families disruption and change of 'traditional family





## LEGAL PLURALISM AND THE ISLAMIC LAND LAW

Significant national and local variation exist, but overall women land rights are safeguarded by: **customary practices, Islamic land law, national land laws and international networks.**

**Islamic land principles** and can offer important entry points safeguarding women land and property rights.

**Heritance, dower** are the key ones this papers looks at.

Additional Islamic land tools that are (in theory) gender responsive are land reclamation (*mawat*), endowment (*waqf*), household (*tassaruf*), etc.

Other practices: land reform, mainstreaming gender in land

## HERITANCE

indications are that **inheritance is the key way** through which land ownership is achieved.

Key risks for women are: unlawful exclusion or (voluntary) renunciation (*tanazul*).

Good examples to be replicated / upscaled: awareness, legal support for women, regulation of the *tanazul* practice (Palestine and Jordan), capacity development for judges and traditional land administrators (Niger)

Women often inherit **50% of male shares**, but nothing prevent women from equal property rights

**Compensatory measures:** will (*wasiya*), lifetime transfer or (hiba), etc

## POWER

**ower** (*mahr*) is a gift that the husband gives to the wife.

is a useful tool that can be very useful for women,  
pecially in case of divorce.

ey is **awareness raising**, provision of **legal assistance**  
**and logistic support for women.**

**rotection from physical violence** is also required to  
sure that women are able to claim in front of formal or  
ormal / customary courts their rights to land and property.

## SECONDARY' RIGHTS AND JOINT MARITAL PROPERTY

Claiming land and property rights for women is often an **'possible choice'** (NRC)

Increased access to **secondary rights** is a key avenue, which do not necessarily offer a lesser protection than ownership rights from eviction

Access to land and property through the **relationship with male relatives**: joint property, and in particular joint marital property.

The vast majority of Muslims live under separate property regimes, but a significant number does have the choice to enter into **joint marital property regimes**.

## ROLE OF MARRIAGE FOR WOMEN LAND RIGHTS

At the moment of marriage, women's access to land gets **defined** and this is an opportunity to (re)-equilibrate the relationship between women and access to land.



## ROLE OF MARRIAGE FOR WOMEN LAND RIGHTS

For women living in the Arab world, marriage has impact on three types of properties: the **pre-marital** (personal property that was brought to the wife before the marriage, which needs no special protection); the joint **marital property** (including land and other assets acquired during the period of marriage); and **the access to land and personal property** flows during marriage from a variety of sources (e.g. inheritance, gifts, income, *waqf*, *mahr*, and *nafaqa* or maintenance).

A vast majority of Muslims live under separate property regimes, but a significant number does have the choice to enter into marital property regimes.



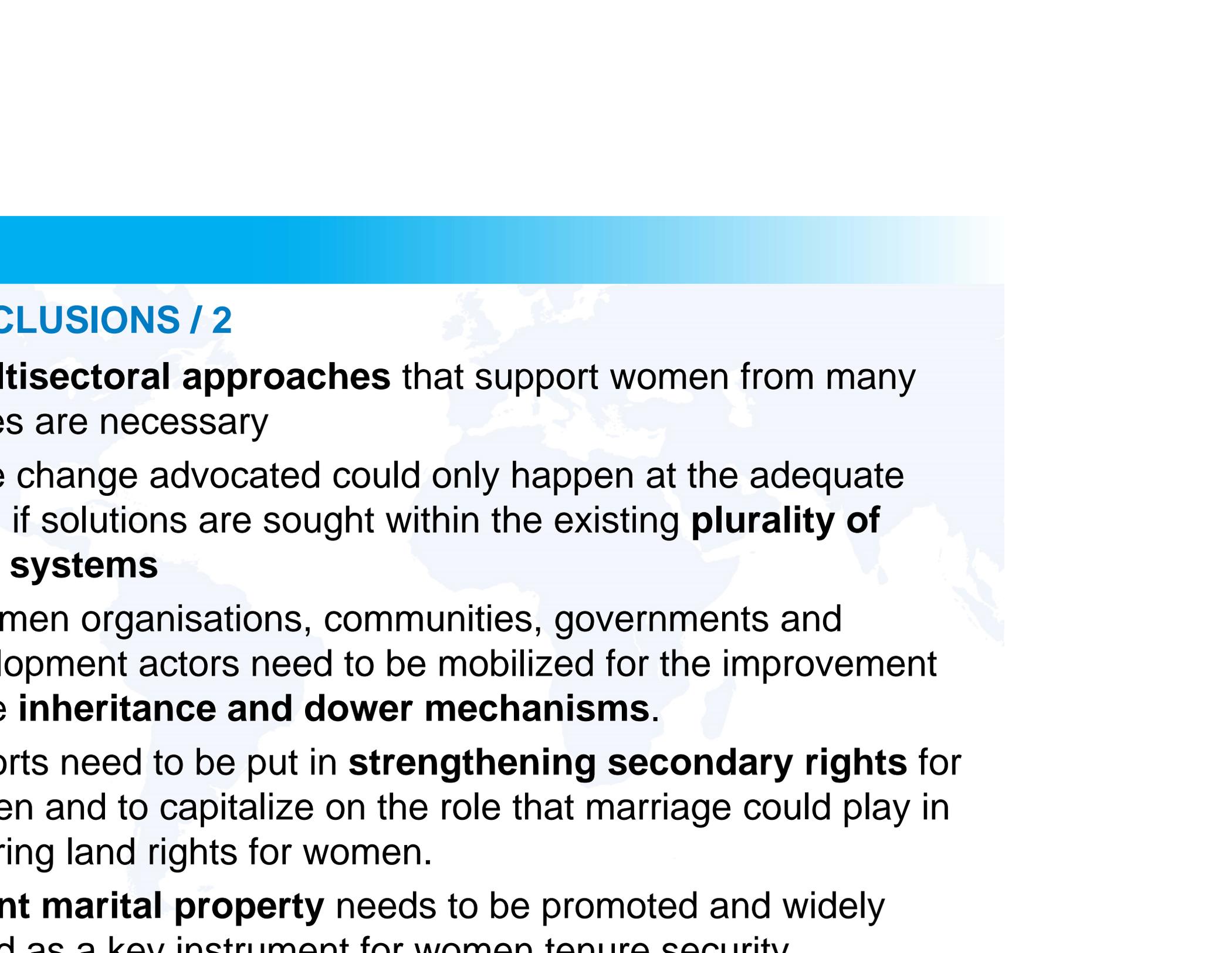
# CONCLUSIONS

## CONCLUSIONS / 1

Ensuring women's access to land and property in the Arab world is a **key priority** that will not only improve the condition of women, but will have positive social and economic effects on families, children in particular.

Increasing women's security of tenure is particularly urgent in countries and regions affected by **conflict**, displacement and migration where women are paying a higher price in terms of human rights violations and physical violence, both significantly mitigated by access to land and housing.

Times of conflict, women are called to play a bigger role – if being the only ones responsible for providing for their families and dependents, and access to land is a key component to empower them to do so (**opportunity for**



## CONCLUSIONS / 2

**Intersectoral approaches** that support women from many countries are necessary

The change advocated could only happen at the adequate scale if solutions are sought within the existing **plurality of systems**

Women organisations, communities, governments and development actors need to be mobilized for the improvement of **inheritance and dowry mechanisms**.

Efforts need to be put in **strengthening secondary rights** for women and to capitalize on the role that marriage could play in securing land rights for women.

**Joint marital property** needs to be promoted and widely recognized as a key instrument for women tenure security

## CONCLUSIONS / 3

Access to land and property are not merely a battle ground for gender equality but an entry point for **a reinterpretation of women's roles in the Arab region.**

Land rights are **part of the larger issue of women's empowerment and participation** in post-conflict situations and their role in resolution.

In the Arab world, land interventions and gender equality strategies are most effective when **grounded into local realities**, and referencing community discourses to global development standards.



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STATES: THE ROLE OF INHERITANCE, DOWER, AND MARITAL PROPERTY**

**THANK YOU!**

**Join the reference group!**

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