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**Human Rights, Environmental Sustainability, Post-2015  
Development, and the Future Climate Regime**

**Women's Right to Land and Its Cross-Cutting Nature:  
Experiences from Tajikistan and a Human Rights Based  
Sustainable Development Framework**

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**Abstract**

The links between human rights, social dimensions and sustainable development is a complex challenge and has so far not been addressed adequately in multilateral environmental agreements, in particular missed out in the Millennium Development Goals. If the new post-2015 development framework as well as a new climate regime aim at making a real difference they have to take into consideration a comprehensive approach, relying on a human rights based approach. The imperative of innovation realizing this approach leads to the paper's focus to analyze closer the women's enjoyment of the right to land, natural and productive resources as this right is integrally linked to discussions around food security, sustainable economic development and women's empowerment. Lessons learned from project work in Tajikistan will highlight the importance of this integral approach and lead to recommendations for the future discussion on the Sustainable Development Goals and related international policy processes.

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## List of Abbreviations

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CSW	Commission on the Status of Women
FAO	Food an Agricultural Organization
MDG	Millennium Development Goal
MEA	Multilateral Environmental Agreement
NGO	Non-governmental Organization
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSCE	Organization for Security and Co-operation in Europe
SDG	Sustainable Development Goals
UNIFEM	United Nations Development Fund for Women
UNICEF	United Nations Children’s Fund
WECF	Women in Europe for a Common Future

## **1 Gender and Climate Change – Challenges for Environmental Sustainability, Development and Justice?**

### ***Background***

Principle 20 of the Rio Declaration, 1992 is the first to highlight that gender inequality is an obstacle for sustainable development by stating: “Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development.” Consequently gender inequality intersects with climate risks and vulnerabilities last maintained in the IPCC Fifth Assessment Report<sup>2</sup>. Climate change impacts not only differently on women and men, it is also their behavior that contributes in different ways to the factors that account for the emergence of climate change as well as men and women play different roles in mitigating and adapting to climate change and are affected differently by these measures.

Women and men face dangers from climate change in relation to their livelihood, their security and their health (e.g. higher death rate amongst women during and after natural disasters<sup>3</sup>). It is the human dimension of the use and the management of natural and productive resources and the environment that needs closer observation. The different activities men and women undertake in fulfilling their roles and tasks in providing for their livelihood and the one of their families depend on the availability of land, natural and productive resources<sup>4</sup>. In particular rural women who spend a lot of time in securing food, water and fuel/energy for the sustenance, health and well-being of their families, are in need of land, natural and productive resources, their sound management and an intact environment. Climate change with its serious ramifications of food, water and other natural resources, such as wood and similar energy sources is a threat to all of these factors. For women, in particular rural women, being more dependent on natural resources, these effects are more detrimental. Unequal access to land, natural and productive resources and to decision-making processes can even magnify these adverse effects.

Women play a unique role in the stewardship of natural resources as they hold special knowledge on resource management and the environment. For example, women have passed on their skills for centuries in water and forest management and the management of

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<sup>2</sup> Olsson, Opondo, Tschakert, Agrawal, Eriksen, Perch, and Zakieldeed 2014, chapter 13.2.1.5.

<sup>3</sup> A/HRC/10/61 2009, para.45.

<sup>4</sup> Land can be understood to include farmland, wetland, pasture, rangeland, fishery, forest, as well as harvesting and hunting territories. Productive resources encompass property, fisheries, livestock and game.

biodiversity. They have different coping strategies during crisis and mitigate impacts by applying less emission producing behaviors or special protective measures.

***Link: Climate Change and Human/Women's Rights***

The interdependence and interrelatedness between the environment and human rights<sup>5</sup> lead to the conclusion that climate change has impacts on all human rights. “Women’s rights are human rights” as para.14 of the Beijing Declaration (1995) states, ensuring the perpetuation of the principle of “equality and non-discrimination” - core elements of the human rights framework - for a “vulnerable” and/or “marginalized” group within society. Groups who already face inequality within society due to, for example, inhibiting gender stereotypes/roles and gender-based discrimination suffer even more by the impacts of climate change<sup>6</sup>. Existing social inequalities, in particular poverty, are exacerbated by climate change impacts.

In order to highlight the gender dimension of climate change, specific human rights that are likely to be infringed by the effects of climate change deserve closer attention as well as their relevance for women and men:

- (i) the basic right, the *right to life*, as protected under the International Covenant on Civil and Political Rights<sup>7</sup> (1966);
- (ii) the *right to adequate food*, as secured within the International Covenant on Economic, Social and Cultural Rights<sup>8</sup> (1966);
- (iii) the *right to health*, as protected under the International Covenant on Economic, Social and Cultural Rights<sup>9</sup> (1966);
- (iv) the *right to adequate housing*, as safeguarded by the International Covenant on Economic, Social and Cultural Rights<sup>10</sup> (1966);
- (v) the *right to water*, as implicitly protected by the International Covenant on Economic, Social and Cultural Rights<sup>11</sup> (1966).

Most of these rights are also guaranteed by later human rights treaties, inter alia, by the “women’s rights” Convention on the Elimination of All Forms of Discrimination Against Women (1979, CEDAW), such as the right to food<sup>12</sup>, to health<sup>13</sup>, to housing<sup>14</sup> and to water<sup>15</sup>. It is these rights that are crucially connected to women’s rights and show the link between

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<sup>5</sup> As recognized in the Resolution A/HRC/RES/25/21 2014.

<sup>6</sup> A/HRC/10/61 2009, para.45.

<sup>7</sup> In article 6.

<sup>8</sup> In article 11.

<sup>9</sup> In article 12.

<sup>10</sup> In article 11.

<sup>11</sup> In articles 11 and 12, furthermore detailed in General Comment No. 15 (2002) of the Committee on Economic, Social and Cultural Rights, and in further resolutions.

<sup>12</sup> In article 14 (2)(h).

<sup>13</sup> In articles 12 and 14 (2)(b).

<sup>14</sup> Implicitly in article 14 (2) “adequate standard of living”.

<sup>15</sup> In article 14 (2)(h) linking the provision of clean water to nutrition.

environmental degradation, human rights violations and an aggravation of the situation of women who are already prone to be affected by difficult social circumstance, e.g. poverty (normative connection).

### **Conclusion: Challenge and Opportunity**

The complexity of linkages between rights, social dimensions and sustainable development is a challenge and has so far not been addressed adequately in multilateral environmental agreements (MEAs). The sustainable development agenda and the development of related legislation, policies and programs often lack attention to the social dimension, including a gender-sensitive understanding of human rights<sup>16</sup>. The Millennium Development Goals (MDGs) faced much criticism due to their compartmentalized approach to issues, such as gender equality<sup>17</sup> and environmental sustainability<sup>18</sup> which are by nature cross-cutting issues. The Agreed Conclusions of the 58<sup>th</sup> Session of the Commission on the Status of Women (CSW) in 2014<sup>19</sup> summarized in para.37: “progress on the MDGs for women and girls has been limited owing to the lack of systematic gender mainstreaming and integration of a gender perspective in the design, implementation, monitoring and evaluation of the Goals.” Furthermore, the CSW accuses governments in para.38 of the Agreed Conclusions of not providing sufficient funds for gender equality and the empowerment of women in the realization of the human rights of women and girls which limits progress on the MDGs for women and girls.

If the new post-2015 development framework aims at making a real difference it has to take into consideration a comprehensive approach, relying on a human rights based approach<sup>20</sup> to sustainable development as agreed in the outcome document “The Future We Want”<sup>21</sup> of the United Nations Conference on Sustainable Development held in June 2012 (Rio +20). The importance of the principles of gender equality and the empowerment of women for sustainable development need to be reflected more than being a mere lip service, they have to be integrated throughout the new framework and within rights and goals by using a cross-cutting approach (e.g. through setting gender sensitive targets and indicators<sup>22</sup>). The new climate change agreement, due to be signed in 2015, is part of the new framework and should also reflect this approach.

The imperative of innovation realizing this approach leads to the paper’s focus to analyze closer the women’s enjoyment of the right to land, natural and productive resources as this right is integrally linked to discussions around food security and sustainable economic

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<sup>16</sup> Blomstrom 2013, 60.

<sup>17</sup> MDG 3 „Promote Gender Equality and Empower Women“.

<sup>18</sup> MDG 7 „Ensure Environmental Sustainability“.

<sup>19</sup> E/CN.6/2014/L.7 2014, para.37.

<sup>20</sup> A human rights-based approach is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights (OHCHR 2006, 15).

<sup>21</sup> A/RES/66/288 2012, paras.8 and 9.

<sup>22</sup> E/CN.6/2014/L.7 2014, para.43.

development. Lessons learned from project work in Tajikistan will highlight the importance of this integral approach. Environmental degradation, in particular climate change impacts and sustainable development are linked to it, thus the right to land, natural and productive resources has major implications for the achievement of the rights mentioned above: the right to food, water and housing and vice versa.

## 2 Women's Right to Land, Natural and Productive Resources

The opportunity of the reference to the right to land, natural and productive resources for women lies within its positive correlation with other rights, such as empowering women in their economic and political status<sup>23</sup>. It is the access to assets, such as credits, loans, services, seeds and knowledge which is additionally needed to properly exercise the right to land. Political empowerment of women has a positive effect on women being able to make use of their right to land; this is valid reciprocally.

Not many data are available, but less than a quarter of agricultural land holdings in developing countries are operated by women<sup>24</sup>. The pressure of climate change tightens the problem. Key factors shaping women's limited access to land are:

- (i) laws and customs prohibiting women from owning or inheriting land independently of their husbands or male relatives, or that confer ownership on men even when women are custodians of the land (so-called secondary land rights);
- (ii) women's relatively lower income which frequently precludes them from participating in land transactions;
- (iii) women's physical vulnerability which leaves them open to violence and threats of violence around land deals, such as property-grabbing from widows;
- (iv) systematic exclusion of women from decision-making processes that regulate land ownership and access, both at a community and national level.

### *International Legal Instruments*

The women's right to land, natural and productive resources is guaranteed in several international legal instruments. The right to land includes the right to own, use, access, control, transfer, exclude, inherit and otherwise make decisions about land and related resources<sup>25</sup>.

Most declarations and treaties<sup>26</sup> explicitly recognize the right of non-discrimination towards women and/or the right of equality between women and men in relation to other rights, such as the right to private and family life, protection of the law, property, food, housing and education which are closely linked to the enjoyment of the right to land, natural and productive resources. The treaty-based bodies that monitor the implementation of the

<sup>23</sup> UNWomen and OHCHR 2013, 2.

<sup>24</sup> See FAO <http://www.fao.org/economic/es-policybriefs/multimedia0/female-land-ownership/en/>.

<sup>25</sup> Gomez and Tran Hien 2012, 1.

<sup>26</sup> Such as the Universal Declaration of Human Rights (1948), the International Covenant of Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966).

core international human rights treaties, such as the Committee on Economic, Social and Cultural Rights<sup>27</sup>, issued over the past years general comments or recommendations closely highlighting specific issues related to the right to land etc. and the right to property and assets.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979) comprehends more specific references to the right to land, natural and productive resources and women, inter alia in articles 14, 15 and 16. Article 14 relating to the special needs of rural women commits state parties to take appropriate measure for women regarding “access to economic opportunities” (14 (e)), “access to agricultural credit and loans” and “equal treatment in land and agrarian reform as well as in land resettlement schemes” (14 (g)) and the enjoyment of “adequate living conditions, particularly in relation to housing, ...” (14 (h)). Article 15 (2) stipulates the equal rights to conclude contracts and to administer property and Article 16 (1)(h) guarantees “same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property”. Further detailed interpretation of these provisions is available in the General Recommendations by the Committee on the Elimination of Discrimination Against Women (in particular Nos. 19, 21 and 29<sup>28</sup>).

The United Nations Declaration on the Rights of Indigenous Peoples (2007) determines the right of indigenous peoples “to the land, territories and resources which they have traditionally owned, occupied or otherwise used or acquired” (article 26 (1)). The rights and special needs of women and children are secured separately (article 22 (1) and (2)).

### ***Overarching Principles of the Human Rights Framework***

These numerous commitments from the international community have to be flanked by overarching principles of the human rights framework in order to add authority to the implementation of this complex right. These are human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments. Those of relevance in this context are, inter alia<sup>29</sup>, equality and non-discrimination, participation, accountability and the rule of law/governance.

Participation is a key principle of the human rights framework and itself a cross-cutting criterion. For the right to land, natural and productive resources and its meaningful realization this principle is of particular importance. Its definition includes that all processes related to planning, design, implementation and monitoring of a right should be participatory. This implies the right to any information as well as the participation at different policy levels. The

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<sup>27</sup> In particular: General Comments No. 7 (the right to adequate housing, 1997), No. 12 (the right to adequate food, 1999) and No. 16 (the equal right of men and women to the enjoyment of all economic, social and cultural rights, 2005).

<sup>28</sup> No. 19 (violence against women, 1990), No. 21 (equality in marriage and family relations, 1994), No. 29 (economic consequences of marriage, family relations and their dissolution, 2013).

<sup>29</sup> Other common principles are: universality and inalienability, indivisibility, interdependence and interrelatedness.

involvement of all stakeholders is a challenge and requires proactive outreach and capacity-building. A guaranteed right of public participation contributes to strengthening democracy as well as other inherent values and human rights. Actions to increase the participation of marginalized and vulnerable groups, such as women and girls, in policies and programs to close the gap in the enjoyment of human rights are essential, given that lack of participation in decision-making is a fundamental cause and consequence of inequality<sup>30</sup>.

### 3 Experiences From the Field: Tajikistan

Project work with grass-roots women in Tajikistan (Gissar district and Jabbar Rasulov region) provides an insight in the complex realization of the right to land and natural and productive resources.

#### *Situation Tajikistan*



Tajikistan had to suffer from political upheaval in the last two decades as well as from a civil war (1992-1997). This generally deteriorated the political and socio-economic situation and had a destabilizing effect.

Tajikistan is one of the countries which faces gaps within its legal framework and practices in regards to gender equality. This gap is even more visible within rural communities. Traditional gender roles, also influenced by a growing religious significance, contribute to women having less time for independent financial pursuits. Women tend to lack ownership and control over productive assets, professional skills, access to finances and to decision-making power<sup>31</sup>. This problem has become even more acute since a substantial part of the male population started to migrate to other countries like Russia and Kazakhstan in the quest for work, leaving many women behind who are left to provide for themselves and their dependents on their own.

<sup>30</sup> OHCHR 2013.

<sup>31</sup> Data available from baseline study of WECF's EWA project financed by the Ministry of Foreign Affairs of the Netherlands. The project 'Empower Women – Benefit for All' (EWA) is a four-year program that targets six countries (Afghanistan, Georgia, Kyrgyzstan, South Africa, Tajikistan, and Uganda), one hundred communities, and at least 50,000 women and men. The objectives of the program are: (i) to increase economic self-reliance and women's political participation in low-income rural and peri-urban region through capacity building on sustainable economic empowerment of the target groups; (ii) to increase women's participation and leadership role in policy and the economy, and strengthen policies and legal frameworks for gender equality and women's access to resources through experience sharing and policy advocacy in four developing countries and internationally. To achieve these objectives, the EWA program applies four strategies: focusing on women's livelihoods, income generation, women's participation and leadership roles, and gender advocacy.



The Human Development Index value of Tajikistan for 2013 is 0.607 positioning the country at 133 out of 187 countries<sup>32</sup>. 39 per cent of the population lives in multidimensional poverty<sup>33</sup>. According to the World Bank Tajikistan ranks first amongst European and Central Asian countries in terms of vulnerability to climate change<sup>34</sup>, in particular due to low adaptive capacity. Existing problems, such as the feminization of poverty, are expected to exacerbate and a particular increase of water shortage, as expected due to the disappearance of many small glaciers in Tajikistan<sup>35</sup>, will have severe effects on food security, inter alia, by lacking proper irrigation, and the use of land.

### ***Women's Right to Land and Natural and Reproductive Resources: Legal Basis and Challenges***

Even though Tajikistan has ratified most of the common human rights treaties, implementation is slow. In particular, a right, such as the right to land, natural and productive resources, with its multiple layers is far from being recognized.

Equality between men and women is established by article 17 of the Constitution of the Republic of Tajikistan (1994). In Tajikistan men and women enjoy the full range of socio-economic, political and individual rights and freedoms<sup>36</sup>. Thus, de jure men and women under Tajik law have equal rights to access land and to benefit from land privatization and reform processes begun in the 1990s.

Ownership of land in Tajikistan lies with the government. Land reforms of the last two decades concentrated on the rights of individuals or groups on how to use the land and how to transfer these rights. Of particular interest is the "Law on Dekhan Farms" which provides every Tajik citizen the right to establish a dekhkan farm (family type farm)<sup>37</sup> by applying for a Land Use Certificate. In theory, women and men are eligible for the land use title, however, in practice women do rarely hold such a title.

Between 2001 and 2008, a gender analysis of the legislation on family, land and labor law had been undertaken within a joint project and with support of UNIFEM, UNICEF and OSCE. It revealed many gaps within the legislation and policy framework and partly provided an impetus for national solutions to various discriminatory practices and policies, e.g. the State Program "Access of Rural Women to Land"<sup>38</sup>, including the establishment of local legal advice centers, was adopted in the consequence of the project. Furthermore, since 2007 the Agency of Statistics has been publishing an annual statistic "Gender Indicators of

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<sup>32</sup> UNDP 2014, 38.

<sup>33</sup> UNDP 2014, 183.

<sup>34</sup> Shah 2013, 2.

<sup>35</sup> Shah 2013, 4.

<sup>36</sup> CEDAW/C/TJK/4-5 2012, para.6.

<sup>37</sup> Pasqual 2012, 10.

<sup>38</sup> Coalition of NGOs of Tajikistan 2012, 51.

Economic Activities of Dehkan Farms”, which allows a gender assessment of the performance of dehkan farms<sup>39</sup>.

### *Missing the Legal Link*

However, many problems are still existing; a main challenge is the distribution of Land Use Certificates which are often only given to the head of the household, traditionally to a man. Other gender stereotypes cultivated by religious or traditional practices hinder women to make use of their right to land. Even though the number of women with access to land (dehkan farm) has risen, women with registered Land Use Certificates still represent less than 10 per cent of the Tajik population (data from 2010)<sup>40</sup>.

Research of several Tajik NGOs<sup>41</sup> undertaken within different projects<sup>42</sup> has shown that the missing link in law between the Land Use Certificate and matrimonial property law is an obstacle. The spouse (male or female) of a formal landholder who received the Land Use Certificate during the marriage has no right to the land despite his or her contribution while working on it during the existence of the marriage. When the title owner disposes the land right, in particular while taking on a mortgage, the other spouse has no influence whatsoever on this decision. In the case of a divorce the land title cannot be split. If the title holder deceases the other spouse could not inherit the title. Experience shows that the same applies when a man migrates to another country: the Land Use Certificate cannot be transferred to the woman who stays behind often with her children, parents and in-laws.

This situation creates enormous problems for the women who stay at home having to provide for their families. Given the peculiarity of land rights in Tajikistan, namely the absence of private ownership, the disposal of the right to use land and the division of property upon the dissolution of a marriage (by death or divorce) have to be addressed adequately in order to secure the right to land.

### *Owning Land is Not Enough*

In the course of a joint program by UNICEF, UNIFEM and OSCE it was discovered that many rural people, in particular women, were not aware of their legal rights and how to claim them. Thus, District Task Forces based in the offices of local Women’s Committees in Tajikistan were established<sup>43</sup>. A legal advisor was part of the office and employees provided villagers with legal counseling and assistance on how to apply for land certificates, how to set up a dehkan farm and to settle land disputes. The state supports this centers now beyond the

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<sup>39</sup> Coalition of NGOs of Tajikistan 2012, 52.

<sup>40</sup> CEDAW/C/TJK/4-5 2012, para.193.

<sup>41</sup> Coalition of NGOs of Tajikistan 2012, 53 and Kuvatova 2014, 20.

<sup>42</sup> Inter alia by the EWA project of WECF.

<sup>43</sup> Pasqual 2012, 39.

program's completion and without international support, nevertheless problems are remaining.

Success stories, when women managed to gain a land title, revealed that there is more needed than having a Land Use Certificate. Women could not make proper use of the land if they cannot afford to buy seeds, farming equipment, a car or gain access to proper irrigation. They also often are in need of trainings on, e.g. specific farming technologies or on how to develop a business plan. Sometimes they also miss simple abilities, such as how to drive a car and the necessary driving license, which they traditionally are often denied to obtain at an early age. It is these other resources, such as access to credits and loans and to natural resources, such as water, which are essential for the successful management of the land.

Even though female headed dekhan farms have a smaller number of members than those headed by men and they often consist of a smaller plot of land, they often produce better outcomes. According to statistics<sup>44</sup> female headed dekhan farms perform better in terms of raw cotton, potatoes and grapes. These results lead to the assumption that Tajik women with access to land exploit the land economically and considerate and are thus stewards of resource management as this is the case in many other countries<sup>45</sup>.

### **Conclusions**

The right to land, natural and productive resources for women in rural Tajikistan is not a *secure right*. Land cannot be "owned" in a legal sense and thus not be transferred or inherited. Furthermore, the Land Use Certificates are not transferrable. These discriminatory legal barriers need to be abolished.

In addition, the realization of the right to land, natural and productive resources depends on many other factors. It is due to existing poverty rates and the growing impacts of climate change, in particular on the natural resource water, that women in rural Tajikistan have to fight hard to secure their own and their dependents' livelihood. Traditional and religious practices add their part hindering women to enjoy equal rights and foster patriarchal patterns discriminating women and girls. The resurgence of patriarchal attitudes was highlighted as a particular concern by the Committee on the Elimination of Discrimination Against Women in its Concluding Observations in 2007<sup>46</sup>. A transformation of customs discriminating on the grounds of gender needs to be a long-term political goal. The recognition of the role of women as stewards of the management of natural resources should be part of it.

Legal illiteracy and the missing awareness of their rights and the related issues are also a reason for the difficult situation of women in Tajikistan. The CEDAW Committee called several times for more state intervention and activities in relation to awareness raising,

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<sup>44</sup> Kuvatova 2014, 21 and 22.

<sup>45</sup> Gomez and Tran Hien 2012, 8 and 10.

<sup>46</sup> CEDAW/C/TJK/CO/3 2007, para.19.

legal trainings and capacity-building<sup>47</sup>. This requires an improvement of the coordination between Tajik ministries on gender policies, which has been poor<sup>48</sup>. The Committee on Women and Family Affairs is part of the governmental structure since several years, however, it lacks the institutional capacity to mainstream gender within all policy areas<sup>49</sup>.

The key element is the lack of women in decision-making processes. The right to participation of women and girls in all decision-making bodies, from parliament to government at local, regional and national level, including within the executive suites of big companies is the vehicle to eliminate discriminatory legislation and prejudices, to remove de facto barriers for women's participation and to raise awareness amongst decision-makers and the population. At the same time a broadening of women's access to information has to be undertaken, inter alia by guaranteeing proper access to communication technologies for women of all ages, even for those who may be marginalized, including indigenous women, women with disabilities, women from rural areas and others.

Women in Tajikistan hold only 19 per cent of seats in national parliament and not even 6 per cent of ministerial positions<sup>50</sup>. Only, the Jamoat positions (the level of local municipalities) are held by nearly 20 per cent of women. Public participation is needed for a proper representation of women's voices in order to integrate gender dimensions in policy processes and related legislation and programs. Gender mainstreaming is the tool for the cross-cutting recognition of gender within policies and programs. The CEDAW Committee upholds its call for more public participation of rural women and girls in its Concluding Comments of 2007<sup>51</sup> (para.26) as well as in its Concluding Observations of 2013<sup>52</sup> (para.30). The conclusion of the Special Rapporteur on violence against women, its causes and consequences in the report of his mission to Tajikistan from 2009 can be shared: "The increased workload borne by wives of migrants has not been accompanied by their increased participation in decision-making within the household or a higher social status in general."<sup>53</sup> This can only be a first step, for real change the participation of women needs to go beyond the household level. Meaningful political empowerment of women requires proactive measures by the state.

The political and the economical empowerment of women go hand in hand. Credit, loans and access to other resources and services are connected to a political empowerment. The availability of decision-making powers provides a woman easier access to these assets. At the same time women gain more authority and credibility if they are economically active and visible within their community. Grass-roots experiences show that women with a certain economic power are more prone to be elected in political positions.

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<sup>47</sup> CEDAW/C/TJK/CO/3 2007, paras.33 and 34.

<sup>48</sup> Coalition of NGOs of Tajikistan 2012, 17.

<sup>49</sup> Kuvatova 2014, 17.

<sup>50</sup> Hausmann, Tyson, Zahidi 2011, 324.

<sup>51</sup> CEDAW/C/TJK/CO/3 2007, para.26.

<sup>52</sup> CEDAW/C/TJK/CO/4-5 2013, para.30.

<sup>53</sup> A/HRC/11/6/Add.2 2009, para.20.

Thus, at national level various approaches are needed, however the international framework should be establishing binding commitments as well as supportive tools and mechanisms assisting states in implementing the right.

#### 4 Recommendations for a New Post-2015 Sustainable Development Framework

The complex nexus between women's (human) rights, environmental rights and sustainable development is visible when analyzing the right to land, natural and productive resources. The experiences from Tajikistan with its conclusions for the national level are of use when shaping the new post-2015 sustainable development framework.

Looking at the current proposal of Sustainable Development Goals (SDGs)<sup>54</sup> weaknesses are revealed that will impede the advancement of the right of women to land, natural and productive resources. The current set of SDGs<sup>55</sup> is not enough rights based. For a socially just and ecologically sustainable development human rights have to be at the center. A human right unfolds, inter alia, the obligation upon a state "to be fulfilled". Additionally, the principle of "progressive realization" under article 2 (1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) applies, meaning that states have to take steps using all their available resources to achieve the realization of the right. Therefore, a proper rights approach means not only a binding commitment for states it also entails interpretations on how to implement it. The right to land is of a cross-cutting nature and will only be reality if flanked by other rights and included in different goals, targets and indicators.

The current goal 5 "Achieve gender equality and the empowerment of women and girls" is an achievement as such as it is a standalone gender goal. Nevertheless, the recognition of women's and girls' human rights is absent. This is a missed opportunity as the rights based approach would commit states more in terms of abandoning legal discriminatory barriers (such as the missing link between land law and matrimonial property law in Tajikistan) for women claiming their right to land, natural and productive resources. The rights approach would also strengthen the obligation to mainstream gender into all policy areas. Overall, it would add authority to the call to force a transformation of existing customs within national states impeding gender equality.

Analyzing targets 1.4. (under goal 1 "End poverty in all its forms everywhere") and 2.3. (under goal 2 "End hunger, achieve food security and promote sustainable agriculture") as well as 5.a. all mentioning "land" without explicitly labeling it as a "right" leads to a similar conclusion. The strength of a rights based approach is missing. Access to land is not enough as the Tajik case shows. Women need the right to land and its related natural and productive resources to make use of it economically and politically. Without the rights based

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<sup>54</sup> Open Working Group on the Sustainable Development Goals 2014.

<sup>55</sup> Open Working Group on the Sustainable Development Goals 2014.

approach states will not be committed to take proactive measure and to establish institutional capacities in order to guarantee the implementation of the right.

Ecologically women's activities lack recognition in their sound management of natural resources. In this capacity they proactively contribute to mitigate climate change effects and to adapt to them. Red flag 5 of the Women's Major Groups Response to the latest SDGs proposal is therefore supported: The "lack of recognition of women as farmers, fishers, indigenous peoples and key for sustainable natural resource management. Half of the goals lack references to gender equality and women's human rights, particularly in the context of decision making on climate, oceans, ecosystems, fisheries, water and energy, including from rural, remote and pastoralist communities. There is a very concerning lack of recognition that small farmers, particularly women farmers, pastoralists, artisanal fishermen and women, and other small food providers are already feeding the majority of the world population, and are more productive per unit than large industrial agriculture, while maintaining the largest seed and livestock diversity."<sup>56</sup>

Target 5.5. ensures public participation of women which is an essential part of the right to land, natural and productive resources. Women and girls have to be able to participate in decision-making at all levels and within all process steps, i.e. the planning, the design, the implementation, and the monitoring. Overall, a broad-based empowerment of women is needed within the new sustainable development framework to ensure other development goals.

Concluding, it is essential to keep in mind that without strong financial commitments a new sustainable development agenda with a set of goals remains a wish list. The coming negotiations at the General Assembly about the future post-2015 framework have to focus on the question how to finance the implementation of the goals in order to show real ambition. Keeping track of the progress of any new development agenda ensures sound implementation and can only be achieved by the establishment of accountability mechanisms. They should include inter-governmental mechanisms, inter alia within the Human Rights Council, for following-up on the rights based approach.

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<sup>56</sup> Women's Major Group 2014, Red Flag 5.

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