

# Reflection Exercise



Is the joint registration of land compulsory or encouraged through economic incentives?

1. Why do you think this proxy was chosen?
2. How is this proxy relevant in your country?

*Reflect and write your answers on the colored paper*



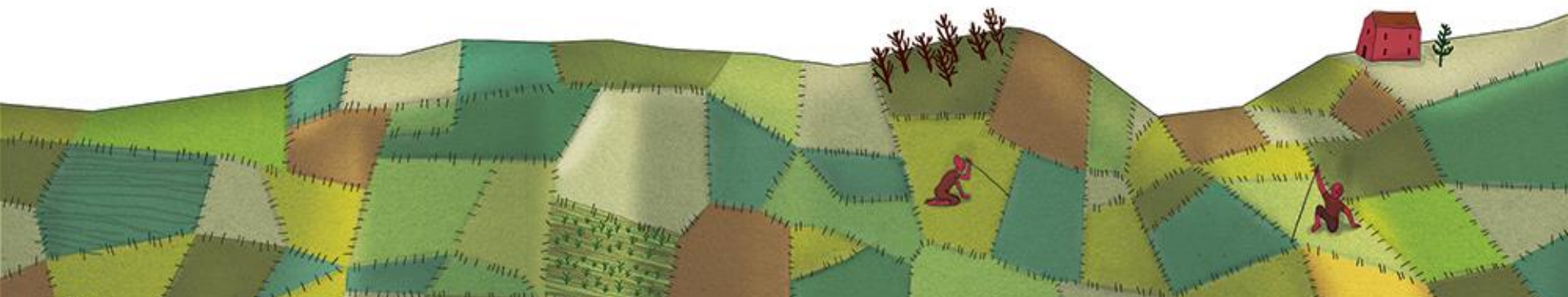


# SDG Indicator 5.a.2

## Proxy A

Joint registration of land

Workshop on SDG Indicator 5.a.2, LOCATION  
DATE 2018



# Proxy A – Joint Registration



Is the joint registration of land compulsory or encouraged through economic incentives?



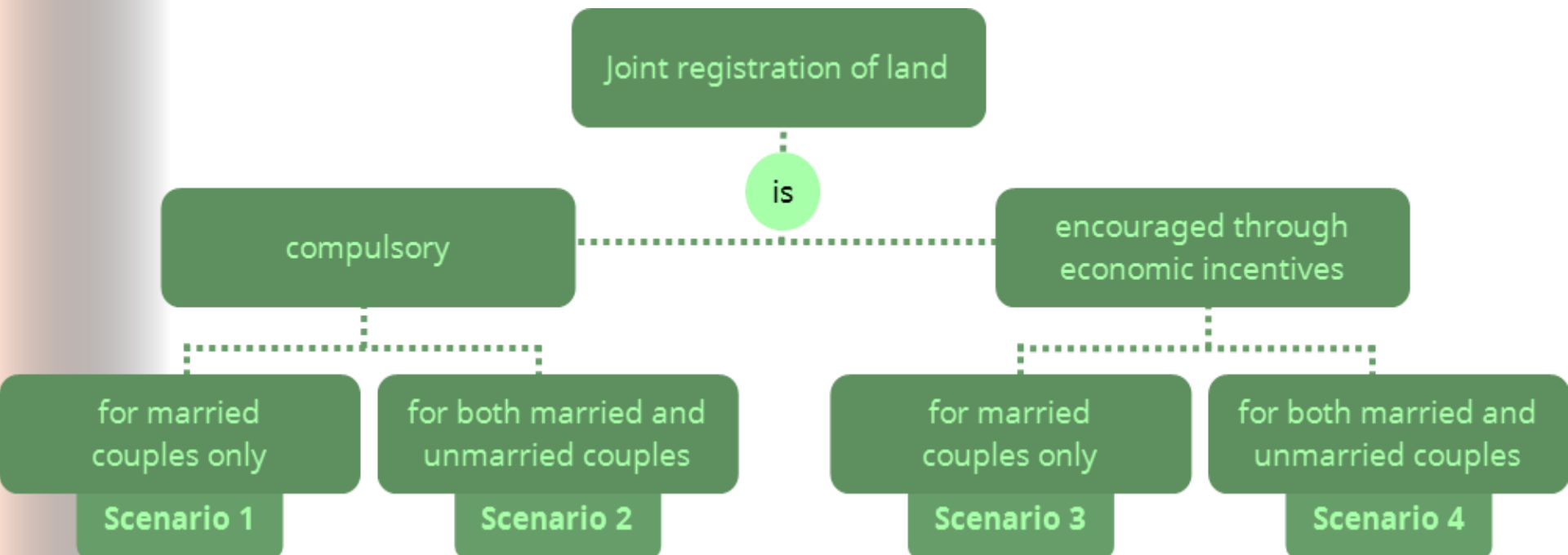
# Why include a proxy on joint registration?



- Land registration programs universally **relevant**
- However no clear evidence that registration programs are leading to land tenure securitization for **women**
- **Joint ownership rights** in **family law** sometimes ignored in titling programs, which focus on the **land registration act**
- Key **bottlenecks** include:
  - Lack of clear laws mandating joint registration (even if the law provides for joint ownership); and
  - Lack of incentives for households to jointly register land



# Scenarios for Proxy A – Joint Registration



# Definitions for Proxy A



- **Married couples:** couples that are recognized as being validly married under the marriage law(s) of the country being assessed. Although requirements for a valid marriage vary between countries, in many countries they require the government to preside over the marriage ceremony, for the marriage to be conducted at a particular location or for certain documents to be signed. Couples married under religious or customary law may be considered “a married couple”, if the formal marriage law recognizes such marriages
- **Unmarried couples:** couples who live together (cohabit) in an intimate relationship, but who are not married in accordance with the marriage law of the country. Often this will refer to couples who were married under custom or religious laws, where such marriages are not recognized or do not comply with the requirements of the formal law.

# Key Features of Proxy A – Joint Registration



- Provision requiring joint registration must be **mandatory** (“must” or “shall” - not “may”).
- The provision must be **explicit** – it is not enough to simply state that the marital property regime that applies to the country.
- The provision **must refer to spouses and/or unmarried couples** i.e. it should not describe a business partnership.
- Customary lands **cannot** be excluded from joint registration requirements.

# Threshold for Proxy A – Joint Registration



## Proxy **IS** Present

### Scenario 1 and 2

✓ Default position is joint ownership, with opt out clause  
+

Inclusion of the name of the wife and husband is required on the land certificate

### Scenario 3 and 4

✓ Waiver or reduction of fees for joint registration

## Proxy **IS NOT** Present

✗ Provisions **implying** joint registration i.e. common property ownership rules

✗ **Optional** joint registration

✗ **Public legal awareness** programs on joint registration benefits





# Example of Proxy A in Legislation



## Family Law, 1980:

**Art. 456:** *“The rights of spouses in joint property shall be registered in the estate register under the name of both spouses.”*

- ✓ **Scenario 1** is present as there is an explicit reference to joint registration of land, the provision is mandatory and the provision refers to mandatory joint registration for married couples only.

# Questions for Plenary Discussion



- Is your answer now different as to why this proxy is relevant in your country?
- Do you have any professional or personal experience with joint registration?
- Do you know if the proxy is present in your country's legislation? If not, what are the opportunities and obstacles to law reform in this area?

*Step 1: Participate in the discussion*  
*Step 2: Facilitators to write results on the flipcharts*



# Case Study Exercises



*Step 1: In your table group, select a rapporteur*

*Step 2: Read the case study and questions*

*Step 3: Prepare a report on the flip charts (i) explaining the case study and (ii) answering the questions (30 mins)*

*Step 4: Rapporteur presents the results to the plenary (7 min)*



# Case Study 1 : Questions



- What are some of the legal and practical barriers in Country A to women registering their land, either with their husband, or alone?
- Does the country have mandatory joint registration for the purposes of Proxy A? Why or why not?
- What reforms would you advise to the Land Law and/or the Family Law to improve women's right to register their land and to achieve SDG Target 5.a? What steps should be taken to ensure these reforms are implemented?



# Case Study 2 : Questions

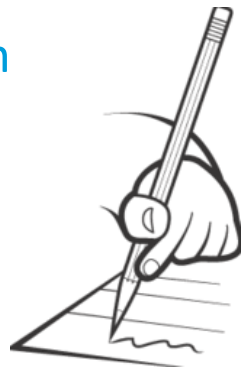


## 1) Advice on existing law:

- a) Does a wife in Country A have rights to land purchased after the marriage by her husband? Does it matter if she financially contributed to the property? If yes, what would be her share in the property?
- b) What are some of the practical barriers a wife may face in trying to have her name included on the Certificate of Occupancy?
- c) If her name is not on the Certificate of Occupancy, does she still have rights to the proceeds of a sale of the land subject to the certificate?

## 2) Advice on the new law:

- a) How do you advise the Treasury about the proposed economic incentive?
- b) What are some other ways the government could provide economic incentives for joint registration?



# Case Study 3 : Questions



- Does Angina have any rights to matrimonial property in this country? If no, what type of law reforms would allow Angina to have rights to matrimonial property?
- If Angina and Bob were officially married, which of the two parcels would be jointly owned, according to the Civil Law?
- What type of procedures would make the land registry procedures fairer for Angina? What steps should the register take to ensure that the registration of parcel 2 reflects the requirements of the Civil Code? What type of legal reforms to the Land Registration Law could be made for the law to meet the requirements of one of the scenarios of Proxy A?
- If Angina was legally married, and her name was not on the land documents for either parcel, what rights does she have if Bob sells the land without her permission?

