

Reflection Exercise



Does the legal and policy framework support women's and girls' equal inheritance rights?

1. Why do you think this proxy was chosen?

2. How is this proxy relevant in your country?



Step 1: Reflect on the questions

Step 2: Write your answers on the colored paper



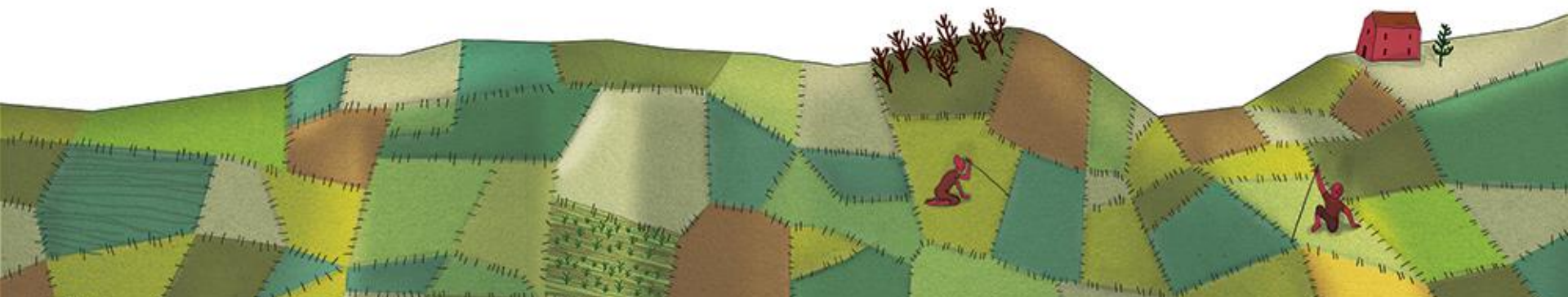


SDG Indicator 5.a.2

Proxy C

Equal Inheritance Rights

Workshop on SDG Indicator 5.a.2, 2018



Proxy C – Equal Inheritance Rights



Does the legal and policy framework support women's and girls' equal inheritance rights?



Why Include a Proxy on Equal Inheritance Rights?



- **Inheritance** is one of the **main channels** through which women acquire property and secure independent land rights, especially when women are discriminated in:
 - Employment
 - Access to market/other productive resources
- Some countries still deny or limit inheritance rights to women as **spouses and daughters.**
- Reforms are needed to repeal discriminatory norms and ensure equal inheritance rights to land ownership and/or control.



Scenarios for Proxy C – Equal Inheritance Rights



Scenario 1

Sons and daughters have...

An equal right to inherit

and

A right to inherit equal shares

Scenario 2

Male and female surviving spouses/partners have...

An equal right to inherit a share of the deceased's estate

or

An equal lifetime use right of the family home



Key Features of Proxy C – Scenario 1



- An **explicit** reference to equal inheritance rights and equal shares for sons and daughters (i.e. general non-discrimination clauses are insufficient)
- **Conditions** attached to the right to inherit should **equally apply** to sons and daughters (i.e. right to inherit only if children remain unmarried)
- **Two conditions** must be met for Scenario 1:
 - Sons and daughters have a right to inherit the estate of the parents **AND**
 - Sons and daughters inherit equal portions of the estate of their parents with no distinction based on gender

Key Features of Proxy C – Scenario 2



- A provision that **explicitly** recognizes an equal right to inherit or use the family home to surviving male and female spouses
- The **order of succession matters**: spouses and/or partners should rank first among all heirs
- **No conditions** attached to the right to inherit (i.e. proof of contribution of the surviving spouse/partner to inherit the property)
- **One of the two conditions** must be met:
 - Female and male surviving spouses/partners have a right to inherit a share of the estate on an equal footing; **OR**
 - Female and male surviving spouses/partners enjoy a user right over the family home for their lifetime

Threshold for Proxy C – Equal inheritance Rights



Proxy **IS** Present

Scenario 1

✓ Children of the deceased to inherit without any distinction based on sex or gender

+

✓ Right of all children of the deceased to inherit in 'equal shares'

Scenario 2

✓ The surviving spouse ranks first in the order of heirs and inherits 50 % of the estate.

✓ The surviving spouse is entitled to live for the lifetime in the home where he/she lived during the marriage.

Proxy **IS NOT** Present

✗ Provisions stating that a particular unwritten religious law or customary practices will determine inheritance rights of sons and daughters

✗ A requirement that the surviving spouse or partner must have born children or male heirs to benefit from the provision

✗ The right of the spouse or partner to a share of the estate but the spouse/partner ranks in fourth order of succession



Example of Proxy C in Legislation



Civil Code, 1970:

Art. 801: *“The estate of the decedent shall be inherited in the following order.*

First in order: spouse, children, parents. Second in order: brothers and sisters, paternal grand-parents, maternal grand-parents. (...)”

Art 802: *“Successors same in order shall inherit in equal shares.”*

✓ **Scenario 1 and 2 are present** as the law recognises that children inherit in equal shares and provides for the surviving spouse’s right to a portion of the estate regardless of gender.

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 the default inheritance law, and of good practices in this area?
- Do you know if the proxy is present or not 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 (8 min)



Case Study 1: Questions



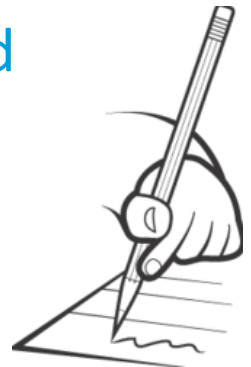
1. Provide a brief summary of the law on inheritance for Country A for Maya and Ayra.
2. How does an unequal inheritance regime affect Maya and Ayra's prospects vis-à-vis that of their brother?
3. Does this country meet the requirements for scenario 1 (a) and (b) of Proxy C? If not, what type of law reforms are necessary to reach that threshold?
4. What other steps can be taken by the government to ensure any law reforms are implemented?



Case Study 2: Questions



1. Provide a brief summary of the law on inheritance in Country B for Harriet.
2. Why is inheritance of her husband's estate so important for a person in Harriet's position?
3. Does this country meet the requirements for scenarios 1 (a) and (b), and 2(a) or (b) of Proxy C? If not, what type of law reforms are necessary to reach that threshold?
4. What challenges will Harriet likely face in receiving justice and protecting herself against the threats from her husband relatives?



Case Study 3: Questions



1. How should customary or religious inheritance rules be treated in the legislation?
2. How should 'spouse' be defined in the legislation?
3. How should marital property be treated in the legislation?
4. How can widows be protected from land-grabbing?
5. What measures can be taken to ensure that statutory rules for inheritance apply to community owned and indigenous lands?
6. Once the law reforms are passed, what type of steps should the government take to ensure the laws are implemented?

