

## CASE STUDY

Togo

# Using the Gender Evaluation Criteria (GEC) to assess laws and raise awareness amongst the population and ministries

In many countries around the world, land rights and tenure security are not equally distributed between men and women. In collaboration with its partners, the Global Land Tool Network (GLTN) has worked on the development of the Gender Evaluation Criteria (GEC). These criteria have been used by ADHD in Togo, not only as a framework by which to assess laws, but also as a means of raising awareness amongst local communities, customary leaders, as well as focal points on gender issues in the 27 Togolese ministries.

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### PRINCIPAL ORGANISATIONS INVOLVED

Auto-promotion rurale pour un Développement Humain Durable (ADHD); Coordination Togolaise des Organisations Paysannes (CTOP); Global Land Tool Network (GLTN); Huairou Commission

### LOCATION

Togo

### TIMELINE

2010 - present

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### TARGET AUDIENCE

Civil society organizations, women's organizations, ministries, traditional community leaders

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### KEYWORDS

Civil society organizations, ministries, women's organizations, traditional community leaders

## GOOD PRACTICES

towards making land governance more people-centred

This case study is part of the ILC's Database of Good Practices, an initiative that documents and systematises ILC members and partners' experience in promoting people-centred land governance, as defined in the Antigua Declaration of the ILC Assembly of Members.

Further information at [www.landcoalition.org/what-we-do](http://www.landcoalition.org/what-we-do)

This case study supports people-centred land governance as it contributes to:

**Commitment 4**      Ensure gender justice in relation to land

**Commitment 7**      Ensure that processes of decision-making over land are inclusive

# Case description

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## Background issues

In Togo, as in many other African countries, land rights and tenure security are characterized by an overlapping of customary law and formal law. Both legal systems include provisions which discriminate against women.

More specifically, the *Code des Personnes et de la Famille* (CPF), which was adopted in 1980, originally included section 101 which stated that the husband is the head of the family. In 1992, Togo enshrined the principle of gender equality in its Constitution and, from then on, proceeded to ratify all international instruments which aim to protect women (such as the Convention on the Elimination of all Forms of Discrimination Against Women – CEDAW - and the African Charter on Human and Peoples' Rights - ACHPR). Togo recently revised its CPF, and a new document was adopted and promulgated in 2012. This new legislation contains provisions which are a real step forward for women: the shortening of the period of waiting, the right for married women to insert their maiden names before their husband's names, marriageable age set at 18 for males and females, freedom in the choice of the matrimonial regime and the waiving of customary law, the enshrinement of monogamy as the statutory matrimonial regime. Although the husband remains the head of the family with a duty to respect and protect his wife, marriage is now established on a partnership basis. With regards to widowhood, women are entitled to reasonably refuse a new husband when faced with practices which are considered harmful, without losing their right to inherit. The surviving spouse can remain in the family home or in the husband's property for 30 months before any inheritance claims can be made whereas in the old code, this only applied if the surviving spouse was a co-tenant, co-owner or had under-age children.

Although the 2012 Code does promote gender equity, much remains to be done before the gender concept, as defined in the recommendations set out in the assessment report, is fully operational.

There remain significant differences in customary law. The most common way of getting access to the land remains inheritance, but most Togolese customary rights do not allow women to inherit land either from their parents or from their husband. And yet, a high proportion of women are engaged in agricultural work. These women work on their fathers', husbands' or in-laws' lands. The percentage of female landowners varies from one region to another. It is however below 15% in the south and close to zero in the north.

These constraints affecting Togolese women's rights of land ownership and control over the land violate their fundamental human rights, restrict their capacity to carry out economic activities and prevent them from taking part in their country's economic development.

In addition, the patriarchal features of customary law also apply at national level, and there are very few women decision-makers (community leaders, prefects, mayors, judges, ministers). Women's empowerment is far from being effective.

## Solution

To try and tackle this issue, ADHD has engaged in a series of actions in Togo, which aim at reducing inequalities between men and women regarding access to and control over the land. In these actions, the Gender Evaluation Criteria (GEC) developed by the Global Land Tool Network (GLTN) and its partners play a key role. The GEC were developed in order to assess whether laws and land policies were egalitarian and to show how the gender criteria could be incorporated into them. They provide a flexible framework using six criteria and 22 assessment questions with a set of indicators which can be adapted to a wide range of different situations.

The present case study shows how the GEC tool can be used at different levels. Since 2013, ADHD has launched activities in Togo aiming at promoting women's land rights through the use of the GEC by: a) organizing training sessions on how to use the GEC, b) assessing the CPF, c) creating consultation frameworks, and d) training focal points in ministries on GEC.

## Activities

Since 2013, ADHD has been engaged in four major activities.

### **Training activities on how to use the GEC tool (March 2013-November 2014)**

To start with, ADHD organized three training sessions on the use of GEC for the Togolese organisations which were involved in the National Engagement Strategy (NES) process with regards to the land. Training sessions on how to use the GEC were set up for the members of the NES platform (CSOs, traditional community leaders, private sector, farmers' organisations, representatives from ministries). Two more training sessions were set up later to enable CSOs to use the GEC in the field.

The training session usually merely consists of the presentation of the different criteria, a preparation to the appropriation of the GEC framework by using them in a concrete situation, a presentation of the different methods of data collection in the field, and data validation.

#### **Assessing laws, policies and programmes with the GEC tool (June 2013-October 2014)**

The GEC were used to assess the Togolese CPF. The six organisations which were due to collect the data in the field were first briefed on how to use the criteria. The data collected in the field were then validated. Following this assessment, a workshop was organized on how to present the report and the recommendations to the officials from the Ministry of Social Action, the Advancement of Women and Literacy. This report was then published in the form of a brochure and disseminated.

Another similar assessment process was carried out regarding the draft of the *Code Foncier* (Land Code) and the brochure of the report of this assessment was printed and is now available. This brochure is used as a basis for advocating the taking into account of the recommendations issued during the evaluation process. Unfortunately, the MPs from the National Assembly, who should have been the first beneficiaries, refused to take part in the workshop which had been set up specifically for them.

#### **Establishing frameworks for conciliation, dialogue and dispute resolution (2013 onwards)**

ADHD is in the process of setting up frameworks for conciliation, dialogue and dispute resolution to promote women's land rights. In this context, 51 frameworks have already been developed in the prefectures of Kpendjal, Amou, Tchaoudjo, and Tchamba. The main functions of these frameworks, which are already in operation, are the following:

- Convincing local communities and especially customary leaders to abolish discriminatory practices;
- Reporting any person or family violating women's rights, especially widows' rights;
- Solving disputes regarding violations of women's land rights within families, through conciliation;
- Supporting women whose land rights have been violated;
- Acting as a proxy between the NES platform and the communities.

The Togo National Engagement Strategy provides for the setting up of at least 100 frameworks for conciliation and dialogue in order to advance women's land rights by 2017.

The development of these frameworks is always preceded by an awareness campaign for local stakeholders during which the international instruments establishing women's rights are disseminated: the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), the Universal Declaration of Human Rights (UDHR), the African Charter on Human and People's Rights (ACHPR), and the Togolese Constitution.

#### **Training of focal points in the Ministries (July 2015)**

The gender issue remains one of the government's major concerns. In order to tackle this issue, the Ministry for the Advancement of Women itself created gender focal units

within all Ministries. Each minister was requested to appoint among their personnel three executives as members of this gender focal unit. ADHD trained 70 ministry focal points on how to use the GEC to assess policies, programmes and projects. To achieve this, ADHD wrote to each ministry to identify the three members of the gender focal unit, one of which at least had to be a woman. They were introduced to the GEC framework and to the entire evaluation process based on the GEC tool, including hands-on exercises. After the workshop, participants expressed their keen interest in using the GEC tool, but no concrete outcome has emerged so far.

## Importance of the case for people-centred land governance

The GEC were developed by ILC members and non-members. The way in which they were used in Togo shows their great versatility. ADHD and its partners have used the GEC to assess existing laws and bills, to create consultation frameworks, and to raise awareness among decision-makers. In this way, the case study helps to realise people-centred land governance, and more particularly gender equity. It also shows how the GEC can make the decision-making processes more participative and inclusive at national and community levels.

# Changes

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## Baseline

In Togo, the most common ways of getting access to the land remain inheritance, purchase, rental and land usufruct. WILDAF carried out a study in 2009 which gave the following results for four out of the five regions in Togo.

Form of access	Percentage of men	Percentage of women
Inheritance	84,8%	15,2%
Purchase	84,6%	15,4%
Rental	51,3%	48,7%
Usufruct	24,4%	75,6%

This table shows the great imbalance between men and women regarding access to the land, pointing to a clear violation of women's rights.

Men have the right to alienate their lands and pass them down to their heirs whereas women are often denied this right. These hurdles are due to the weight of socio-cultural factors. It is therefore all the more important to set up frameworks for conciliation and dialogue at the local level.

Before 2012, the 1980 CPF was in force in the country. When Togo submitted its 6<sup>th</sup> and 7<sup>th</sup> periodic reports to the CEDAW, the Committee expressed recommendations which

urged the reviewing of the law to eliminate discrimination against women. This led to the review of the existing legislation.

Togo had never had a land code. The land tenure has been regulated by a decree of February 1974. The government, aware of the numerous disputes relating to land between individuals, between communities, between communities and the government, and between governmental institutions, set out to draft a consensual land code which would be accepted by all the stakeholders and could handle all land issues in the country.

## Achievements

The CPF has now been amended. The National Assembly met on November 13th, 2014 to amend sections 99, 100, 153, 403, 404, 419 and 420 which included prescriptions which discriminated against women. There are still a number of key elements which need amending, but this is a major step forward and must be acknowledged as such.

The setting up of frameworks of conciliation is beginning to bear fruit in the communities. Although women now have more secure access to the land, they still lack official documents to prove their ownership of the land. The fight must go on, and it will have to involve civil society organisations to ensure that the land code is adopted and implemented.

## Evidence

Apart from the ADHD reports, there are no other official reports which mention the GEC. However, the actions carried out by ADHD are widely covered by national radio and television channels. One law which has been changed is the CPF (November 13th, 2014). This change is not merely the result of ADHD's advocacy after the completion of their assessment process, it is the result of different factors. The advocacy work which will follow the assessment of the draft project of the Land Code will lead to an improved document which will then be adopted.

# Lessons learned

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## Lessons for civil society

### Using the GEC

The Gender Evaluation Criteria are a flexible tool which can adapt to all sorts of different situations in order to convince decision-makers to implement policies, programmes and projects which respect gender equity regarding women's access to the land.

Nevertheless, the most difficult step is the customizing of the GEC framework to the country's context: specific questions which will lead to clear answers in the field need to be posed.

### **The relation with the ministries**

In order to safeguard the consistency and the good execution of common projects, ministries and civil society organisations will need to collaborate more closely, while at the same time ensuring the neutrality and independence of OSCs.

## Lessons for policy makers

### **Populations are not familiar with international legal frameworks**

Several African countries have ratified the international instruments promoting women's rights. In most cases, national legal instruments respect these ratified agreements. In practice however, these (national and international) instruments are not implemented, as the populations are not aware of the contents of these agreements and continue to follow customary rules which often clash with these texts.

### **Using the GEC to make domestic legislation more equitable**

To use the GEC and get more conclusive results, it would be necessary to:

- Master the contents and understand the why and wherefore of each criterion in the GEC framework;
- Collaborate with the institutions which have a good command of the tool under review, as assessment cannot be an individual task but must be a collective endeavour;
- Have perfect knowledge and excellent understanding of the tool under review, thus making it easier to adapt the GEC framework to the country's context and to the tool under review;
- Collect the data in a geographic zone which reflects the area in which the law applies;
- The evaluation must lead to a series of recommendations;
- The evaluation must be followed by advocacy work so that decision-makers effectively implement the recommendations.
- An advocacy campaign may show results immediately. If it does not, it must be pursued using new techniques and strategies until it does bear fruit.

With regards to the OSCs, we must always bear in mind the fact that OSCs are not decision-makers and that their role is to influence decision-makers into voting and implementing laws which benefit the populations.

## Challenges

The first challenge lies in the time which will be necessary to convince the various stakeholders and particularly traditional local leaders and landowners that women's access to and control over the land is necessary.

The second challenge lies in the difficulty of convincing administrative authorities, and more especially decision-makers to accept the results of the GEC evaluation, which may not always be in agreement with their views.

## Follow-up

It is necessary to think about how to use the GEC tool on a wider scale at national and even international levels. To achieve this, it would be beneficial if the organizations which have received training on the GEC started to apply the knowledge they have acquired, each one at its own level. Another good point would be the setting up of a network of practitioners in order to start exchanging on experience and good practices regarding the use of GEC.

# Supporting material

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## References and further reading

Cangelosi E. (2015) *Gender Evaluation Criteria: a key moment for scaling up*  
<http://www.landcoalition.org/en/regions/africa/blog/gender-evaluation-criteria-key-moment-scaling>

GLTN (2016) *Gender Evaluation Criteria (GEC)*  
<http://www.gltn.net/index.php/land-tools/gltn-land-tools/gender-evaluation-criteria-gec>

NES Togo <http://nes-togo.net/>

Wildaf (2009) *Etude sur les politiques foncières et l'accès des femmes à la terre au Togo, 2009 (Rapport final)* [www.wildaf-ao.org](http://www.wildaf-ao.org)

## Photos, videos

The members of the validation team are setting up the GEC framework before using it for the evaluation, Atakpamé



(ADHD 2013)

Rural women discussing the Code des Personnes et de la Famille, Atchavé, Haho prefecture



(ADHD 2014)

# Contacts

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The International Land Coalition (**ILC**) is a coalition of civil society and intergovernmental organizations. ILC's 207 members work together to promote a people-centred land governance, especially at national level. We also aim to protect the rights of the women, men and communities who live on and from the land.

The opinions expressed herein are those of the authors alone. They do not constitute official positions of the ILC, its members or donors. Authors: Frédéric Djinadja (ADHD) and Jan Cherlet (ILC)

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