



ما وراء الملكية الفردية: حقوق ملكية الأراضي للنساء والرجال في نظم التراث العراقية

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المستخلص:-

تتناول هذه الورقة بحث الدور الذي تؤديه الهياكل الاجتماعية والتقليدية المحلية في تشكيل نظام تملك المجتمع التقليدي (TCT) ضمن التشريعات العراقية لملكية الأراضي (ILTR)، وتقصص تأثيرها على التفاوت بين الجنسين، مع التركيز الخاص على حقوق ملكية الأراضي للنساء. المنهج المتبع في هذه الدراسة قام بتحديد مصادر العقبات التي تعيق المساواة بين الجنسين ضمن نظام تملك المجتمع التقليدي كما هو موجز في التشريعات العراقية لملكية الأراضي على مستويين ثنائيين مختلفين، وقد تم الحصول على آراء الأطراف المعنية الرئيسية في مدينة مختارة في العراق، وشملت مسح الدراسة دراسة حالة ثلاث مناطق، مثلت طبقات محلية ضمن الأقسام التاريخية لمدينة الناصرية العراقية. واستعملت الأساليب الكمية في البحث، بما في ذلك دراسة ميدانية في ثلاثة أحياء سكنية: الشرقية، العروبية، والزاوية. حيث تم توزيع 420 نسخة من الاستبيان ضمن هذه الأحياء داخل حيز مدينة الناصرية، وعلى الرغم من التحديات التي أحدثتها جائحة COVID-19، تساهم النتائج التي تم الحصول عليها من هذا البحث من خلال تقييم التفاوت بين إمكانية الجنسين الذي يمتد إلى ما وراء أنماط ملكية الممتلكات التقليدية في تحقيق الحقوق الخاصة الفردية بملكية الأراضي كما هو موجز في التشريعات الحالية لملكية الأراضي العراقية، وتعمل كحالة تمهيدية مقارنة في منطقة الشرق الأوسط. تسلط هذه النتائج الضوء على نوعية حقوق الملكية المفصلة وفق الجنس داخل السياق العراقي، التي قد تؤثر بدورها على الوصول إلى الموارد الإنتاجية على مساواة الجنسين، للنساء والرجال بموجب التشريعات العراقية الحالية لملكية الأراضي.

الكلمات المفتاحية: ملكية؛ حقوق المستخدمين؛ حقوق ملكية الأراضي للنساء؛ نظام التسجيل؛ العراق.



Beyond Individual Ownership: Women's and Men's Land Tenure Rights in Iraqi Heritage Systems

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Abstract

This paper delves into the significant role played by local social and traditional structures in shaping Traditional Community Tenure (TCT) within Iraqi Land Tenure Legislation (ILTR), and examines their impact on gender inequalities, with a specific focus on women's land tenure rights. The methodological approach employed in this study identified the sources of barriers to gender equality within TCT as outlined in ILTR at two different bilateral levels, with input obtained from key stakeholders in a selected city in Iraq. The case study survey encompassed three districts, which served as local layers within the historic sectors of the Iraqi city of Al-Nasiriya. the study employed quantitative methods, including a household survey, within 3 residential neighborhoods; Al-Sharqiya, Al-Oroba, and Al-Zawiya. Out of the 420 copies of the survey distributed over Al-Nasiriya city. Despite the challenging circumstances caused by the COVID-19 pandemic, the obtained findings of this research contribute to the existing academic literature by evaluating gender disparities that extend beyond traditional property ownership patterns in Islamic forms of land tenure rights as outlined in current ILTR, serving as an introductory case in the Middle Eastern region. These findings shed light on the quality of sex-disaggregated land rights within the Iraqi context, which, in turn, influences access to productive resources for both women and men under ILTR.





Keywords: Ownership; Land tenure rights; Women's land tenure; Registry system; Iraq.

1-Introduction

Land tenure security is a fundamental aspect of socio-economic stability and individual empowerment. In Iraq, like many other countries, gender disparities in land tenure rights exist, impacting women's access to and control over land. This paper explores the complex landscape of land tenure security in Iraq through a gender lens, providing evidence and analysis to highlight the challenges and potential solutions. The legal framework governing land tenure in Iraq plays a pivotal role in shaping the status of gender equality within the context of land ownership and property rights. Understanding the relationship between the legal framework and gender disparities in land tenure is essential to address the challenges and opportunities for women's property rights in the country. Also, inheritance Laws is one of the key aspects of the legal framework contributing to gender disparities in land tenure is Iraq's inheritance laws (Al-Salman, & Al-Naqib, 2018; Al-Qaraghuli, 2019). These laws often prioritize male heirs over female heirs. For instance, under the Iraqi civil code, male relatives are generally given preference when it comes to property inheritance, leaving women at a disadvantage (Al-ossmi, 2016; Al-Qaraghuli, & Al-Damluji, 2016). Correspondingly, gender disparities are also evident within marital relationships. In many cases, a woman's land rights may become contingent upon her marital status, potentially leading to the loss of her property rights upon marriage or divorce (Al-Qaraghuli, & Al-Mutlaq, 2017). In some areas of Iraq, customary laws and traditional practices are still influential in determining land tenure rights. These customs often disfavor women, further marginalizing them in the context of land ownership (Al-Obaidi, & Al-Qaraghuli, 2017; Al-Obaidi, & Al-Qaraghuli





, 2019; Iraqi Ministry of Justice, 2023). Evidence suggests that women in Iraq often have limited access to legal resources and may not be fully aware of their property rights. This lack of information contributes to their vulnerability in land tenure matters.

In the Middle East region, the Iraqi Traditional Community Tenure (TCT) is based on local social and traditional forms, Islamic and Customary land tenure that exist at the local community level and often dominate the Iraqi legal and policy framework. However, TCT has been shown to have a significant negative impact on women's land tenure rights. This paper aims to investigate the crucial role of TCT in Iraq and its impact on gender inequalities of tenure rights, with a focus on women's and men's land tenure rights. The study seeks to explore the institutional, operational, legal, and socio-cultural barriers to women's land ownership and tenure rights within the context of TCT. Specifically, it aims to understand the administrative practices of the land tenure regime in relation to women's land rights, evaluate progress for women in relation to land registration, and develop a set of recommendations to address TCT barriers in Iraq in order to address the identified gaps and weaknesses in land gender rights. Land tenure in Iraq, particularly with a focus on gender, is a multifaceted issue with evidence pointing to disparities in legal frameworks, customary practices, and access to information. Addressing these disparities is crucial for achieving gender equality, economic development, and social stability in Iraq. Legal reforms, challenging discriminatory norms, and empowering women with knowledge and agency are critical steps toward securing land tenure for all, regardless of gender. It is imperative that Iraq recognizes the significance of gender-inclusive land tenure security and takes appropriate action to rectify existing disparities.



1.1 Literature Review: Iraqi TCT Background.

In Iraq, property ownership is intricately linked with socio-cultural customs, community, religion, and political systems. Land is a valuable asset that provides significant economic benefits through purchase, rent, sale, and other means, making it an important asset for individuals and families alike. In Iraqi society, women face significant insecurity, and land tenure can provide enhanced social and livelihood options, particularly in semi-urban and rural areas. Furthermore, there are significant disparities in tenure rights in Iraqi society, further exacerbating existing inequalities.

Historically, the system of land ownership in Iraq can be traced back to the ancient Sasanian era, where the "necessity" system was utilized to manage agricultural lands through agents of landowners, known as "*Al-Sarakil*" (Saheb, & Al-Qaraghuli, 2018; Al-Obaidi, & Al-Shawi, 2019). This system created semi-feudal ownership structures that prevailed in most agricultural lands of the time. After the Islamic expansion, all agricultural lands were considered as war spoils, while non-agricultural lands were deemed the property of the Islamic state. During the Ottoman era, the Iraqi office of real estate transactions and registration was established in 1870, with the Ottoman basic law emphasizing the non-expropriation of private property as the norm. Following British occupation, attempts were made to convert the system of ownership of agricultural lands to a semi-feudal system by subjugating Iraqi clans through the issuance of the Iraqi tribe's law in 1918 (Al-Yawar, & Al-Mutlaq, 2019; Al-ossmi, 2015 and 2017). This law gave tribal leaders (Sheikhs) a number of privileges and resolutions related to the ownership of agricultural lands based on tribal customary rules.





As a result, the lands registered in the land registry were in the hands of a small number of semi-feudal landowners, while Iraqi tribesmen became practical peasants working in the service of their sheikhs.

In practice, land tenure and user rights laws in the Iraqi system can be quite complex and are subject to change over time. Statutorily, there have been a series of registration laws, including laws on the sale-buy process, exchanging possessions, inheritance, and the Islamic form of "Awqaf" donation, which were issued to establish land tenure and user rights (Al-Sharif, & Al-Qaraghuli, 2017; Al-Obaidi, & Al-Qaraghuli, 2018; Al-ossmi, 2016a; Saleh, & Al-Qaraghuli, 2019). These laws include Laws No. 59/1955, No. 64/1959, No. 165/1964, governorates laws No. 159/1969 and No. 43/1971, as well as amendment 182 of Law No.31/1982, and the Law of reorganizing agricultural property in reclamation projects (No. 42 of 1987). Iraq underwent significant changes in its land tenure laws and regulations during the 20th century (Al-Obaidi, & Al-Shawi, 2019; Jawad, 2019; United States Government ,2021; UN-Habitat's ,2020; Iraqi Ministry of Justice, 2023). Here is a list of some key laws related to land tenure in Iraq from 1921 to 2023 in current ILTR:

- Land Law of 1921: This law marked the beginning of modern land tenure regulations in Iraq. It aimed to provide legal frameworks for land ownership, transfer, and use.
- Law of 1923: This law introduced further regulations on land tenure and ownership, including land registration requirements.
- Land Tenure Law of 1936: This law was aimed at providing more detailed regulations for land ownership, use, and transfer.



- Law of 1958: After the 1958 Iraqi coup d'état, there were significant land reforms, and land tenure laws were changed to promote land redistribution and limit the concentration of landownership.
- Law of 1952: This law focused on urban land reform, particularly in the context of Baghdad and other major cities. It addressed issues related to urban land development and ownership.
- Law of 1959: After the 1958 coup, this law continued the land reforms initiated in the 1950s, with a focus on agricultural land redistribution and tenant rights.
- Law of 1975: Under this law, extensive nationalization of land took place, and the state took ownership of large land holdings.
- Law of 1970: This law was a continuation of land reforms initiated in the late 1950s. It further addressed land redistribution, tenant rights, and land use policies.
- Revolutionary Command Council (RCC) Resolution No. 117 of 1975: This resolution aimed to nationalize large agricultural estates, redistributing land to peasants and farmers.
- Public Ownership Law of 1982: This law declared that all land and its resources were owned by the state, leading to significant changes in land tenure and land use policies.
- Amendment to the Public Ownership Law in 1998: This amendment allowed for some limited private ownership of land in designated areas.
- Agricultural Land Law of 1999: This law addressed land allocation, ownership, and the rights of land users, especially in the agricultural sector.





- Agrarian Reform Law of 1976: This law was a significant part of land reform, impacting the ownership and use of agricultural land.
- RCC Resolution No. 1051 of 1976: This resolution provided details on the implementation of agrarian reform and land redistribution.
- Resolution of 1985: This resolution addressed issues related to land use planning and land allocations in various sectors, including agriculture and industry.
- Resolution of 1992: This resolution made changes to land use policies and land allocations, particularly in industrial areas.
- In accordance with Article 23 of the Iraqi Constitution of 2005, private property is protected and the owner, regardless of gender, has the right to use, benefit from, and dispose of it within the confines of the law.
- Investment Law of 2022: Although slightly beyond the year 2022, it's worth mentioning as it allowed foreign investors to lease land for various economic activities.

Furthermore, expropriation of private property is only permissible when used for public benefit and when accompanied by appropriate compensation regulated by law. These principles have been reinforced by Article 1050 of the Iraqi Civil Law No. 40 of 1951, which stipulates that the owner of a property cannot be deprived of it except in cases determined by law 38 (Iraqi Ministry of Planning ,2023).

It is worth noting that some Iraqi researchers have overlooked the Bedouins' desert ownership, or the nomadic form of ownership, which is based on dominance. In this system, the most powerful clan has the right to possess property looted by conquest, and even for non-looted tribes, property ownership is transferred by achieving victory over the first holder of the land.





Despite these legal protections, women's rights to land and property in Iraq are not easily realized, particularly in rural areas where women's names are often not registered for land-farm purposes. According to census data authorized by the Iraqi Ministry of Planning in 2017, women's access to land ownership and tenure is severely limited, with only 27.51% of households in the country having female ownership (El-Khashab, & Al-Qaraghuli, 2019; UNAMI,2023; Iraqi Ministry of Justice, 2023). This is largely due to the complex social and legal norms that often delay or prevent women from accessing their land rights, including discrimination and ambiguity in laws that are not gender-friendly.

In addition, religious barriers, such as Islamic directives on ownership and inheritance shares, act as further impediments to women's ability to achieve gender equality in land ownership. These laws and resolutions played a crucial role in shaping land tenure and land use in Iraq during the specified time period (Al-Obaidi, & Al-Qaraghuli, 2019; Al-Yawar, & Al-Qaraghuli, 2019). As previously mentioned, land tenure laws continued to evolve in Iraq beyond the year 2003, and new regulations and reforms were introduced in subsequent years to address changing circumstances and needs. This study aims to address these challenges and explore potential solutions to promote gender equality in the local context of the Iraqi case. This paper is limited to the Iraqi case, the findings may not be representative of all the TCT barriers that women face throughout the Middle East region or in Iraq as a whole. The social-cultural aspects in Iraq presented a challenging problem when engaging in informal or semi-formal conversations in the study field, and it was difficult to assess and deal with women's views as they were primarily constrained from participating in private conversations due to reliance on their male counterparts to respond to the survey.



2-Materials and Methods

2.1 Study area

This paper was carried out in Iraq, specifically in Thi-Qar province, Al-Nasiriya city, and within three selected districts: Al-Sharqiya, Al-Oroba, and Al-Zawiya. The selection of these districts was not random and they were chosen based on specific criteria. Two of the selected districts are located in the northern side of the city (Al-Sarqiya and Al-Oroba), while the third is located in the southern side. A sampling method was employed to ensure that the views of the targeted sample were represented. A total of 140 households were selected from each district, resulting in a total sample size of 420 households. The sample households were selected based on gender, age, education levels, and clusters, Fig.1.

Methodologically, the study employed quantitative methods, including a household survey. Out of the 420 copies of the survey distributed, only 313 were received, yielding a response rate of approximately 75%. Despite the challenging circumstances caused by the COVID-19 pandemic, a relatively high response rate was achieved. Only 313 individuals were interviewed using a semi-structured survey, as detailed in Table 1. The table shows that the sample was divided into the three selected districts, with 76.7% of the individuals interviewed being females and 23.3% being males.

Table 1: Samples of the questionnaire respondents in 3 residential neighbourhoods in Al-Nasiriya city, Iraq

⁽¹⁾ Neighbourhood Names	Sample size	Females	Males	Obtained responses	⁽²⁾ Percentage
• Al-Sherqeya	140	67	21	88	62.85
• Al-Oroba	140	89	34	123	87.85



• Al-Zawiya	140	84	18	102	72.85
Total	420	240	73	313	74.52
1) The residential neighborhood names (The Municipality of Al-Nasiriya city, est. 2023).					
2) The returned samples percentage in each neighborhood.					

Figure 1. Shows the output of the housing shortage in Iraqi urban areas. The paper explores the pivotal role played by local social and traditional structures in shaping Traditional Community Tenure (TCT) as defined within Iraqi Land Tenure Legislation (ILTR). It also investigates their influence on gender disparities, with a specific emphasis on women's land tenure rights. The study's methodology involves identifying the underlying sources of obstacles to gender equality within TCT, as articulated in ILTR, at two distinct levels of engagement.

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3) The residential neighborhood names (The Municipality of Al-Nasiriya city, est. 2023).					
4) The returned samples percentage in each neighborhood.					



Insights were gathered from key stakeholders in a selected city in Iraq. The case study survey spanned three districts, serving as local strata within the historical precincts of Al-Nasiriya, an Iraqi city. The study employed quantitative techniques, including a household survey conducted in three residential neighborhoods: Al-Sharqiya, Al-Oroba, and Al-Zawiya. This survey was distributed to 420 respondents throughout Al-Nasiriya city, Fig.2,3, and 4.

2.2 The Overall methodology

The proposed methodology comprises several steps; the data distribution, and data collection. The data were collected through a household survey conducted between August and December 2020, utilizing a mixed-methods approach to adapt to the COVID-19 pandemic-related restrictions. To gain in-depth information on factors that influence women's access to land ownership, key



questions were asked on various aspects of government officials at the district levels, community dynamics, and legal frameworks, as well as the Land Revenue Officials (LRO), the Land Registry and Cadastre Office (LRCO) in Al-Nasiriya city's municipality and the related bureaucratic. The interviews were designed to provide insights into the existing weaknesses in the Land Tenure Regularization (LTRs) system regarding women's land rights, administrative challenges, and the land registration process, in regards to the TCT.

2.3 The Data collection and preparing

The interviews cantered in-depth information to understand the existing LTRs weaknesses for women land rights in Iraq. Likewise, interviews were designed to provide information on availability of facilities in the LTRs national policy, which explain administrative challenges and the land registration process. This data gathering and analysis built on questions which centred on Iraqi system performance synthesized to present the local specific status of female-headed households include land ownership in women's land ownership, and legal gap, and associated challenges in regards to the CTC in Iraqi case. The questionnaire focused on the Iraqi system's performance to synthesize and present the local-specific status of female-headed households, including legal gaps and associated challenges regarding the TCT in Iraq. Data gathering and analysis were conducted using phone and Google Meet interview sessions, which were audio recorded to ensure accuracy and depth of information (see Table 1).



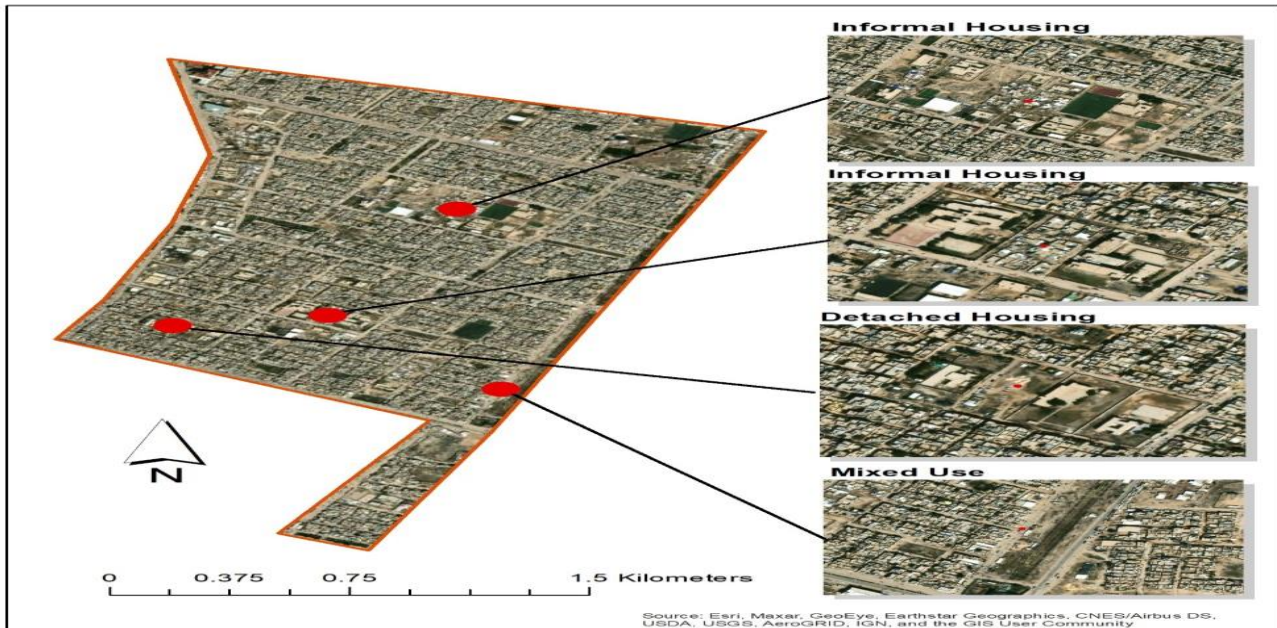


Figure 2. the output of the housing urban areas in Al-Sherqeya.

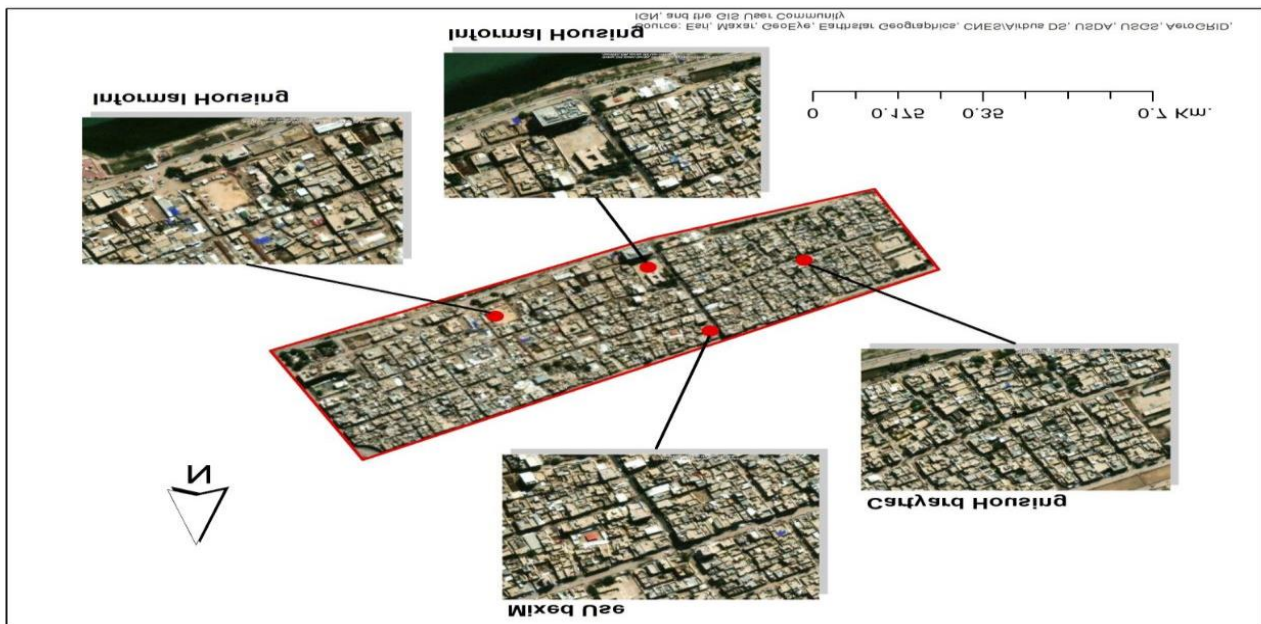


Figure 3. The output of the housing urban areas in Al-Oroba

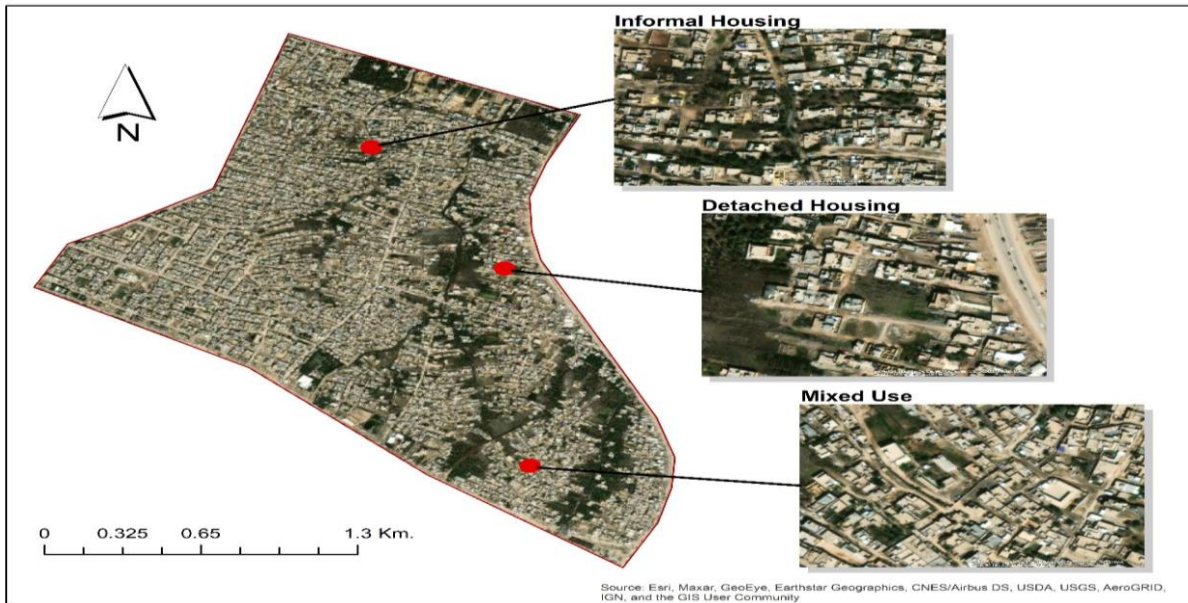


Figure 4. the output of the housing urban areas in Al-Zawiya.

3. Results and Discussions

The results of the survey indicate that literacy rates in all three studied districts are low among the surveyed population. Furthermore, the majority of the studied sample tend to leave school after completing only the lower secondary level, without pursuing undergraduate or graduate degrees. With respect to land tenure arrangements, the ratio of households owning registered land was consistently low across all three districts. Moreover, it was noted that the majority of registered landowners were male-headed households, comprising 67.50% in Al-Sherqeya, 76.85% in Al-Zawiya, and 63% in Al-Oroba. Among the surveyed households, a common trend was the renting of land, with all depending on TCT verbal contracts, especially for housing. This may explain the relatively high percentage of multi-generational families living in a single unit among the study sample. Based on that indication, it can be inferred that there are several issues related to education and land ownership among the surveyed population in the three districts of Al-Nasiriya city. The low literacy rates in all three districts are



concerning, particularly as many individuals are leaving school after lower secondary level without any undergraduate or graduate degrees. This could potentially have negative implications for the future development and economic growth of the area. Regarding land tenure arrangements, it is clear that the majority of registered land ownership is held by male-headed households, with the percentages ranging from 63% to 76.85% across the three districts. This suggests that there may be gender-based disparities in land ownership in the study area. Furthermore, the prevalence of rented land and verbal contracts for housing highlights the need for greater security of tenure for households in the area, particularly given the high percentage of multi-generational families living in single units. Overall, the findings suggest that there may be significant challenges related to education and land ownership in the study area, particularly for women and marginalized populations. The low proportion of rented land in the study area suggests that the majority of households in the three districts have their own registered land. This can be seen as a positive sign of land ownership security, as registered land provides legal protection against eviction and land grabbing. However, the fact that the majority of landowners are male-headed households highlights the gender gap in land ownership and tenure arrangements, which is a common issue in many countries, including Iraq. Women are often excluded from owning and controlling land due to social and cultural norms, discriminatory laws, and lack of access to information and resources. This calls for targeted interventions to promote women's land rights and address the underlying causes of gender inequality in land ownership. Additionally, the reluctance of some landowners to declare financial data around their leased properties may indicate a lack of transparency in land transactions and taxation, which can undermine the effectiveness of land administration and management. This highlights the need for effective policies and regulations that ensure transparency, accountability, and





fairness in land transactions and taxation, which can contribute to sustainable land use and development.

Table 2 displays the distribution of various types of landholdings in the study area. It should be noted that the various types of landholdings do not necessarily correspond to multiple owners or rental arrangements. The relatively low proportion of rented land may be attributed to the fact that the majority of landholdings are registered in LTRs. Nevertheless, it is worth noting that this could also be due to tax-related factors, as some landowners may have been reluctant to disclose financial information pertaining to their leased-out properties.

Table 2: the proportion of different types of landholdings

Neighbourhood Names	Own registered land	Land rented In	Land rented Out
• <i>Al-Sherqeya</i>	42	40	20
• <i>Al-Oroba</i>	63	19	18
• <i>Al-Zawiya</i>	50	21	29
Total	155	80	67

3.1 Female-headed households

In terms of gender distribution among household heads in the study area, males were found to be the majority. Only 44.8% of the surveyed households were





headed by females, with the highest proportion found in Al-Oroba at 19.2%, followed by Al-Sherqeya at 13.5% and Al-Zawiya at 12.1%. In cases where the male head of household is absent or deceased, women are usually responsible for managing the household. However, in situations where females are living alone, such as widows or divorced women, they are considered de facto female heads of household, but this does not necessarily translate into land ownership. It is worth noting that these figures indicate that women still face significant barriers in accessing and owning land.

The low representation of women as household heads and landowners in the surveyed districts highlights the gender inequalities in land ownership and control in the study area. The fact that women only constitute 44.8% of household heads and are often only given the responsibility of managing the household in the absence of male relatives, underscores the patriarchal nature of the society. Furthermore, the absence of legal recognition of women as de facto heads of household in cases where they are widowed or divorced further marginalizes them and denies them their rights to own and control property.

These findings also indicate the urgent need for interventions that promote gender equality and women's rights to land ownership and control. Such interventions could include policy changes to ensure that women are recognized as de facto household heads and given equal rights to land ownership and control. Capacity-building programs could also be implemented to empower women with the knowledge and skills necessary to assert their rights to land and property. Additionally, awareness-raising campaigns could be conducted to educate the community on the importance of gender equality and the benefits of women's land ownership, not just for women but for the entire community. Furthermore, it was observed 52.5% of the total surveyed population, that lands



have registered in a women's name, if the data is analysed any further, 27.7 % of them own both ownership of lands and houses, which indicates that less than 11% of female-headed households in all three study districts have land and houses ownership registered in their names. In this stage, it was noted that TCT registrations in a woman's name were sometimes made to avoid potential family disputes over property, or to take advantage of tax exemptions, as women (wives or daughters) typically inherit land from their fathers or husbands. However, it was observed that such registration does not necessarily translate into control over the land. It was consistently found that decisions related to property transactions are primarily made by male members of the family, such as fathers, husbands, or even sons. This underscores the fact that during land transactions, women are often present merely to sign the papers, with little regard for their actual rights to the property. These findings suggest the need for greater awareness and enforcement of women's land rights in the conducted area. However, further analysis of this situation indicates the prevalence of gender inequalities in property rights and decision-making in the study area. Despite the fact that women may receive land from their fathers or husbands and have their names registered on the TCT, it appears that they do not have control over the land or the decision-making regarding property transactions. This is particularly concerning as it suggests that women may not be aware of their rights and may not have a voice in determining the use and management of the land they own. Additionally, the fact that men are the ones making decisions about property transactions may lead to situations where women are forced to relinquish their property or may not receive a fair share of the profits. These findings highlight the need for increased awareness and advocacy efforts to promote women's property rights and gender equality in decision-making related to land and property transactions.





3.2 Finance sources of women for owning land

In this study, the main sources of property ownership for women in the surveyed samples were analyzed and presented in Table 3. The results showed that the primary source of property ownership for women was through their husbands' earnings, with TCT influence dominating across all three districts. However, it should be noted that the Iraqi Constitution provides an opportunity for women's land ownership if the property is conventional as inheritance. This provision is linked to TCT under Islamic rules of inheritance associated with gender decimation. Moreover, the existing laws of the Gender Equality Acts in Iraq, including Civil Law No. 40 of 1951 and Article 23, 1st and 2nd text in the Iraqi Constitution of 2005, and Property Claims Commission Act No. 13 in 2010, have guaranteed equal standing for women as daughters, wives, or mothers to gain property. The rationale behind these laws is to support women against the local male-society culture of TCT in Iraq. Therefore, in terms of property ownership, the existing legal system in Iraq has fully standardized the equal rights of females as daughters, wives, or mothers. Consequently, the Iraqi LTR provision supports women in owning land and property and has a good ratio among surveyed sources in all the study samples, which parallels the self-earned ownership increased by the support from government laws as presented in Table 3 Yet women face gender-specific barriers, categorized as social and cultural compulsions. However, it is an unreasonable step to build on this result since available data shows that only 17.75 % of households were women who have ownership of land and property in Iraqi case. Therefore, to translate this result into LTR reality this situation can be described with the versus de facto discrimination form of the de jure form of equality in regard to TCT in Iraq.



Table 3: women finance sources for owning land

Neighbourhood Names	Inheritance	Parental Property	Self-earned	Government	Others
• Al-Sherqeya	24.2	14	12.3	11.5	0.2
• Al-Oroba	21.3	0	2.5	2.1	0.9
• Al-Zawiya	15.7	2	1.6	1.2	0
Total	61.20	16.0	16.20	14.50	1.10

Table 3 highlights that husbands' earnings are the main source of property ownership for women in the study area, and TCT continues to dominate across all three districts. However, the existing legal system in Iraq has made efforts to ensure gender equality in property ownership, with constitutional provisions and gender equality acts granting women the same rights as male members of their families to own property. This has resulted in a good proportion of surveyed sources indicating that Iraqi women have gained land and property through self-earned ownership, which is supported by government laws. Nonetheless, the cultural practice of TCT in Iraq remains a significant challenge for women in terms of property ownership, as decisions about property transactions are often taken by male family members, leading to a lack of awareness among women about their property rights. Further efforts are needed to raise awareness among women about their rights and to ensure that the legal provisions for gender equality in property ownership are fully implemented in practice. The cultural practice of TCT in Iraq remains a significant challenge for women in terms of property ownership because it prioritizes male ownership and



control over land and property. Under TCT, only men can be the head of the household and have legal control over land and property. Women are often excluded from land ownership or control, particularly in cases where the family head is absent or deceased. This cultural practice is deeply ingrained in Iraqi society, making it difficult for women to challenge and overcome. Additionally, the lack of awareness and education about women's property rights, combined with legal and institutional barriers, further exacerbate the problem. As a result, women in Iraq face significant obstacles in owning or controlling property, limiting their economic empowerment and autonomy. There are several studies and reports that support the idea that the cultural practice of TCT in Iraq remains a significant challenge for women in terms of property ownership. For example, according to a report by the United Nations Development Programme (UNDP) in 2018, "Despite legal provisions for gender equality in land rights, women's access to and control over land remains limited due to patriarchal cultural norms and practices, including the tradition of TCT, which favours men over women in the distribution of property rights.". A study conducted by the International Organization for Migration (IOM) in Iraq in 2016 found that "TCT is a major obstacle to women's property rights, as it reinforces the patriarchal structure of Iraqi society and favors men in the distribution of property rights. Women are often excluded from property ownership, and their inheritance rights are limited or denied altogether." . Another report by the UNDP in 2012 states that "Women face multiple forms of discrimination when it comes to land rights in Iraq. Patriarchal cultural norms and practices, including TCT, limit their access to and control over land. Women are often excluded from property ownership, and their inheritance rights are often denied or limited.". These evidences indicate that the cultural practice of TCT in Iraq remains a significant challenge for women in terms of property ownership, and that patriarchal cultural norms and practices





continue to limit women's access to and control over land. In Iraq, the issue of property ownership for women is a complex one, shaped by various factors, including cultural practices, legal frameworks, and socio-economic conditions. The traditional cultural practice of TCT (transmission of property by custom and tradition) remains a significant challenge for women in terms of property ownership. This practice gives preference to male family members and excludes women, despite constitutional provisions and legal guarantees of equal rights for women to own land and property. As a result, the majority of the households surveyed in all three districts were headed by males, with only a small proportion headed by females. Women who do have property ownership often hold it indirectly through their husbands or fathers, and decisions about property transactions are usually taken by male family members. Nevertheless, there are legal frameworks in place that could potentially increase women's access to property ownership. The Iraqi Land Tenure Regularization (LTR) laws, along with the Gender Equality Acts, guarantee women the same rights as male members of the family to own land and property. These legal provisions aim to support women against the local male-dominated TCT culture. The Iraqi Constitution also recognizes women's right to own property, including inheritance rights, and the Property Claims Commission Act of 2010 further strengthens these rights. In practice, the existing legal system has supported self-earned property ownership for women, and the government has provided financial assistance to promote women's land ownership. Notwithstanding these legal frameworks, there are still challenges that need to be addressed. The TCT practice remains deeply ingrained in the culture and is perpetuated through social norms and expectations. Women face various barriers, including limited access to education, employment, and financial resources, which make it difficult for them to acquire and maintain property ownership. The low literacy rates among the studied sample in all three





districts also indicate a lack of awareness among women of their rights to own property. Therefore, there is a need for increased awareness-raising and education programs, as well as efforts to address socio-economic barriers, to improve women's access to property ownership in Iraq.

3.3 Religious conditioned inheritance

The rights of women to access, possess, and control land and property are being impeded by the socio-cultural and structural barriers presented by TCT. Although the right of inheritance under TCT is guaranteed in legal texts, the Islamic law restrictions specifically linked to it prevent women from fully sharing the same inheritance as men. The land share under TCT is unequally distributed over gender, following the Islamic system. This necessitates a separate legal article to address it, rather than linking it to the right of private property. Private property is not solely related to male-society culture but has multiple sources, including Islamic rules. Even if land is registered under a female's name, wives, sisters, or daughters do not exercise any control over it. Unfortunately, females are viewed as inheriting land/house units through TCT religious obligations rather than LTRs in all study areas. The gender association shows that only 41.8% of women-headed households were ruled by inheritance. As well, these figures are further detailed in Table 4: 14.4% in Al-Sherqeya, 11.2% in Al-Oroba, and 16.2% in Al-Zawiya. Additionally, it highlights the socio-cultural and structural barriers that prevent women from accessing and controlling land and property. It emphasizes that although the right of inheritance is guaranteed by the legal system, it is limited by Islamic law restrictions that prevent women from receiving an equal share of inheritance. The paragraph also discusses the unequal distribution of inheritance based on gender, which is a significant challenge in the Iraqi culture, and is not solely based on male-society culture. It is also highlighted that even





though women may be listed as the owners of the land under the LTR, they do not have any control over it. The paragraph concludes with data from Table 4, which shows that only 41.8% of households headed by women have access to land through inheritance, indicating that there is still a significant gap in women's property ownership rights in Iraq. Overall, the Table 4 provides a detailed analysis of the complex factors that contribute to the limited property rights of women in Iraq.

Table 4: Conditioned inheritance survey compared to gender

Neighbourhood	Females	Males	Respondents (%)
• Al-Sherqeya	14.4	32.5	46.9
• Al-Oroba	11.2	41.5	52.7
• Al-Zawiya	16.2	26.0	42.2
Total	41.8%	58.2%	-

The table 4 also highlights the fact that only 41.8% of households headed by women have access to land through inheritance, which indicates that women's property ownership rights in Iraq are still limited. This finding suggests that despite the existence of legal provisions for equal land ownership rights for women, cultural and structural barriers, such as the TCT system, continue to hinder women's access to and control over land and property. As well, the study further emphasizes the importance of addressing these barriers to ensure women's



full participation in property ownership, which can have positive economic and social impacts for women and their communities. This analysis underscores the need for policymakers and stakeholders to take proactive steps towards promoting gender equality in land rights and tackling cultural and structural obstacles that perpetuate gender inequality in this domain.

3.4 TCT factors preventing land ownership

In the context of Iraqi society, TCT patriarchy and conservative social norms present significant barriers to women's property ownership and control. Despite legal rights granted under LTRs, the societal influence of TCT patriarchy may prevent women from exercising these rights, as they may not be recognized or supported by their families. This is often due to a lack of awareness of women's rights and the influence of societal and religious norms. Results from the three districts surveyed indicate that TCT patriarchy and conservative society were identified as major obstacles to women's property ownership, as reported by the women themselves (Table 5).

Additionally, Table 5 highlights the impact of TCT patriarchy conservative society on women's land ownership, indicating that despite having legal rights to own land and property, women face hindrances in accessing and controlling land. The sentence suggests that women may not have their rights recognized by their families due to a lack of awareness of their legal rights and TCT patriarchy influence. Furthermore, the results from the study reveal that TCT patriarchy and conservative society play a significant role in declining women's trust in accessing and control land. Overall, the subsection highlights the critical role of societal norms and values in shaping women's land ownership rights and the challenges that persist in promoting gender equality in property ownership in Iraq, (Table 5).



Table 5: the major TCT factors preventing land ownership

*TCT factors	Al-Sherqeya	Al-Oroba	Al-Zawiya
Patriarchy influences	33.2	46.0	66.2
Family discouragements, conservative society	52.1	42.8	27.0
Financial limitations	12.3	11.2	6.6
Religious obligations	2.40	1.5	0.2
*These factors are built on responses from women.			

Over land ownership in all three districts, (Table 5), TCT factor associated to patriarchal is a noteworthy barrier, in which the family property is traditionally passed through the males. In fact, in most communities all over the country, there is still a legal gap between the practised LTR right and the experienced reality as a result of TCT conservative society, in which opposition of males towards females' land ownership, except for in some cases in urban areas. In practice, lack of trust on women leads TCT presumption that women less able to handle the land and property financial responsibilities as well as men. In contrast, TCT conservative society by directions of the family limits females to capable dealing with land transactions of handling property.

Furthermore, the study's findings reveal that the issue of gender inequality in property ownership is prevalent in all three districts examined, as highlighted in



Table 5. There is a noticeable disparity in the allocation of property between genders, with women facing significant mistrust, particularly if they are wives or sisters, in being given decision-making authority over land and property ownership, especially if they are married to someone outside the family. This is largely due to the influence of TCT patriarchy, which operates to reduce the share of inheritance for women (already half that of men) to keep it within the family line, thus preventing out-clan husbands from claiming their wives' share. Paradoxically, women have been conditioned by their families to accept this unequal treatment as the norm under the influence of TCT patriarchy. Additionally, some women cited financial constraints within the family as a hindrance to their land ownership rights, implying that they believe it is not necessary for land, which is viewed as family property, to be registered in their name. It is noteworthy that a significant portion of women surveyed (44.8%) believed that land should not be itemized in their names if their fathers, male siblings, or husbands are present, which is a remarkable finding considering that the LTR rights in the Iraqi legal system espouse gender equality and advocate for women's rights. Despite legal protections for women's property rights under LTRs, cultural and social barriers continue to prevent women from accessing, possessing, and controlling land and property. The TCT factors reveal that women face significant obstacles to inheriting property, with only 41.8% of households headed by women having access to land through inheritance. The TCT patriarchy and conservative social norms are major obstacles to women's property rights, leading to a general sense of mistrust towards females in decision-making around land and property ownership. Additionally, families may use TCT patriarchy to decrease the female's share of inheritance to keep it within the family line and prevent out-clan husbands from claiming their wife's share. This unequal treatment is often accepted by women who have been "demoralized" to accept the





status quo. It also reveals that many women believe that it is unnecessary to have land registered in their names if their fathers, male brothers, or husbands are around, suggesting a lack of awareness of their legal rights under LTRs. These conclusions underscore the need for continued efforts to raise awareness about women's property rights and challenge patriarchal attitudes and beliefs that perpetuate gender inequality in Iraq.

4. Key Findings and Discussion

The study, conducted across three selected communities in Iraq, underscores the pressing need for effective and sustainable LTR's laws to safeguard women's land tenure rights. These rights have been hindered by the prevailing social and cultural constraints within the Traditional Community Tenure (TCT) system in Iraq. The study's findings shed light on the intricate dynamics of TCT in Iraq and the significant challenges that persist concerning women's land and property rights. The identified TCT barriers continue to perpetuate gender discrimination in matters of inheritance and parental property rights. It is, therefore, imperative to address these underlying structural and cultural impediments and to implement legal and policy measures that foster gender equality and empower women in terms of land and property access, ownership, and control in Iraq.

Additionally, the research reveals that TCT heavily favors male family members, including fathers, brothers, husbands, and sons, in land-related transactions. This preference is deeply rooted in traditional beliefs that designate male members as inheritors of parental property and the primary decision-makers regarding property matters. TCT's religious guidelines often clash with LTRs, especially concerning women's rights. The survey samples indicate that religious barriers, linked to Islamic rules of inheritance, impact property inheritance shares.





Consequently, it can be inferred that the primary means for women to acquire land ownership is through inheritance, followed by self-earned acquisition from parents. This is despite the traditional customary laws of the TCT system, which mandate only half of the land to be allotted to female family members, in accordance with Islamic laws of inheritance. While existing literature on Iraqi land tenure regulations indicates the wide adoption and promotion of LTR financing schemes for women to obtain land and property ownership, a significant portion of the surveyed cases still indicates the dominance of TCT customary laws alongside self-acquired land ownership. Notably, any LTR legislation can only be effective when it gains social acceptance, as certain customary norms are often perceived as quasi-legal regulations by local communities under TCT. This perception is due to the widespread prevalence of customary councils over formal judicial systems.

Conversely, Iraqi society places high moral value on private property, considering it socially sacred, regardless of its legal status. Unauthorized entry or use of private property, such as land and houses, without the owner's knowledge or consent is deemed impermissible. However, the study findings suggest that women in the surveyed districts frequently encounter obstacles in accessing and controlling land, owing to discriminatory customs and practices of TCT prevalent in households, families, and communities. As a result, women often adhere to traditional gender roles dictated by TCT norms. Additionally, the findings indicate that Iraqi women continue to face gender-based challenges due to TCT discriminatory customs and practices, limiting their access and control over land and property. Thus, there is an urgent need for the Iraqi government to introduce more women-friendly legal provisions, implement legal reforms without gender biases, and ensure equal inheritance of parental property.





Moreover, a gender-sensitive legal framework and administrative processes must be established to promote women's land rights in Iraq.

In summary:

- Iraqi women face gender-based challenges in accessing and controlling land and property due to TCT discriminatory customs and practices.
- There is a need for more women-friendly legal provisions and legal reforms without gender biases to promote women's land and property rights in Iraq.
- Equal inheritance of parental property should be ensured to support women's land and property rights.
- A gender-sensitive legal framework and administrative processes must be established to promote women's land rights in Iraq.
- TCT discriminatory customs and practices are deeply ingrained in Iraqi society, leading to a general sense of mistrust towards women's ability to control land and property ownership.
- Many women surveyed believed that they should not have land registered in their names when male family members are present.
- Any legal reform or framework for women's land rights must be socially accepted by TCT communal norms, which are more widespread in Iraq than formal courts.
- Despite existing Iraqi laws supporting women's land and property ownership, their implementation is hindered by TCT discriminatory customs and practices.





- Iraqi women primarily acquire land through inheritance and self-earned ownership.
- Gender-friendly administrative processes are recommended to facilitate women's access to land and property.

While the study couldn't ascertain the precise extent of women's equality with men in LTR dealings in Iraq, it provides valuable insights into the prevalent obstacles hindering women's land and property rights. These obstacles likely involve a complex interplay of legal, social, cultural, and economic factors. The term "prevailing" suggests that these factors are dominant and significantly affect women's assertion of their land and property rights. Further analysis would necessitate a deeper understanding of the specific context and the factors impeding women's land and property rights in Iraqi cases.

4.1 Recommendations

1. **Reform Land Tenure Laws:** Iraq should consider comprehensive legal reforms aimed at aligning land tenure laws with principles of gender equality and women's land rights. These reforms should ensure that women have equal rights to access, own, and control land and property.
2. **Eliminate Discriminatory Customs:** Efforts should be made to challenge and change discriminatory customs and practices within the Traditional Community Tenure (TCT) system that hinder women's land rights. This may include community awareness campaigns and education.
3. **Gender-Friendly Legal Provisions:** Introduce and enforce legal provisions that are explicitly gender-friendly, addressing and eliminating gender biases within land tenure laws and regulations.



4. **Equal Inheritance Rights:** Ensure equal inheritance of parental property, irrespective of gender. Legal reforms should mandate that both male and female family members have equal rights to inherit land and property.
5. **Promote Women's Economic Empowerment:** Encourage economic empowerment initiatives for women, including access to credit and resources to facilitate their independent land acquisition. This can include financial support, training, and capacity-building programs.
6. **Gender-Sensitive Framework:** Develop and implement a gender-sensitive legal framework and administrative processes that support and protect
7. women's land rights. This framework should include mechanisms for resolving disputes and ensuring compliance with gender equality principles.
8. **Community Engagement:** Engage with local communities, customary leaders, and religious institutions to promote gender equality and women's land rights, emphasizing the compatibility of these values with cultural and religious norms.
9. **Education and Awareness:** Conduct educational programs and awareness campaigns, targeting both women and men, to inform them of their rights and the benefits of gender equality in land ownership.
10. **Legal Capacity Building:** Enhance the legal capacity of women, ensuring they are aware of their rights and can effectively navigate the legal system to protect and assert their land and property rights.
11. **Data Collection and Analysis:** Invest in comprehensive data collection and analysis to monitor the implementation of gender-sensitive land tenure reforms and assess their impact on women's land rights.



12. Collaboration with Civil Society: Collaborate with civil society organizations, women's rights groups, and international organizations that specialize in women's land rights to gain support and expertise in promoting women's land tenure rights in Iraq.

13. Strengthen the Role of Women in Decision-Making: Encourage and support the participation of women in decision-making processes related to

14. land tenure and property rights, both at the community and governmental levels.

15. International Conventions and Agreements: Ratify and adhere to international conventions and agreements related to women's rights and land tenure, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Sustainable Development Goals (SDGs). These recommendations aim to address the gender disparities and challenges related to land tenure in Iraq and promote women's land rights. Implementing these measures would contribute to a more equitable and inclusive land tenure system in Iraqi case.

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