

Session

# **Customary Law and its Implications for Women's Rights and Access to Land in Africa**

**The Case of Anglophone Cameroon**

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# Outline of Presentation

- Background on theme
- Theme in relation to (Country)
- Research Project and methodology
- Key Questions
- Research Findings
- Resulting Policy Recommendations and/or Changes
- Where these experiences might be relevant to other African Countries
- Translating Research into practice
- Future Research needs



... Why should women own land when they can use it for the rest of their lives...? (*Paramount Fon of Aghem, NW-Cameroon*)

# Context of the study

## Regional context

**1. Colonialism in Africa introduced the following notions that altered the status of men and women vis-à-vis land and tenure:**

a). Rigid sexual division of labour that presented the man as the breadwinner and women as the home manager (cash crops vs food crops); by extension the introduction of market economy which gave men control of the land.

b). Private land and registration that benefit men who already had land control

**2. Land tenure system in post-colonial Africa has been characterized by legal pluralism** (statutory, customary, Islamic, laws etc.) with no clear dominant one.

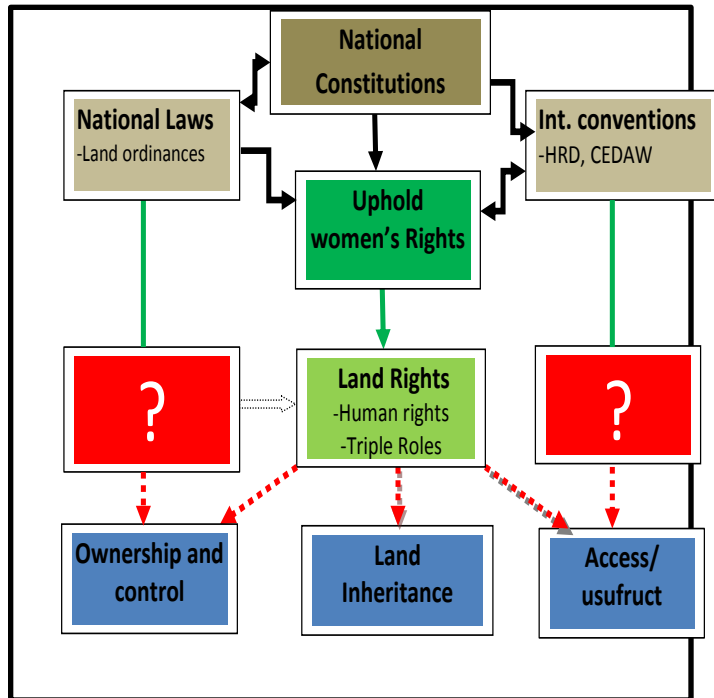
**3. Current competition & pressure** on the land from urban growth, population plantations, grazing, irrigation leading to the need for security of tenure

**4. Any land reform that is not gender aware of patriarchy** and the customary status of men and women will only widen **the gender gap over land** and further exclude women with far-reaching impacts on women and African development

# Context

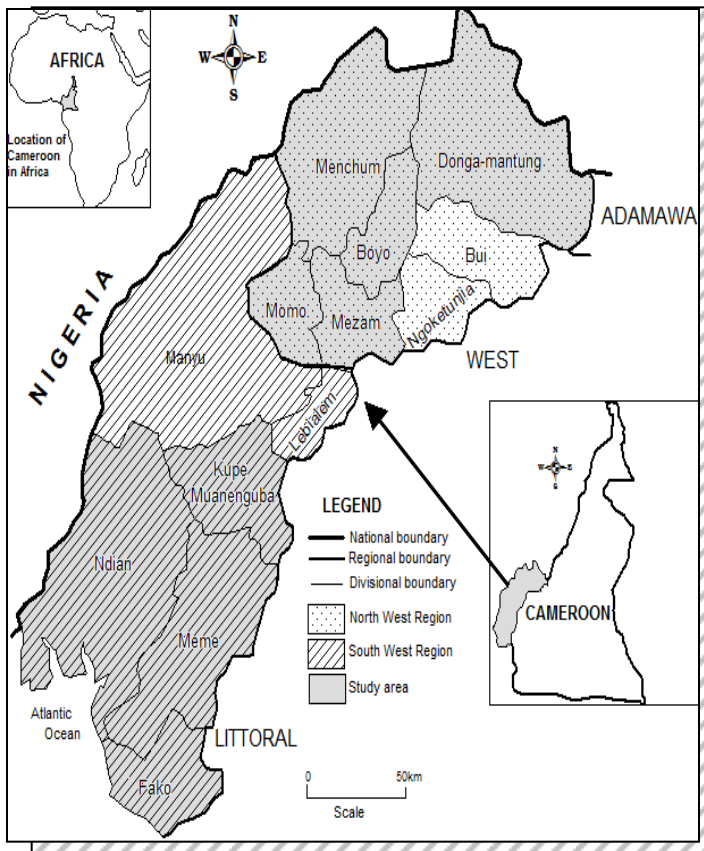
## National context

- **Legal pluralism:** statutory/Customary laws, treaties
- while **Statutory** laws and treaties on their part protect women's rights & are non-discriminatory
- **customary laws** don't favor women owning land
- Land is key to livelihood and survival for **all** in a typical agrarian economy like Cameroon
- Women's triple role tied to security of tenure
- Yet, women's rights to land is limited to access/user rights with few possibilities to inherit, own or control of land. So
- What is responsible for this scenario? , why and with what effects on women and dev't?
- How do customary laws/practices fit in?



# Research project and methodology

## The Women and Land Rights Project in Anglophone Cameroon



- Cameroon with a pop of 17.5m is bicultural: Anglophones & Francophones
- Anglophones make up 17,4% of the pop, spread over two of the ten admin. Regions (the NW and SW having many customs)
- Land rights is an issue bec of pressure from plantations, grazing, pop,
- Data collected in 2009/2010 from a sample of 2205 with 80% being female
- Focus group discussions in administrative divisions; each group consisting of local administration, MPs, chiefs, NGOs, LCD
- Women groups, and land technicians



# Your Research Project



The main objective of the broader study is to examine the issue of women's rights to and use of land in the context of dual customary and statutory practices that regulate land tenure system in Cameroon. It interrogates why despite statutory provisions that seems to protect women's rights, gender discrimination in land ownership still exist and how such discrimination affects women's use of land and their participation in sustainable management of natural resources in Cameroon both from generational and urban/rural perspectives.

# Research Questions

1. How is land conceptualized by men and women within local Anglophone communities in Cameroon across gender, generations and rural/urban settings; and how does this reflect on the prevailing gender and tenure practices?
2. What is the state of women's land rights under customary practices in Anglophone Cameroon and to what extent can these practices be harmonized and codified?
3. Why do women continue to succumb to the customary laws which violate their land rights when they can seek refuge in statutory laws which are non-discriminatory?
4. What are the implications of women's unsecured land tenure under customary laws on their contribution to poverty reduction and participation in sustainable national development?
5. What are the possible policy proposals that can protect women's land rights and maximize economic development?



# Key Findings (focus on 3-4 max)

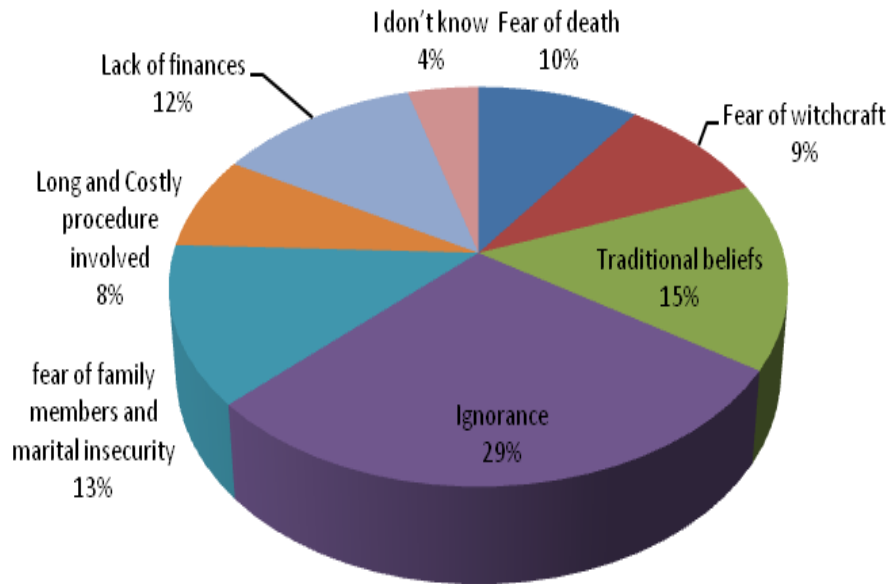
1. Women land rights are fragile, temporary and unsecured because they are **derived** from men and further defined by their status as wives, daughters, sisters, single, marriage regime, successful, non-/indigene; which depend on the type of land: **communal or family or private**

2. There are 5 main competing fallacies which explain why customary laws discriminate against women's rights to land

- a) The marriage Fallacy
- b) The property/chattel fallacy
- c) The Levirate marriage fallacy
- d) The family name and remarriage fallacy
- e) Patriarchy

3. Statutory and customary land laws are not always complementary and thus create rooms for conflicts exploitation and exclusion of vulnerable groups like women from land ownership

## Key Findings cont'



3. Although statutory laws seems to provide opportunity for women to own land through land registration, women do not still take advantage of these due to:

a). The strong influence of customary laws (fig)

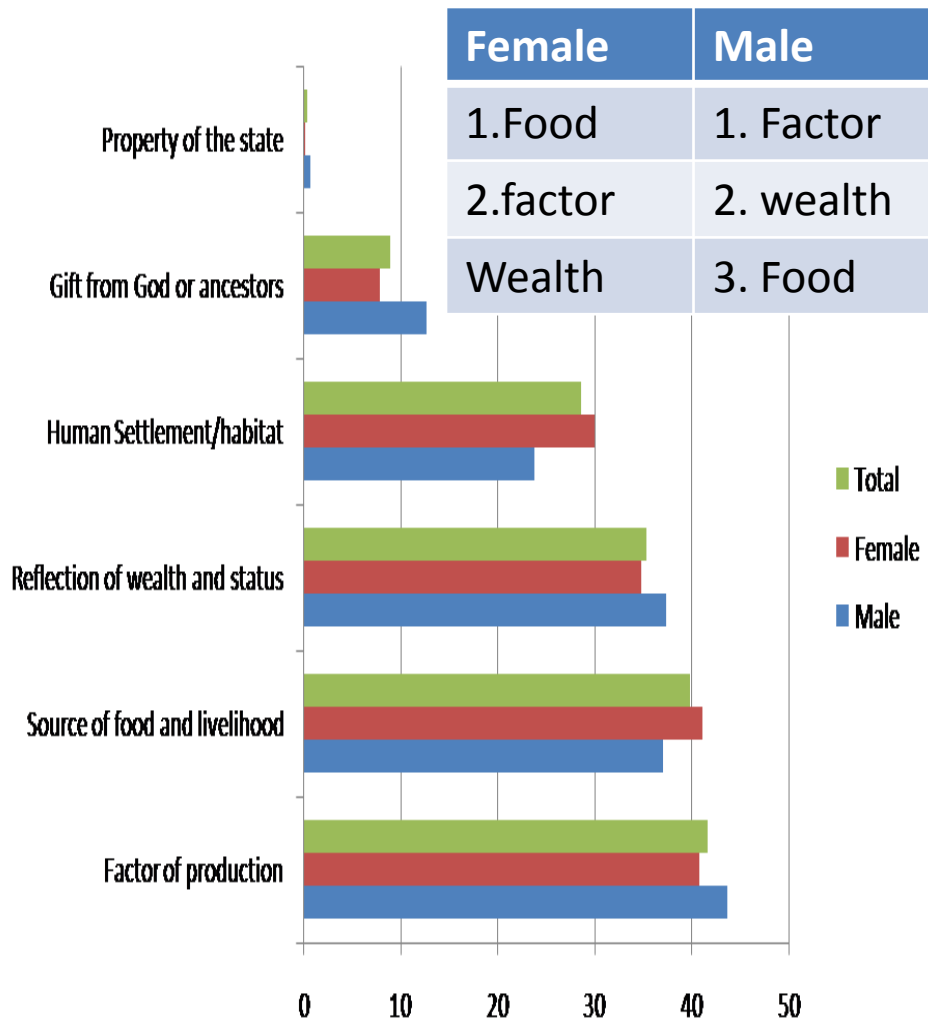
b). Ambiguity in the Land Ordinances which also reinforce customary laws, for example 78% of urban women believe that the chiefs are the owners of land

c). Individual land ownership tend to exclude women and other vulnerable groups

It is difficult to harmonized customary laws because they are location, ethnic and people specific representing an identity

4). Women's land rights is crucial bec Men & women have different **interests** and **perceptions** of land which are the source of gender based land conflicts

# Key findings cont'



5). Gender-based conflicts end up with women as displaced victims which, together with unsecured tenure over land affect their role in

- a). Ensuring food security
- c). Poverty reduction efforts
- d). Management of the environment
- e). Decision making/empowerment
- f). National development, given that women's land rights do not lead to the overthrow of men but rather complement their actions in development.

# Policy Recommendations

1. Statutory laws on land should be written in simply and engendered language to avoid generalities that often reinforce discrimination on the basis of sex.
2. There is need to decentralized land management and empower the decentralized structures with human and financial resources to issue land titles. This will make land registration less costly and encourage women to register. Provision should be made for joint land titles.
3. Land policies must evolve with the evolution and diversity of local economies and should be able to recognize sectoral diversities, e.g. pastoral farming, and other seasonal activities.
4. Affirmative action should be enforced during sale of state land
5. Institute gender capacity building for all actors involved in land and routine public infor and sensitization on land registration procedures
6. Women user's rights over communal land should be converted into secured tenure by law and given direct matriculation.

# Our puzzle and research gaps

## Puzzle:

Customary laws seems to have function well where land was a common/trust property; non-market economy; there was no land scarcity; family bonds were strong. But today, the tides have change with evolving society marked by pop and urban press on land, indiv titles, market economy//forces, growth of FHHs, changing functions of land etc:

1. Are customary laws still adaptable to this new context?
2. To what extent can customary laws afford to remain static and their thesis unchallenged when the society in which they operate is changing?

## Research Gap

There is need for research on:

1. a comparative study on women's contributions to economic development between women with and those without secured land tenure, within and between African countries
2. The challenges and prospects of mainstreaming into customary laws

- Thank you Very Much!

