

BRIEF PROJECT PAPER

WOMEN'S ACCESS TO LAND AND THEIR HOUSEHOLD BARGAINING POWER: A COMPARATIVE ACTION RESEARCH PROJECT IN PATRILINEAL AND MATRILINEAL SOCIETIES IN MALAWI

1. DESCRIPTION OF RESEARCH CONTEXT

Malawi is a landlocked country in Southern Africa with an agricultural economy accounts for over 40% of Gross Domestic Product (GDP) SADC Gender Protocol Barometer Baseline Survey: 2009).. According to 2008 population and household census, Malawi has a total population of 13,066,320, of which 6,365,771 (49%) are men and 6,700,549 (51%) are women¹. Of this population, approximately 85% live in the rural areas and are involved in subsistence farming. Land is therefore the primary resource in household livelihoods and food security in rural Malawi where communal / customary tenure systems predominate. According to the new land policy, land in Malawi is divided into three regimes namely private land, public land and customary land. The official statistics of Malawi according to the National Statistical Report of 2004 indicate that 75 % of the land surface in Malawi is customary land. Therefore most of the land transactions are guided by customary law. Malawi has two distinct social systems which include patrilineal and matrilineal. In patrilineal, lobola or bride price and the woman is taken to reside in her husband's village and descent is through the male members. In matrilineal, a husband dwells in his wife's village and descent is through female members of the clan. This research was carried out in Zomba district in Southern Malawi which is a matrilineal district and Mzimba district in Northern Malawi which is a patrilineal.

2. RESEARCH HYPOTHESIS

The guiding hypothesis for this research was that “ Women's access to land improves their bargaining power within the Household”

3. RESEARCH QUESTIONS

- To what extent does the co-existence or overlapping of customary and statutory laws, practices and norms hinders or improves women's access and control to/over land within patrilineal and matrilineal contexts.
- What relationship exists between women's access to land and household bargaining power in matrilineal and patrilineal contexts.
- To what extent can women's agency be supported to influence gender sensitive changes in policy and practice.

4. SUMMARY OF RESEARCH FINDINGS

4.1. Land Acquisition

Patrilineal: A father gives pieces of land, exclusively, to his male children, beginning with the eldest son at the time of his marriage. Daughters are excluded on assumption that they will marry and move to their husband's households and utilize the land that is allocated to their husbands.

¹ The 2008 Population and Housing Census. National Statistical Office

Matrilineal; A mother gives pieces of land to both her daughters and sons when they are mature enough to have a piece of land or when they get married. For male children, their access to land ceases when they move out to marry because by custom, they can not own land, while for female children

4.2.Land Ownership

Patrilineal; Women do not own land because they are *wakunthengwa/wamtengwa* (those that are married off)only males own land because they stay in the native village.

Matrilineal; Women in matrilineal society own land

4.3.Access to land

Patrilineal; Access is determined by their different positionalities as follows:-

- **Married;** Have access to land through their husbands
- **Divorced;** A divorced woman's access to land in her former marital homestead is impossible; here women lose their access to land at the moment of divorce. It was further discovered that when they go back to their native homes they have limited access to land since once they are married off and *lobola* is paid they are no longer considered part of the family
- **Widowed;** In many cases, widows' access to land is dependent on the good will of male relatives of their deceased husbands. It was discovered that at the demise of their husbands most women are denied access to land, which prior to their husbands' death they enjoyed

Matrilineal; In matrilineal societies, married women's access to land is not dependent on their husbands. Death of a spouse does not lead to lack of or diminished land access, since most women live in their maternal villages. Marital status has very little implication on women's access to land, especially in the area where the research was carried out, which practices the matrilineal system of marriage

4.4.Control over land

4.4.1 Patrilineal;

Married women; Married women assume control over the land (kitchen gardens) that surround their houses but no control over larger gardens used for cash crops.

Divorced women: Divorcees automatically lose control over pieces of land they had access to while with their husbands.

Widowed: Do not have full control over their accessible land because, more often than not, male relations to the deceased come to claim ownership of the land. The situation is worsened when the widowed woman does not have children, or in some situations, male children or they are still young

4.4.2 Matrilineal;

Married: Even though women own land and have greater access to it, the capacity of married women to make decisions with regard to the use of land is somehow limited. Inside a family, the husband is said to have a greater say on what should be planted on a piece of land and how the produce should be managed.

Divorced : women's control over land in terms of what should be grown on her piece of land and how such produce is to be used is not threatened and this situation was not made worse by divorce in any case that we found during the research.

Widowed; widowhood status does not affect women's control to land use for the same reason of matrilineal system of marriage.

4.5 Women's Access to land and Bargaining power

- The research has revealed that in both matrilineal and patrilineal societies, access, control and ownership of land does not necessarily lead to more bargaining power for women within the household.
- Bargaining power is determined by many other factors. The findings have shown that, sometimes where women have control and ownership over land, this does not translate into enhancing their household bargaining power. In matrilineal society where women own land it was discovered that it is still the man who makes crucial decisions in the household.

5. KEY INNOVATIVE PRACTICES/STORIES REGARDING WOMEN'S RIGHTS

- Working with customary leaders yielded results in patrilineal society of Mzimba. Chiefs have now been speaking against land dispossession which widows experience
- Use of Theatre for Development for sensitizing communities about women's rights to land proved effective as it acted as entertainment at the same time educating community members on the challenges women face. These events also facilitated community discussions on how women's rights to land can be protected.
- Creation of women's advocacy groups has proved effective for supporting women's agency. In Mzimba, "WOLREC" women's groups have been networking with Coalition of Women Farmers initiated by Action Aid in engaging customary leaders on their own to claim their land rights.

6. KEY POLICY RECOMMENDATIONS

- There is need to improve women's effective control over their land rights by empowering them with relevant women's rights knowledge to defend and challenge cultural constraints which impinge on their land rights
- It would be important that customary practices and indeed the law should be able to take into account both women's and men's land requirements. Women should be empowered to use the law to claim their land rights and be able to negotiate their way taking advantage of legal pluralism to find spaces for their agency. In cases where statutory laws fail them they should be able to see through customary laws and negotiate their land rights for example asserting the rights of widows to secure land because of the lobola paid.
- Some of the interventions required are: conscientising women on their rights, tackling masculinity issues and male identities in order for them to appreciate the need to provide space to women to negotiate their needs properly. On the other hand where women assume automatic control of kitchen gardens increased technology on these small gardens could be ideal so that there is increased productivity, particularly in patrilineal society, where women's ownership of big fields of land is a dream yet to come true. In addition, it would also be important that statutory laws should give women equal access as men to land. In addition, it would also be important if the land law should also cater for

women that are widowed, divorced and not married since the land policy as it stands now assumes that every person is married and therefore their land be registered in their family name.

- The role of chiefs in changing the status quo cannot be overlooked; they are considered custodians of culture and some of those cultural practices that violate women's land rights. Therefore, working closely with chiefs would help in bringing about the social change. Any advocacy strategy which can be put in place should be twofold; community based and also policy makers focused. There is need for a multidimensional approach to women's land rights by maneuvering through the spaces in the current legal pluralism

7. RESEARCH GAPS OR FURTHER RESEARCH ENTRY POINTS

- More research needed to find out how women's social status may be improved in order to increase their inter- and intra-household bargaining and hence their access to and control over land.
- More research to investigate the possibility that ownership and household bargaining power are mutually shaping relationships, in which the neglect of either dynamic is likely to impact negatively on the improvement of poor, rural women's lives.

8. RESEARCH TEAM MEMBERS AND THEIR INSTITUTIONAL AFFILIATIONS

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