

Securing women's land rights

Scaling for impact in Malawi

Oxfam in Malawi and LANDac



About the programme

Despite their key role in agriculture, in many regions in Africa, women do not have equal access and rights over land and natural resources. To support the women's land rights agenda and to build on a growing momentum following the Women2Kilimanjaro initiative, **LANDac** in cooperation with grassroots and development organisations, including **ENDA Pronat** in Senegal, **GROOTS Kenya** and **ActionAid Kenya** in Kenya, **ADECRU** and **Fórum Mulher** in Mozambique, and **Oxfam in Malawi** have implemented a year-long action research programme: Securing Women's Land Rights in Africa: Scaling Impact in Senegal, Kenya, Malawi and Mozambique. The programme, funded by the Dutch Ministry of Foreign Affairs, aims to **identify, build upon and scale successful practices** and experiences of **grassroots organisations** and movements that work to strengthen **women's access and control over land** and natural resources in Africa. The empirical findings and concrete outcomes of the programme are presented in this LANDac working paper series *Securing Women's Land Rights in Africa*.

Introduction

Since 2002, Malawi has been preparing a new set of land laws that acknowledge customary land but also provide equal access and control over land for both women and men. To date, land in Malawi has been managed under customary systems that have undermined equal treatment of women when it comes to land in both matrilineal and patrilineal systems. The new laws, which only came into force in March 2018, will be piloted in three districts (Mzimba, Kasungu and Phalombe) with funding from the European Union. The World Bank has also committed to doing pilots in six more districts. These pilots have to provide an improved legislative framework to guarantee equal access and control over land for women and men. But in practice, much still needs to happen.

The Securing Women's Land Rights in Africa programme (WLRA) has combined action research with concrete activities done by Oxfam in Malawi to work in three districts towards the implementation of the new legislative framework in the country and to raise awareness about the importance of women's access and control over land. More concretely, the programme addressed a knowledge gap in women's land rights in the country by conducting a baseline study. It mobilised and organised women's land rights forums, sensitisation meetings and made a video documentary of women's land rights issues. The forums and meetings aimed



*The Training Session in Phalombe on the 22nd March, 2018.
Picture by Andrew Mkandawire*

to increase women's assumption of leadership roles so that women can actively participate in land governance, acquire titles and enhance their land rights. This working paper first describes the status quo of women's access and control over land in Malawi before it discusses the activities and outcomes under the WLRA programme. It concludes with considerations for future activities to scale up the women's land rights agenda in Malawi.

Women's land rights in Malawi

Although far from equal, national statistics show that relatively more women own land in Malawi than in most other countries in sub-Saharan Africa. Based on national demographic and

Box 1. Programme partners and activities in Malawi

Oxfam in Malawi implemented several programmes to promote and enhance women's land rights in Malawi (see <http://bit.ly/2wtADgm>). In the framework of the WLRA programme, Oxfam in Malawi conducted a baseline study on gendered land ownership and women's land rights in Malawi. Together with the **Rural Women's Assembly (RWA)** and the **Coalition of Women Farmers (COWFA)**, they also organised women's land-rights forums and sensitisation meetings in Mzimba, Kasungu and Phalombe so that more women can assume leadership roles, acquire land titles and enhance their land rights.

LANDac, the Netherlands Land Academy, is a partnership between Dutch organisations and their Southern partners working on land governance for equitable and sustainable development. Together with Oxfam in Malawi, RWA and COWFA, LANDac has conducted participatory action research for a period of six weeks.

health surveys, 48 per cent of women in Malawi own a piece of land (solely or jointly) and 23 per cent own land solely (DHS as cited in Doss *et al.* 2013). Ownership of land by women could be attributed to the fact that the matrilineal system of marriage (where land ownership is identified and passed on through women's lineage) covers more areas than the patrilineal system.

In Malawi, both matrilineal and patrilineal land has been governed through customary systems. In a matrilineal system, women in the family inherit land and the man moves into the woman's family home after marriage – and vice versa in patrilineal systems, where the inheritance is passed on to the sons and the woman moves in with her husband's family. It has been argued that in the matrilineal systems, women tend to have better access to land 'because the family has a financial interest in investing in the daughter who will pass on the property to the next generation' (Peters 2010 cited in Behrman 2017: 330).

However, in both systems, men (either the husband, the maternal uncle or both) are often the decision makers regarding access and control over land (Kathewera-Banda *et al.* 2011). In addition, in both systems land registration and titling for women are not a given and will very much depend on the interpretation of the customary systems in a particular local context.

Malawi has been involved in a long process to establish new institutional frameworks for the administration of customary land. It has defined new processes, rights and obligations of citizens and duty bearers. Since independence in 1964, land governance in Malawi has mostly been based on a set of laws that originate from colonial history and the single-party era that followed (Mpesi *et al.* 2018). These laws do not recognise the existence of customary land rights that are still prevalent in large parts of the country, but define customary land as a sub-category of public land.

Without an updated underlying legal framework, the Malawi National Land Policy (2002) aimed to ensure equal access to land for all Malawians. The policy distinguished public and private land and encouraged all customary landholders to register their land as private customary estates and to formalise the supervisory role of traditional leaders 'to allow uniform administrative procedures and transparency in all customary land transactions' (Ministry of Lands, Physical Planning & Surveys 2002: 6). The policy also mentions the rights of 'vulnerable' groups, including women, children and the disabled and stresses the need for a clear policy and implementation strategy to ensure equal rights and access for women and men.

The land bills for better tenure security were passed in 2016, consisting of 10 bills of legislation, which include the Customary Land Bill, the Physical Planning Bill, the Land Survey Bill, the Registered Land (Amendment) Bill, and the Land Acquisition and Compensation Bill. These new laws state that

all land belongs to the Republic (formerly to the president) and that customary land can be registered as such. This means that either an individual or a group of individuals can register and own customary land privately in perpetuity as a customary estate. The fact that community-owned customary land can be titled and registered should offer security against land grabs by the local elite and foreign investors.

In addition, the law states that customary land committees shall be responsible for the management of all customary land in a Traditional Land Management Area. At least three out of six committee members should be women (Mpesi *et al.* 2018). The new Land Bill came into force on the 1 March 2018 and is initially being piloted in three districts by a consortium of civil society organisations (CSOs) led by Oxfam in Malawi with financial support from the European Union and in other six districts with funding from the World Bank.

Knowledge generation

The WLRA programme builds on successful initiatives to increase women's access and control over land. Together, Oxfam and LandNet Malawi (a CSO) have taken up a leading role in advocating for a legal framework providing tenure security for Malawi's women and men. With the support of the European Union, a consortium of Oxfam in Malawi, LandNet Malawi and the Centre for Environmental Policy and Advocacy (CEPA) started the pilot project Strengthening the Land Governance System for Smallholder Farmers in Malawi to explore possibilities to scale up improved gender-sensitive land governance and customary estates registration and titling in Mzimba in the Northern Region, Kasungu in the Central Region and Phalombe in the Southern Region (see map).

As there is very little known about women's land ownership in these districts, Oxfam in Malawi with support from LANDac commissioned a baseline study on gendered land ownership, which was conducted by the Institute for Management Development and Social Analysis (IMDSA). The general aim of the study was to gain a deeper understanding of women's access and control over land in the three pilot districts with a huge diversity of women's land rights contexts:

- Mzimba, which is strongly patrilineal
- Kasungu, which has mixed cultural orientation but also an influx of idle leasehold estates, and
- Phalombe, which is strongly matrilineal.

These differentiated contexts help to better advocate for women's land rights and identify ways to tackle the challenges. With the collected data, changes in women's access and control over land after the new land law or other interventions can be monitored in the future.

With the aim to capture the qualitative richness and to fully understand the lived realities of women with regard to their ownership, access to and control over land, the research team



Locations of WLRA's activities in Malawi

conducted interviews with 503 women, 24 focus groups discussions and 24 key informant interviews. The main findings of the baseline study indicate that:

- Even though only 10 per cent of the interviewed women had legal titles, all the interviewed women that had access to land felt that they have tenure security.
- In all districts, women said they had less ownership and access to land than men. This inequality is strongest in the patrilineal Mzimba district although it is still present in the matrilineal districts (Phalombe and Kasungu). Important to note is that customary land is considered to be owned by the clan and those who use the land are considered as caretakers.
- All women indicated that they have dealt in one way or another with land disputes. On average, 46 per cent of the respondents indicated that widows are the most vulnerable group when it comes to land and are likely to lose their land to relatives after their husband passes away (either in-laws or within their own families).
- Land governance institutions are not effective as there is no formalised way of handling land-related disputes. Only one in five respondents indicated that they turn to formal land governance institutions in case of need. Instead, land disputes are resolved through existing clan structures and customary leaders, which often lack the knowledge and resources to deal with them.
- Many women and men at the grassroots level are not aware of women's land rights and the new laws that provide for them. For example, 86 per cent of the respondents did not know about the possibility and the process of registering customary land in their own name (Mpesi *et al.* 2018).

The data from this study was further analysed and fine-tuned through qualitative research by the LANDac researcher. On a national level, Oxfam used the findings of the research for evidence-based advocacy and disseminated the findings of the baseline study through a national stakeholders workshop in Lilongwe that was attended by 23 individuals from the government, the Rural Women's Assembly, traditional leaders, civil society and the media. The workshop aimed to start a dialogue between stakeholders on how to collectively secure and scale women's land rights in the context of the new land legislation.

During the workshop, the role of traditional leaders was discussed. As the study showed, they play an important role in land governance and because they have the confidence and trust of their communities, they are in the best position to share their knowledge and build the capacity of communities related to women's access and control over land. In addition, CSOs were encouraged to link up and further scale the activities of Oxfam and embed the women's land rights campaign in their own work, while the government was challenged to speed up the implementation of the new land legislation. The workshop was also productive in drawing the attention of the media and resulted in several interviews and news items on radio and television.

Training local champions

Building on the findings from the baseline study, Oxfam initiated women's land rights forums in the districts of Mzimba, Kasungu and Phalombe. The forums brought together women leaders from the different districts in order to build their capacity, share local knowledge and support them in claiming their rights and those of fellow community members.

For the organisation of the forums, Oxfam teamed up with two grassroots organisations: the Rural Women's Assembly Malawi Chapter (RWA) and the Coalition of Women Farmers



Community Sensitisation at Lukwa Headquarters in Kasungu District on the 7th June 2018. Picture by Andrew Mkandawire

Box 2. Pitching for women's land rights

During the trainings for local champions, women leaders were asked to think of a pitch about women's land rights, land registration and the opportunities for women under the new laws. The following pitch was given during a training in Mzuzu in the Mzimba district.

'I would like to thank you all for allowing me to address you. I'm here to inform you that there will be a land registration exercise shortly. The registration will involve everyone: men, women and the children. Especially you women, you have to participate in the exercise so that you will have ownership of your land.'

'Secondly, we women have to encourage our daughters to finish their education. Women need to play an important role in ensuring that girls stay in school. The parents too have to encourage the girls and not only the teachers and NGOs.'

'A third issue is, please ensure you attend the meetings called by the chiefs regarding customary land registration and titling. Because there will be a need for women to participate in the elections so that they can be members of customary land committees. Myself, I've already started campaigning so that when it's time for elections, I can be voted as a member of the customary land committee. And if I will be elected a member, I will ensure that the chief does not take bribes or intimidate the women. So that women are free and have the power to hold any position.'

Mzuzu training, 8 February 2018.

(COWFA). Both organisations mobilised 90 female grassroots leaders to empower them to hold duty bearers to account and to encourage other grassroots women to claim their rights. Key messages during the mobilisation process included that women needed to take active roles and be assertive in addressing women's land rights and women's empowerment issues. Women also need to be able to participate in decisions that affect them in their daily lives, including on issues about women's land rights and their livelihoods. Ellen Matupi, the founder of COWFA, explained the selection criteria as follows:

All I said was that she [the district committee chairperson] should pick members who will articulate whatever they will learn from here [women's land rights forums] to the other members when they get back home.

Interview, Kasungu, 6 February 2018.

The women leaders were mobilised to act as local champions and to demand their position on either customary land

committees or the customary land tribunal and to be protectors of women rights in the traditional authority of the village. Customary land committees will be set at a more local level (group village headperson level) to deal with the day-to-day administration of customary land (such as conducting allocation and adjudication functions) while the customary land tribunal will be set up at the traditional authority level to deal with disputes about land matters.

In each district, Oxfam organised a two-day training session for these grassroots leaders on women's land rights and the new land bills. The trainings were delivered by the national coordinator for LandNet Malawi and a gender and legal expert who was hired to facilitate the trainings. Sessions included an overview of the new 2016 land bills, particularly focusing on the gender provisions of the act and how such aspects would affect women's access, control and ownership of land. The training sessions also addressed the causes of women's land rights issues, particularly poor access to land, control and ownership, as well as issues of culture and tradition preventing women from assuming leadership positions in society.

Participants actively contributed to the learning through a participatory learning approach, which encouraged them to share information, learn from each other and work together. The training also eventually provided people with a framework of skills that they could use in any situation to explore issues and to take action. For instance, women indicated that they would continue to raise awareness and advocate for enhanced women's land rights now that the 2016 Customary Land Bill is in operation but would also advocate for more leadership positions for women once customary land governance institutions are established.

Through a triangulation of lectures, group breakout sessions and roleplays, the trainings equipped participating women with leadership skills (see also Box 2). The women were also trained to ensure that awareness raising on women's land rights and land governance can be cascaded to the grassroots level. This will help to build and strengthen women's agency in the effective implementation of the new land bills and enhance women's land rights in the country. Through the training, women also became knowledge brokers (see Box 3).

One of the issues addressed was the fact that early childhood marriage and pregnancies often prevent young women from finishing school. One of the proposed solutions by a training participant was to encourage daughters to finish their education, an approach in which local champions can be supportive. She explained:

I also have a daughter who didn't want to go to school. I tried everything, even whipping her to no avail. She got pregnant and dropped out of school. After realising that she was struggling to make a living when all her siblings had jobs, she decided to go back to school. She is now in Form Four [night



Drama being performed by the rural women in Kasungu guided by the Women Land Rights members



Senior Group Village Headwoman Chiluzi (Kasungu) reciting a poem

school] and her child is now in university. So it's not too late for your daughters to go back to school. You need to organise role models (teachers, nurses) to encourage your daughter to go back to school. It is OK to be a village farmer but you can become a successful farmer once you are educated. Like me, I am a successful farmer because I got education.

51-year-old local champion, Mzimba training in Mzuzu, 8 February 2018

The trainings also provided the women leaders with a space where they could freely exchange experiences on the issues that affect them and their communities and discuss how to deal with day-to-day challenges. Among the issues discussed were the customary practices which deny women from fully participating in decisions on land, land grabbing, and access to land. Key lessons drawn from the trainings were that women's agency is essential to ensure that equal access and control over land for women and men is accomplished and the need to keep engaging traditional leaders (who are gatekeepers for their communities) and mobilising them to advocate for women's land rights in the country.

For instance, two village headmen attended the trainings in Kasungu and Mzimba. Due to their participation they were able to appreciate the important role that women play as food

Table 1. Community awareness meetings

Date	District	Area	Attendance		Total
			Women	Men	
Thursday, 7 June 2018	Kasungu district	Traditional authority Lukwa headquarters	80	55	135
Monday, 11 June 2018	Phalombe district	Traditional authority Nazombe headquarters	400	100	500

producers yet with precarious land ownership when compared to men. The headmen were able to clarify and reflect on some cultural and traditional beliefs such as why, in strong patrilineal societies, women do not identify themselves with land ownership due to their belief that ownership is through their spouses.

Ultimately, the trainings helped women leaders to become experts on gender equality, the new land bills and women's land rights. The sessions built their advocacy and lobbying skills for use both within and outside their communities. As a result of the trainings, the local champions were supported to return to their respective communities and raise awareness with their fellow women and the wider community on women's rights, women's land rights, women's empowerment and the provision of the new land bills. The training also succeeded in mobilising and organising more women to take up leadership positions and actively participate in customary estate registration and titling once the new customary land governance structures are established now that the Community Land Bill is in force.

Advancing the movement: awareness raising and collective action to scale women's land rights

In Malawi, women also actively participated in the Kilimanjaro Initiative in October 2016 in which women farmers from all over Africa climbed to the peak of Mount Kilimanjaro to demand land rights for African women.¹ In Malawi, rural women further mobilised themselves and presented a localised charter of demands to the government of Malawi to implement the African Union recommendation that requires states to allocate at least 30 per cent of land to women.

The Women2Kilimanjaro initiative was preceded by another campaign in 2015 in which more than 500 women from all over Malawi climbed Mount Mulanje in Southern Malawi to stand up for women's rights and climate justice. Since then, several CSOs, including Oxfam in Malawi, have worked together with grassroots movements including RWA and COWFA to advocate for the operationalisation of the new land laws. Teaming up to build upon existing collective initiatives proved to be effective (see for instance Box 4). As a result, Oxfam in Malawi plans to

1 For more information on the Women2Kilimanjaro initiative see www.actionaid.org/australia/african-women-farmers-climb-kilimanjaro and the *Charter of demands: actualizing women's land rights in Africa*: <http://bit.ly/2M9fUon>.



Traditional Authority Nazombe giving her remarks during the community sensitisation meeting in Phalombe.

continue convening CSOs through other projects to ensure that CSOs are more coherent and coordinated in advocating for women's land rights in the country, but also to ensure that more CSOs embed women's land right issues in their programmes to reach the wider community.

Box 3. Women leaders as knowledge brokers

'From today, I think of a way to start my campaign. Since we have been sitting in this session [the Women's Land Rights Forum training session in Kasungu] today. That's why I begged for the notes, so that I can be studying and share with my friends, villagers in my community. We need to start lobbying for our rights. I have made some friends here today. Whenever I meet people in a group, I can have a short time discussing as we are chatting, as you and me, we can be sharing our stories. This is what I will be doing in my community as well. People become interested, and they will learn it.'

In-depth interview, 6 February 2018.

Table 2. Key women's land rights messages addressed at the public awareness meetings

Key message in vernacular Chichewa language	Translation to English
<i>Malo anga, ufulu wanga</i>	My land, my right
<i>Siyani mchitidwe olanda malo</i>	Stop land grabbing
<i>Malo anga, chuma changa'</i>	My land, my wealth
<i>Kodi mukudziwa kuti mungathe kulembetsa malo a makolo?'</i>	Do you know that you can register customary land?
<i>Dziwani kuti simudzafunsidwa kulipira ndalama yili yonse polembetsa malo</i>	Be informed that you will not be required to pay any money when registering your land
<i>Mayi amene walembetsa malo ake amakhala odzidalira pa moyo wake</i>	A woman who registers her land is food secure, gets income and becomes self-reliant and resilient

In the framework of the WLRA programme, two community awareness meetings were organised by the Rural Women's Assembly in Kasungu district at the traditional authority Lukwa headquarters and in Phalombe district at the traditional authority Nazombe headquarters (see Table 1).

In Kasungu, over 130 people attended the sensitisation meeting, with over 80 women and girls and about 35 men. In Phalombe, attendance was overwhelming. Over 500 people attended the meeting, including more than 400 women.

Women leaders from the women's land rights forums coached different existing groups including traditional dancers, poets and drama groups in preparation for the performances which were part of the community awareness-raising meetings. They were given different key women's land rights messages that were captured from the information, education and

communication messages that Oxfam has developed under the EU land governance project (see Table 2).

The public awareness meetings built upon the capacity of the trained women leaders and the power of performance using drama, poems and traditional dances. Messages were also delivered by various speakers including officials from the Ministry of Lands, Housing and Urban Development, traditional authorities, rural women leaders, the representative from LandNet and the RWA leadership.

After each performance, people were encouraged by the organisers to ask questions and/or comment on the messages delivered and discussed. Having all of these women connected in one meeting stimulated collective understanding and the willingness to strive for a common goal. As such, the meetings supported and reinforced a network that allows women to support each other and speak out in public.

The WLRA programme also facilitated the production of a video documentary, capturing rural women's voices and narrating the various challenges that women face in respect to land rights and their livelihoods in Malawi. The documentary² will be instrumental in subsequent campaigns that will continue raising awareness about the plight of women in as far as their land rights and livelihoods are concerned.

Box 4. Building on existing collective networks and speaking with one voice

The aim of COWFA and RWA is to educate women about their land rights and how to mutually support each other when members in or outside of the group face problems or have plans they would like to implement. The general idea is to organise women, to lead them to stand together and speak with one voice. Alice, chairwoman of RWA, explained the importance of women speaking with one voice, and the influence these women can have by doing so. 'Women in one voice appear to be more listened to, and more convincing' (interview 28 January 2018).

This is what Alice tried to achieve when she was organising the women's march in her village in February 2018. Alice wanted to improve the position of women in the village, and decided to take action. She mobilised all the women in her community, invited the senior chief, invited the relevant organisations working on these themes, invited the media and organised a march in order to stimulate the end of violence against women.

Conclusions

Through the WLRA programme and the intensive collaboration between the grassroots organisations COWFA and RWA, Oxfam and LANDnet in Malawi and LANDac, the research has found that, although women in matrilineal communities in southern Malawi generally have better access to land than in patrilineal communities in the north, control over land is not equally divided among women and men in the entire country. Mostly, husbands or maternal uncles hold decision-making power when it comes to land in Malawi and traditional leaders have an important role when it comes to conflict resolution.

² <https://www.youtube.com/watch?v=DRfrEGg6Evc&t=2>.

In addition, awareness about the rights of women is low and although women often feel that their tenure is secure, only 10 per cent of respondents claimed to own land in their names.

The newly adopted land bills do not discriminate against anybody in customary estates registration and titling. However, going by the strong patriarchal nature of society, if nothing is done to advocate for and raise awareness of women's land rights, it will be men who dominate the registration process. The WLRA project has therefore supported ongoing initiatives in Malawi that are successful in knowledge production, awareness raising and in creating a dialogue on the importance of women's land rights between multiple stakeholders and the creation of safe spaces where women leaders can come together to learn from each other and discuss the challenges that women face each day.

In particular, the WLRA programme has conducted a baseline report in three pilot districts to address knowledge gaps about women's land rights. It has organised three women's land right forums in three different districts in which women leaders were trained to become local champions. During these forums, women gained knowledge about land-related rights and subsequently were able to raise awareness about women's land rights in their own communities.

Another important activity to scale up the women's land rights agenda in Malawi and to contribute to the movement building was the organisation of community sensitisation meetings. These have resulted in a national network in which over 700 women from across the three districts are now participating. Women in particular have been at the centre of mobilising duty bearers to implement initiatives aimed at promoting and enhancing women's land rights. The video documentary which speaks to issues of women's land rights will be a useful tool to enhance advocacy in Malawi.

But much more needs to be done to ensure equal rights for women and men in Malawi. The WLRA programme was piloted in three districts, but Malawi includes 28 districts with very different local dynamics and customary laws. More support is required to facilitate the expansion of the WLRA activities to other districts to ensure increased awareness about women's land rights and to stimulate action from all stakeholders involved. Efforts should be directed towards:

- Helping women and men to understand the laws in their own language,
- Helping them to register their land according to the laws,
- Continuing training of local champions (women and traditional leaders), and
- Raising awareness within and across communities.

Finally, there is a need to strengthen the national women's movement through existing initiatives mobilising more women's land rights forums and building their capacity at the local level across the country.

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