

Unlocking Land Ownership and Land Tenure Rights for Women across Africa's Patrilineal and Matrilineal Societies: Obstacles and Process

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Presentation outline

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3. How matrilineal and/or patrilineal practices and customs shape policy choices and land reforms
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5. Case studies to support or falsify the real or perceived conflict of interest in land (re)allocation for majority of the poor rural natives and the international investors
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Introduction

- Issues of land governance have gained prominence in Africa focusing on access to and control of land in a framework of property rights discourse.
- Property rights refer to a bundle of decision rights that individuals have over a particular asset.
 - I. **the right to use the asset,**
 - II. **the right to exclude others from using the asset**
 - III. **the right to enjoy the benefits accrued from the asset**
 - IV. **the right to transfer or dispose-off the asset**
- However, multiple rights to the same parcel of land can be held by different people or groups.
- Therefore “ownership” of land does not necessarily imply the absolute exclusive right but rather it implies having a range of rights over land

- Land ownership tends to have two dimensions:

Access to land	Control of land
<ol style="list-style-type: none">1. Right to use the assets2. Right to reap the benefits from the asset	<ol style="list-style-type: none">1. Right to transfer or dispose-off the assets2. Right to exclude others from using the assets

- However, the question that remains is how do these bundles of rights manifest themselves in relation to women in Africa.

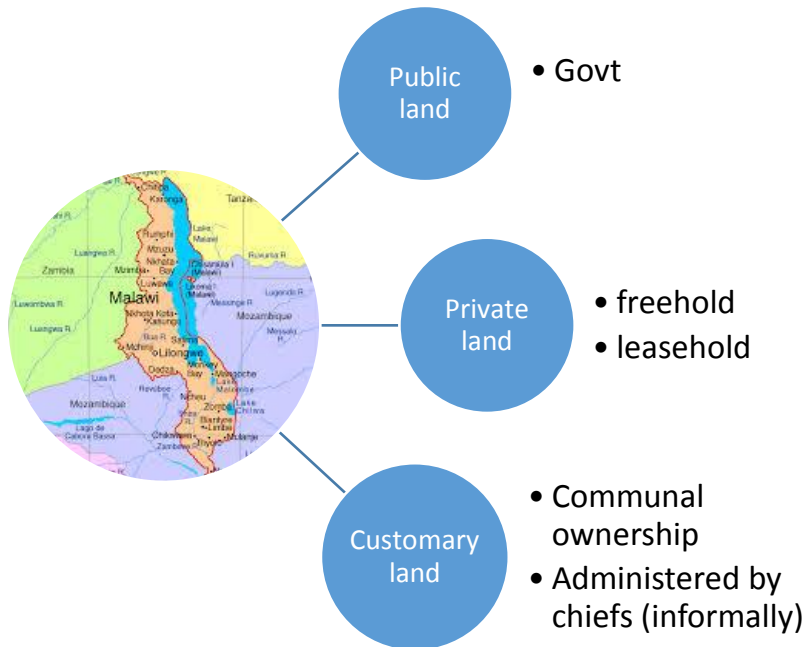
The institutional patterns in land governance

Institutional patterns:

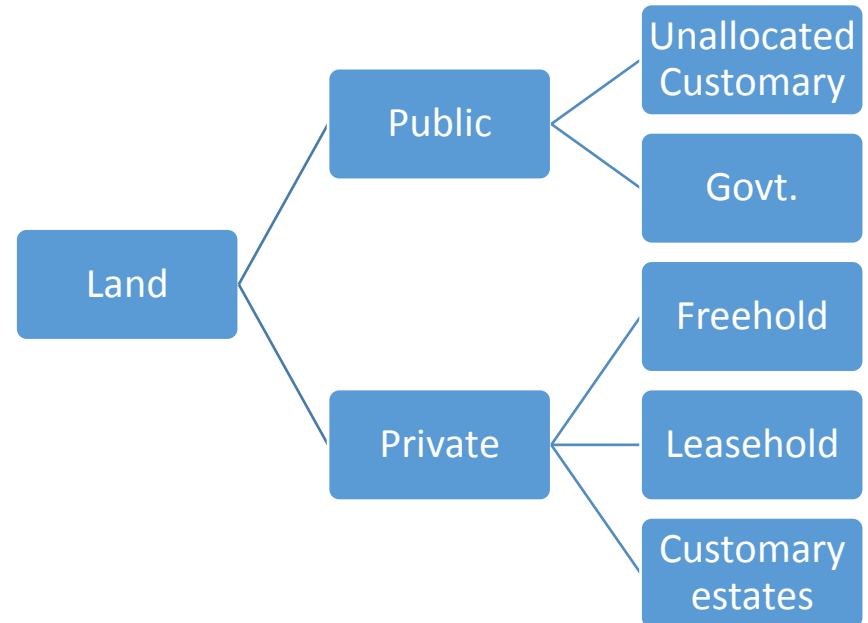
- complex relationships and interactions between and among rules, processes and structures through which decisions are made and implemented about access and control of land and the manner in which competing interests in land are managed.
- Categorisation of land is a fundamental variable that shapes institutional patterns of land governance

1. Land categorization in Southern Africa: Dominant and Emerging

Old



New



- **Institutional patterns of land governance in many African countries are characterized by some or a combination of the following aspects:**
 - I. A categorization of land inspired by colonial schemes
 - II. Problematic harmonization of statutory law and customary law which have competing, even contradictory emphasis
 - III. Superficial decentralization of land administration and management with real power to make decisions retained at the central government level
 - IV. Institutional pluralism in land administration and management with less clarity on their roles, limited capacities and have different interests

- **Land ownership is profoundly political and the contestations can be intense**

- **However, many recent initiatives focus on promoting more technical interventions.**

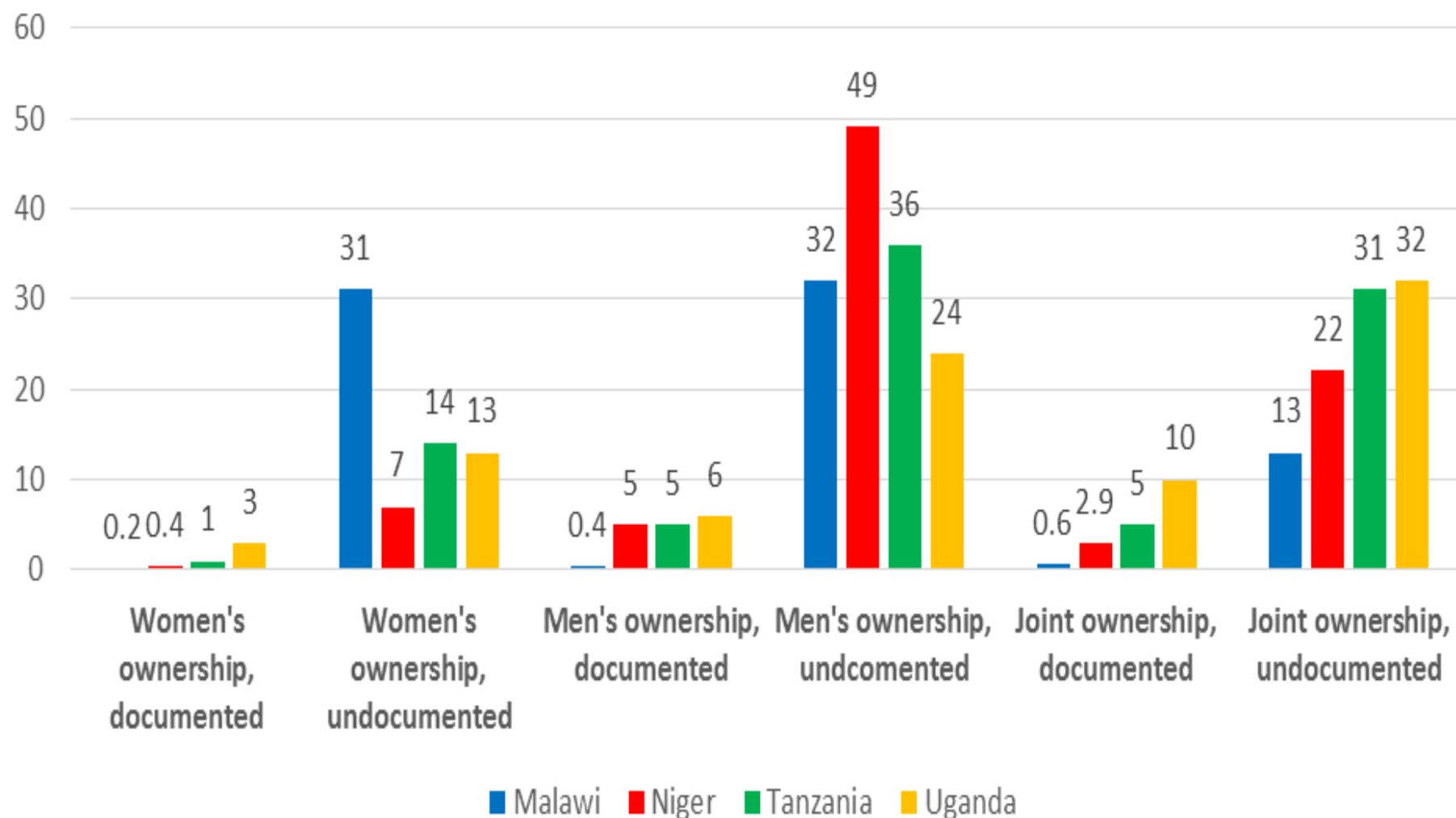
How matrilineal and/or patrilineal frameworks shape policy choices and land reforms

- The central element in matrilineal and patrilineal in relation to land is their traditional customs that define property rights.
- In matrilineal, although women are at the centre of inheritance of land, they may not be able to transfer it through sale, lease or rental.
- However, decision making on land use and reaping the benefits are considered to be men's domain.
- This means that a woman is merely an agent through whom land ownership is passed on from one generation to another.

- In patrilineal, both inheritance and decision making on land use and reaping the benefits are invested in men.
- This means that women have access to land only through their husbands.
- The fundamental point is that both patrilineal and matrilineal have systematic gender biases though biases against women are more and greater than those of men.
- However, the extent to which patrilineal and matrilineal customs shape policy choices and land reforms is a matter of context.

- Both patrilineal and matrilineal customs are seen to create problems of insecurity of tenure for people leading to demands for land law reforms (collective ownership and undocumentation)
- Thus both patrilineal and matrilineal motivate land reforms towards strengthening tenure security.
- Consequently, many recent land reforms promote individual rights to land in order to strengthening land tenure for women and men
- However, since both patrilineal and matrilineal emphasize on group rights to land, it is not easy to identify in whose name the land should be registered.
- This is evident in the limited number of documented ownership of land as shown below:

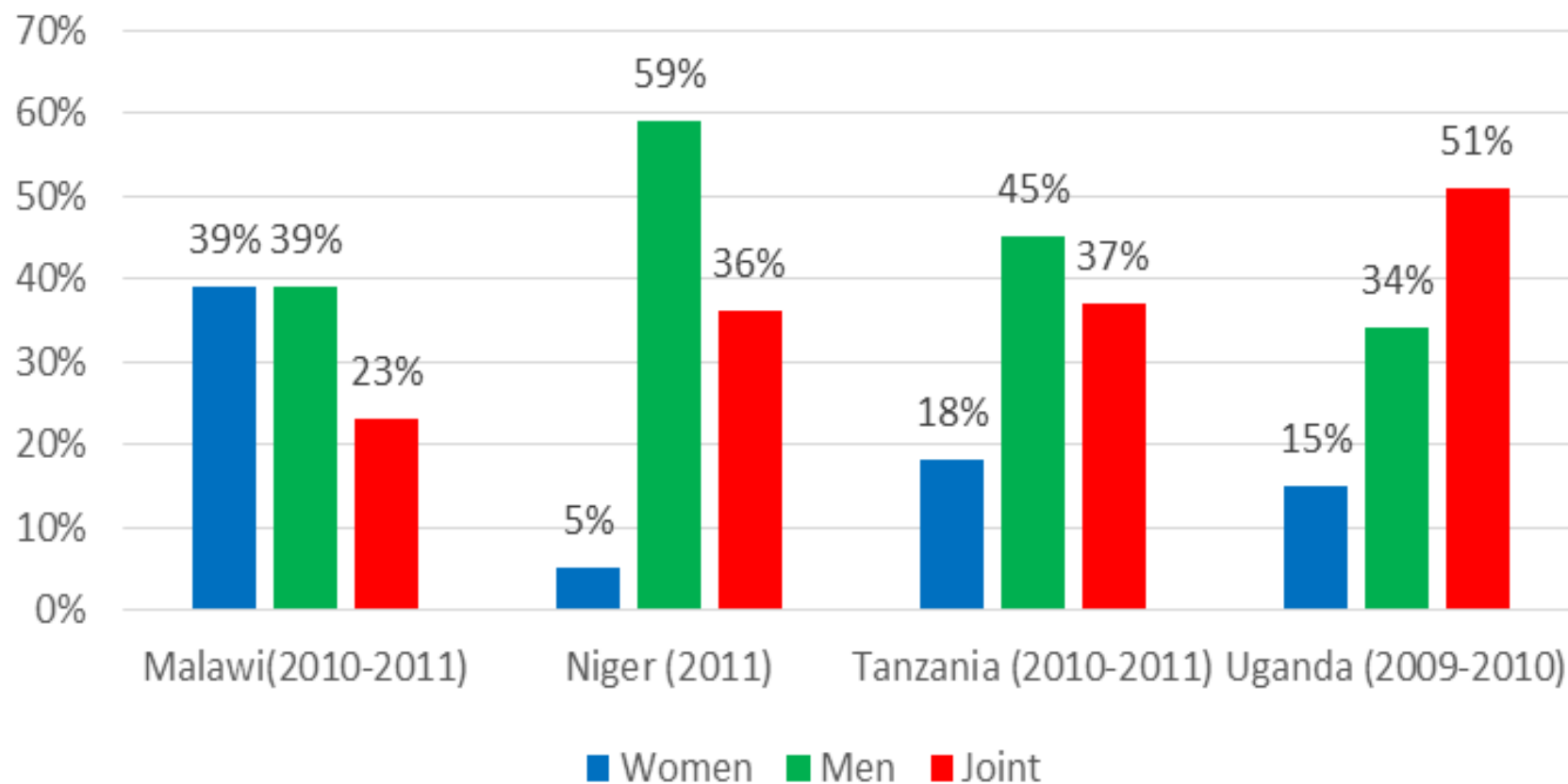
Land ownership by gender as proportion of total number of parcels



Development and land ownership rights for rural agrarian communities especially women

- Smallholder agriculture remains the dominant form of occupation in large parts of rural Africa and this makes land fundamental resource.
- This means that access to and control of land is a key determinant of income and livelihoods for many rural people including women.
- However, women's land "ownership" in many African countries is precarious.

Land ownership by gender as proportion of total number of parcels



Marriage and Women's ownership of Land- from a matrilineal perspective

- **Absolute indigenous:** fully indigenous in the village of residence. They will be the most secure groups as they are very eligible to inherit land.
- **Indigenous:** household heads whose mothers are indigenous in the village but their fathers are non-indigenous. They will be more secure than the weakest group the non indigenous.
- **Weakly indigenous :** household heads born of indigenous fathers and non indigenous mothers. They cannot inherit land legitimately. They tend to have more security than non indigenous.
- **Non-indigenous:** household heads whose parents are all non-indigenous in the village of residence. This group is insecure than the rest.

Corporate investment Versus Alienation of customary Land

- Direct Foreign Investment is generally viewed as an opportunity by many African governments as result they even seek and attract such investments.
- This is the case because many African governments expect investments and employment generation.
- Given the growing population in many African countries, there is ever increase demand for land by the population
- As result, there is competition over land between investors and local communities as well as fear for land dispossession amongst communities

- What is most striking is that expected benefits of DFI have not been realised and land acquisitions are dubbed by some as “land grabbing”.
- It has been observed that large-scale land acquisitions seem to be concentrated in countries with weak land governance institutions.
- The speed and scale of these acquisitions, particularly in Africa is another point of concern (World Bank, 2010).
- An analysis of the few contracts that are in the public domain show that deals are poorly negotiated and mostly favour the investors.

Case studies to support or falsify the real or perceived conflict of interest

Land deals for crop production

- For instance, in Madagascar, a South Korean firm announced on having acquired over one million ha of land in Madagascar to produce food crops for export to Asia. The deal was, however, cancelled.
- The paradox was in intending to grow food crop for export in a country that is food insecure and regularly receiving food aid

Information Asymmetry and lack of transparency in land deals

- For instance, An investment by the German company Frola EcoPower in Ethiopia was reported to involve 13, 000 hectares, while it was recorded at Ethiopian investment promotion agency as 3,800 hectares.
- Why were the 9,200 hectares not recorded? Was dispossession involved?

There is discrepancy between the stated aim for corporate land alienation and what actually happens in practice.

- For instance, in Senegal, the promotion of bio-fuel was expected to help diversification of energy sources and reduce the increasing oil bill, while protecting environmental pollution. However, it was clear that given the size of land required by the private investors the objective was mass production for export.

Concluding remarks

Strengthening land tenure rights for women requires an engagement with the anthropology, the sociology and the politics of land.