



CHAPTER 4

Women's Land Rights in Africa

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A new wave of land reforms has swept across a large number of developing countries since the millennium. Prior to the millennium, land tenure reform toward an individual freehold system was seen as a prerequisite for development in Africa south of the Sahara (SSA) by governments, development partners, and practitioners (Feder and Noronha 1987; Migot-Adholla et al. 1994). The arguments in favor of reforming the customary African land tenure system were mainly based on the neoclassical economic theory of property rights (Demsetz 1967; Barzel 1997) that predicts greater productivity as land tenure becomes more secure and individualized. Reflecting neoliberal thinking about private property rights, Besley (1995) identified three channels through which secure property rights can, in principle, bring about positive economic outcomes, namely (1) tenure security and higher land investment incentives; (2) smooth functioning of the land markets (tradability) that smooths farm input adjustment; and (3) facilitating access to institutional credit by allowing land to be used as collateral. These hypothesized effects of tenure security rely heavily on the neoclassical framework that presupposes markets for all goods and services (including credit and insurance markets) exist and, therefore, market clearing prices determine demand and supply choices of households (Bardhan 1989; Hoff, Braverman, and Stiglitz 1993).

However, in areas where risk, information asymmetry, and moral hazard (social distrust) are pervasive and transaction costs (mainly information and enforcement costs) are prohibitively high (as is the case in rural areas of SSA), such hypothesized effects of individualized property rights may not hold empirically. Regardless of the security of tenure, such absences or imperfections in the market can undermine farm households' incentive to undertake profitable investments (Holden, Shiferaw, and Pender 2001) and participate in any form of exchange process (Kranton 1996). In areas with no or few off-farm employment opportunities or other safety nets (as in rural areas of SSA), vulnerable groups (such as women and poor smallholders) internalize such imperfections in the market by using land not only as a productive asset but as a social safety net (Deininger and Feder 1998; Holden 2007). Hence, with such imperfections in the markets and limited institutions to support the functioning of markets in developing countries, liberalization, in the form of individualization of property rights, has failed to achieve the promised benefits of reducing the investment disincentives associated with the customary tenure system (Deininger and Feder 1998; Barrows and Roth 1990; Roth 1993; Platteau 1996; Benjaminsen et al. 2009;

Cotula, Toulmin, and Hesse 2004). The beneficial aspects of secure land tenure apply not only at the household level but also specifically to women's land rights within the household, which are shown to contribute to investment in sustainable agricultural practices, as well as women's bargaining power and decision making on consumption and human capital investment (Meinzen-Dick et al. 2018).

A body of literature on land property rights (Larson and Bromley 1990; Bromley 1991; Schlager and Ostrom 1992; de Janvry et al. 2001) acknowledges that privatization and individualization is not a priori the most efficient means of achieving tenure security. This was the basis for the revision of the 1975 World Bank land policy, which called for the introduction of private land rights in Africa, acknowledging the fact that the customary tenure system can increase tenure security and provide a basis for land transactions that are more cost effective than freehold titles (Deininger and Binswanger 1999).

With this recognition, recent land governance reforms in Africa focus on a more pragmatic approach (rather than a narrow focus on individual land titling) where the range of possible forms of tenure is considered as a continuum from informal toward more formal land rights recognition and where each step in the process of securing the tenure can be formalized (UN-Habitat 2008). The recognition of customary tenure and customary authorities and, thereby, formalization/documentation of customary rights both on a collective and on an individual basis has been central to the newfound approach (the continuum of tenure). Alongside the increasing attention given to customary land tenure, attention has also been drawn to women's land rights.

Thus, many of the recent land governance reforms have been hailed as a key element in efforts to ensure gender equality with respect to land rights, especially in the process of formalization of land rights both collectively and individually. More importantly, the ongoing social, economic, and agroclimatic dynamics in Africa make the scrutiny of the suitability of the status quo land governance system (customary tenure system) not only valid but also timely—especially in safeguarding land rights of vulnerable and marginalized groups such as women. This has led to various global-, regional-, and national-level initiatives and commitments to ensure gender parity in safeguarding land rights.

This chapter provides a cross-country overview focusing on (1) synthesis of recent legislative/regulatory and administrative/institutional land governance reforms on the continent with explicit provisions for women and promoting gender parity; (2) analysis of existing challenges (regulatory, institutional,

administrative, and budgetary) in the design and implementation of gender-responsive land tenure programs and policies; and (3) the implications for the status quo land tenure system (customary tenure system) in protecting women's land rights due to the changing landscape in the land sector, taking into account social, demographic, and economic dynamics on the continent.

Discourse on the Recent Wave of Legislative/Regulatory Land Reforms and Gender in Africa

In the land reforms after the 1990s, countries in Africa incorporated gender aspects in legal provisions to protect women's land rights. The reforms followed innovative approaches to land administration, including protection of women's land rights, and aimed to minimize gender inequalities concerning land, housing, and property rights. For instance, the African Union adopted the Protocol on the Rights of Women in Africa in 2003, focusing on various human, social, economic, and political rights of women. In 2015 the African Union Specialized Technical Committee on Agriculture and Rural Development, Water, and Environment adopted a recommendation that member states move toward allocation of 30 percent of land to women through legislative and other mechanisms, in order to facilitate their economic empowerment. Countries also took measures such as the explicit recognition of women's equal rights with men and the prohibition of gender-based discrimination; promotion of joint ownership and registration of land; affirmative action policies on land allocation to female-headed households and credit access to develop land; and laws on inheritance and property rights for widows and children (Augustinus and Deininger 2005). In the following paragraphs, we discuss the recent wave of land reforms focusing on women's land rights and gender parity with examples from selected African countries.

After the land redistributive reforms dominating the land tenure debate during the last decade of the 20th century, there is now a renewed global interest in land policy and legal reforms in part due to rapidly increasing population pressure and high food and fuel prices (IFAD 2001; Bonfiglioli 2003; Deininger 2003). Against this backdrop, there is now a growing consensus that, even in rural African contexts where individual titling of land may not be desirable or feasible from a gender-parity perspective, simple recognition of the different breadth of

rights individuals and communities have under the existing customary tenure system (by providing vulnerable landholders or land users with options to have their rights documented) can yield significant benefits (Deininger et al. 2008).

With this recognition, the continuum-of-land-rights paradigm offers an innovative alternative to a narrow focus on individual land titling where the range of possible forms of tenure (including perceived tenure, customary, occupancy, adverse possession, group tenure, leases, freehold) is considered as a continuum from informal toward more formal land rights and where each step in the process of securing the tenure can be formalized (UN-Habitat 2008). This approach has gained momentum in the last two decades due to the recognition of the limitations of past land titling programs and the argument that, given low population density and relatively abundant land, the usufructuary rights given under the customary tenure rights system do not impose large losses as long as markets for output, capital, and insurance are poorly developed, which ultimately is the case in the SSA context. Compared to a narrow focus on titling, the continuum-of-land-rights approach is better suited to protecting land rights of vulnerable groups such as women because it involves localized recording and documentation of rights (including secondary or derived rights to land normally held by women in rural Africa), adapting and expanding existing tenure and land administration systems where possible, and introducing new ones selectively (Augustinus and Deininger 2005).

Since the turn of the new millennium, initiatives to implement the continuum-of-land-rights approach have moved ahead in several African countries, including Uganda, Tanzania, Rwanda, Mozambique, Ethiopia, Benin, Côte d'Ivoire, and Burkina Faso. In a number of countries, land policies and laws have been passed that aim to integrate customary and formal land rights and tenure systems.

Proponents of the approach (including the World Bank) argue that, given the prevalence of high transaction costs and market imperfections, costs associated with communal land rights are low. However, although customary systems can meet social and economic needs and can be very secure, population pressure, urbanization, commercial pressures, and the monetization of customary land transactions are eroding the social cohesion that gives customary tenure its legitimacy (Augustinus and Deininger 2005). No single form of tenure can meet the different needs of all social groups. Hence, the progressive, incremental approach

whereby tenure rights are gradually formalized or upgraded over time is widely accepted as an alternative to costly or difficult land titling programs. (See Box 4.1 for a few examples of countries that have adopted this new approach.)

Although the customary land tenure arrangements across SSA may have served women relatively well in circumstances where land is deemed abundant, land is less commodified, and farming is subsistent and less commercial (Ghebru and Lambrecht 2017; Ghebru and Girmachew 2017, 2019), they need to be adjusted to the new demands being put on land by population increases, urban migration, and a global rush for commercial farming land. The challenge facing

governments in the region, and the aid agencies assisting them, is to find a “development model” that will facilitate economic growth without causing widespread dispossession and the poverty and social dislocation that would result, especially for women.

Under the continuum paradigm, many options exist for adjusting customary land tenures from which governments can choose that avoid a blanket solution to the land problems. The most sensible approach is to proceed step by step—without trying to do too much—focusing on the priority areas, adapting existing tenures rather than abolishing them, and implementing reforms in pilot

projects before introducing them more generally (UN-Habitat 2008). Along this range of incremental tenure options, the first and basic reform option is the recognition of customary tenure rights, under which the landownership of groups, including women, is protected, while individuals are given the security they need to invest in land development.

If the objective is to formalize rights as they exist on the ground, this will generally require the formal codification of customary institutions. Possible ways to do this are diverse (Kanji et al. 2005) and have met with varied results. One possible method of formalizing customary institutions (as outlined by Fitzpatrick, 2005) is known as the “minimalist approach.” The essence of the “minimalist approach” is captured by the statement that for certain areas, “customary rights to land are recognized” without any further interference. According to Fitzpatrick, this approach allows customary rights to evolve over time in response to population changes and economic needs, without undue restrictions or impositions by a formal legal regime. Such a basic intervention could act as a targeted answer to the problem of encroachment by outsiders,

BOX 4.1—EXAMPLES OF INNOVATIVE PRO-WOMEN LAND TENURE REFORMS

Nature of intervention	Countries
1. Recognition of customary land rights of women	• Mozambique, Uganda, Ghana
2. Legal protection of individual use/occupancy rights (issuance of certificates of occupancy) of women	• Tanzania, Ethiopia, Malawi, Nigeria
3. Community land demarcation and collective titles	• Uganda, Mozambique, Ghana
4. Decentralized land administration system <ul style="list-style-type: none"> • Establish land boards • Village-level land administration council/committee • Promote women’s participation in decentralized land administration 	<ul style="list-style-type: none"> • Mozambique, Uganda, Ghana • Tanzania, Ethiopia • Ethiopia, Rwanda, Uganda, Zambia
5. Land registration/documentation <ul style="list-style-type: none"> • Sporadic (demand-driven) land registration • Systematic (supply-driven) joint land registration 	<ul style="list-style-type: none"> • Tanzania, Uganda, Mozambique • Rwanda, Ethiopia
6. Forms of decentralized dispute resolution mechanisms	<ul style="list-style-type: none"> • Uganda (tribunals, local government mediators) • Tanzania (village land administration council) • Ethiopia (local conflict mediators) • Malawi (land tribunals—proposed)

Source: Authors’ compilation.

particularly in circumstances where this constitutes the primary cause of local tenure insecurity (Ghebru 2015). This approach, for example, informs the 1997 Land Law in Mozambique, which broadly demarcated customary areas while leaving land issues within those areas subject to unregulated customary processes (Toulmin and Quan 2000). Uganda and Ghana provide other examples of this type of approach (Hvalkof and Plant 2000).

Simply recognizing customary rights would not be appropriate where tenure insecurity arises from matters internal to the group. Pressures from an ever-growing population and urbanization in many SSA countries call for enhancement of occupancy rights, which can take the form of proclamations against forced evictions and relocations. New tenure types to address such issues include issuance of occupancy right certificates (generally critical for customary tenure rights, particularly secondary rights of women) that protect against eviction and expropriation without fair compensation. Only in the event of considerable tenure insecurity within a group, particularly as a result of individualization tensions (mainly caused by the pressures of population and urbanization) and/or the emergence of land dealings with foreigners, would the benefits of recording individual interests potentially outweigh the considerable costs and risks of the recording process. That said, a number of African countries do allow for the issue of certificates of individual customary rights to land, including Rwanda, Tanzania, Malawi, Mozambique, and Uganda (see Alden Wily 2003; Toulmin and Quan 2000).

Governance Constraints in Maintaining Gender Parity in Land Rights

Despite many SSA countries embarking on major changes toward the recognition of customary land rights (especially those of women), the potential positive social and economic outcomes of these land rights laws and policies hinge on proper enforcement mechanisms. Any ambiguity in the enforcement mechanisms of such laws and policies leads to an increase in transaction costs and ultimately results in “elite capture,” where the wealthier and powerful groups acquire the land rights at the expense of the poor and other vulnerable groups, such as women. Potential impediments to proper enforcement include (but are not limited to) lack of capacity, corruption, and social practices in customary

laws that favor men. This is especially so in rural SSA as implementation and enforcement of the legal and institutional reforms often do not follow suit, and women still face discrimination at various stages of the implementation process. No matter how comprehensive the legal and institutional framework, partial or incomplete implementation and enforcement often mean that, in practice, women remain discriminated against.

This section draws on the results from the Land Governance Assessment Framework (LGAF),² a diagnostic land governance tool developed by the World Bank to examine challenges in the implementation and enforcement of a legal and institutional framework focusing on 10 case study countries (selected to represent a broad range of land tenure types and diverse modalities for reinforcing land rights). The LGAF assessments use a similar set of indicators with consistent implementation modalities across countries, providing comparison on three significant aspects (necessary though not sufficient conditions) for gender parity in land rights: recognition of women’s land rights; implementation of land policies and programs; and issues associated with accessibility and sustainability of programs/interventions.

Tables 4.1 through 4.3 present results from key LGAF indicators that show the performance of each country in maintaining gender parity in land governance matters by visually displaying color-coded validated rankings for each indicator in the 10 selected African countries.

Land Rights Recognition

Overall, we find that land rights (including those of groups such as women, migrants, and pastoralists) are well recognized in general terms by relevant laws, partly as a result of a series of legal and regulatory reforms by many African countries in the late 20th century. Customary practice, however, often discriminates against women by allowing them to access land only through spouses or men in their lineage. In many countries strong gender bias in land access persists. Of the five countries with indicators about the existence of legal provisions about gender parity in property rights, only Tanzania has such legal provision clearly stated. The results in Table 4.1 reveal that only in Ethiopia and Rwanda are more than 20 percent of registered land rights in the name of females, individually or jointly.³

² See Deininger, Selod, and Burns (2011) for more on the LGAF methodology and process.

³ In the LGAF methodology, a score of A means that at least 20 percent of registered land is registered in the name of a female (individually or jointly) and scores B through D reveal percentages lower than 20 percent (Deininger, Selod, and Burns 2011).

This shows the enormity of the challenge in achieving the African Union Commission's (AUC's) commitment to achieving the 30 percent target of allocated documented landownership for women.⁴ Women are not only disadvantaged and marginalized in their access to land individually but also suffer from lack of property rights recognition in groups. To show the extent of such discrimination, we assessed three other LGAF indicators, namely, whether rural group land rights, long-term unchallenged possessions, and nondocumentary land rights are formally recognized. As women rely heavily on traditional/customary modes of land acquisition (such as inheritance, gift, or allocation by traditional authorities), legal recognition of such rights matters in protecting women's land rights. In this case, although countries like Ethiopia, Mozambique, Rwanda, and Uganda have made good progress in recognition of undocumented rights and rights due to long-term possession, in other countries (like Nigeria and Zambia) even long use of a plot does not lead to its eventual ownership.

Implementation Issues

Beyond mere recognition of land rights, where many African countries have made progress, it is important to examine gender parity in the implementation of land governance interventions and their affordability. More often, the formalizing and individualizing of customary land rights have accompanied many of the regulatory and legislative land reforms the continent has seen since the turn of the millennium.

TABLE 4.1—SELECTED LGAF SCORECARD FROM 10 AFRICAN COUNTRIES FOCUSING ON RECOGNITION OF LAND RIGHTS OF WOMEN AND OTHER VULNERABLE GROUPS

	Ethiopia	Ghana	Madagascar	Malawi	Mozambique	Nigeria	Rwanda	Tanzania	Uganda	Zambia
Women's property rights in lands as recognized by relevant laws are recorded.	A	D	C	C	D	D	A	D	C	D
Women's property rights to land are equal to those of men.	C	NA	NA	NA	D	NA	NA	B	C	C
Land policies address equity and poverty reduction goals.	B	C	B	C	C	C	A	C	B	C
Rural group rights are formally recognized and can be enforced.	B	B	B	C	D	C	NA	C	B	A
Nondocumentary evidence is effectively used to help establish rights (Customary).	A	C	C	B	B	C	A	C	A	A
Long-term unchallenged possession is formally recognized.	A	C	A	B	A	D	A	B	A	D

Source: www.worldbank.org/en/programs/land-governance-assessment-framework#2.
 Note: NA = data/scoring not available. Under the LGAF methodology: "A" represents that the indicator description is the best option toward a good land governance scenario; "B" represents that the indicator description is generally the second-best set of options to make progress toward good land governance; "C" represents that the indicator description generally struggles to meet the criteria for good land governance but that some attempts are being made; and "D" represents that there are no attempts in this area that indicate the operation of good land governance.

Formal and Informal Costs of Land Rights Formalization

Even the most prominent advocates of formalization of customary land rights have shown some skepticism about formal registration of customary land rights. In addition to social resistance to reforms and lack of political will (Isaakson 2015; Kumar and Quisumbing 2012), potential legal illiteracy (ignorance of land laws) and the high cost of land registration are often mentioned as two main reasons women might be excluded or discriminated against with regard to their land rights, especially in the era of growing commercial interest in land (Behnke 1994; Gray

⁴ The African Union Specialized Technical Committee on Agriculture, Rural Development, Water and Environment recommended that member states allocate 30 percent of documented land rights to women and improve land rights of women through legislative and other mechanisms.

and Kevane 1999; Lastarria-Cornhiel 1997; Ostrom 1990). Such legal illiteracy and/or the prohibitive cost of formally registering land rights may expose marginalized groups (such as women) to elite capture. Hence, for any formal land registration reform to be considered as gender-sensitive reform, formal costs and fees associated with such reforms should be affordable and informal costs (bribes) should be eliminated or discouraged.

Cross-country comparisons of five LGAF indicators show that despite encouraging efforts by countries to recognize land rights of women, immense gaps remain when it comes to the implementation of reform interventions. Table 4.2 shows that protecting land rights via registration/documentation is not only subject to prohibitively high costs in most of the countries under study, it is often subject to high informal payments or bribes (as in Ethiopia, Ghana, Madagascar, and Nigeria)—supporting the elite capture narrative. For example, seven out of the 10 countries selected are reported to have a very costly land rights registrations process. In addition, women may face similar challenges if they litigate or appeal land disputes, indicating that there is a long way to go in ensuring that land dispute resolution mechanisms are inclusive and accessible to marginalized groups like women.

Accessibility and Decentralization of Land Services Delivery

Among the recent wave of national-level initiatives aimed at improving land governance is the push toward political and administrative decentralization in the land sector, driven by the aim to enhance the efficiency and effectiveness of the land services delivery systems. Devolution of land administrative systems and locally empowered land services delivery systems are found to be more successful in maintaining equitability and enhancing access to land services by women and other marginalized groups (Hilhorst 2010). Two land governance dimensions from the LGAF provide indicators of devolution: formal recognition

TABLE 4.2—SELECTED LGAF SCORECARD FROM 10 AFRICAN COUNTRIES FOCUSING ON ENFORCEMENT AND IMPLEMENTATION OF LAND RIGHTS PROTECTION INTERVENTIONS AND THEIR AFFORDABILITY

	Ethiopia	Ghana	Madagascar	Malawi	Mozambique	Nigeria	Rwanda	Tanzania	Uganda	Zambia
First-time recording of rights on demand includes proper safeguards and access is not restricted by high fees.	A	C	D	B	B	D	D	B	D	D
Total cost of recording a property transfer is low.	A	C	D	D	D	D	D	D	B	D
Informal payments are discouraged.	D	D	D	B	C	C	A	B	B	B
Mutually accepted agreements reached through informal dispute resolution systems are encouraged.	C	A	C	C	B	A	A	A	C	B
There is an accessible, affordable, and timely process for appealing disputed rulings.	C	B	C	C	C	C	B	C	C	C
Source: www.worldbank.org/en/programs/land-governance-assessment-framework#2 .										

of traditional/local land dispute resolutions and accessibility, affordability, and timely appeal process of disputed rulings. As shown in Table 4.2, only two of the 10 countries (Ghana and Rwanda) have a decentralized and accessible land services delivery system, showing formidable gaps to be overcome to provide equitable and affordable land services to women.

Accessibility and Sustainability of Interventions and Monitoring and Evaluation Systems

Public Participation

Another aspect of the land governance challenge associated with maintaining gender parity in land rights is the issue of equitable accessibility to land governance services and sustainability of such programs. A lack of participatory processes in the development of land policies and regulations is more pronounced in countries such as Nigeria, Zambia, and Madagascar. This is

particularly problematic because these countries have received large-scale land-based investments, which can directly threaten or curtail access to land for women and other marginalized groups.

Local Financing (Public Budget) and Sustainability Issues

Even though a number of African countries have been rightly commended for the strides they have made in introducing and implementing equitable and gender-responsive land governance programs (for example, joint land certification programs in Ethiopia and Rwanda; legal literacy programs in Tanzania and Uganda), the implementation and operationalization of such programs often comes under scrutiny due to the heavy dependency on donor funding. Such challenges affect the sustainability of such innovative programs. As Table 4.3 shows, in assessing “whether the implementation of land policy is costed, matched with benefits, and adequately resourced nationally,” only two of the 10 countries (Madagascar and Rwanda) have mobilized domestic financial resources to implement their land reforms. Again, this is indicative of the enormity of the task many African nations and the AUC face in fulfilling the African Union’s commitment

on documenting landownership in trying to have such programs sufficiently funded from national budgets instead of heavily relying on donor support.

Monitoring and Evaluation

Following the recent wave of gender-friendly regulatory and administrative reforms in Africa, the replicability of such reforms hinges on effective monitoring and reporting mechanisms. However, data on land administration, governance, and use in Africa are generally fragmented and there is a paucity of data on land reform experiences. There have been few national examples of systematic tracking of progress in land policy development and implementation on the continent. This is the case, for example, for the challenge of tracking progress toward achieving the AUC commitment to allocate 30 percent of documented land to women.

Such a gap in monitoring and evaluation (M&E) of land governance reform programs is revealed by the LGAF results that eight of the 10 countries under study are reported to have no or weak regular monitoring and reporting systems in land governance. The presence of systematic efforts to collect land information in two of the 10 countries under study (Rwanda and Ethiopia) demonstrates

that regular monitoring and reporting is doable. The recent initiative of the African Land Policy Center together with the International Food Policy Research Institute to develop an M&E framework for tracking progress in land reforms in Africa is one step toward addressing such challenges in M&E of land governance on the continent.

Roles of Social, Demographic, and Economic Dynamics

In this section we discuss the disjuncture in Africa between men’s and women’s parity in land rights (comparing women’s land rights to the general domain—including men) taking into account (1) the changing social dynamics (demographic

TABLE 4.3—SELECTED LGAF SCORECARD FROM 10 AFRICAN COUNTRIES FOCUSING ON ACCESSIBILITY AND SUSTAINABILITY OF LAND RIGHTS PROTECTION INTERVENTIONS AND MONITORING AND EVALUATION SYSTEMS

	Ethiopia	Ghana	Madagascar	Malawi	Mozambique	Nigeria	Rwanda	Tanzania	Uganda	Zambia
Land policies and regulations are developed in a participatory manner involving all relevant stakeholders.	B	B	C	B	B	C	A	C	A	C
The implementation of land policy is costed, matched with benefits, and adequately resourced.	C	C	B	C	D	D	B	C	C	C
Regular monitoring and reporting system is in place.	B	C	D	D	D	D	B	C	D	C
Land policies help to improve land use by low-income groups and those who have experienced injustice.	B				B		B	B	B	B

Source: www.worldbank.org/en/programs/land-governance-assessment-framework#2.

shift, migration, population pressure); (2) the changing economic dynamics (urbanization, agricultural commercialization, development of land markets, infrastructural development, changing land values) on the continent; and (3) the changing environmental dynamics (land degradation, for example). Such dynamics affect women's access to, ownership of, and control over land depending on how women acquired those rights: (1) through social institutions (inheritance/gift); (2) from customary institutions (allocation by traditional authorities); (3) through state allocation (allocation by formal authorities); or (4) through the market (rental/purchase).

To explore this quantitatively, we rely on existing data from Ethiopia, Malawi, Mozambique, and Nigeria, which also represent a broad range of land tenure types and diverse modalities for reinforcing land rights.⁵ To maintain comparison across countries, we define women's land rights as women's access to and/or control over land. Note, however, that "access" to land does not necessarily provide secure tenure, especially for women (see Doss, Kieran, and Kilic, forthcoming; Doss and Meinzen-Dick 2018; Slavchevska et al. 2017).

Panel A of Table 4.4 shows the prevalence of women's land rights in aggregate. Women have land rights in as many as 39 percent of the parcels in Malawi and as little as 29.74 percent in Nigeria. Ethiopia stands out, as women there are reported to have joint or sole management and/or decision-making rights over 56.08 percent of the parcels.

TABLE 4.4—STATUS OF WOMEN'S LAND RIGHTS IN FOUR AFRICAN COUNTRIES BY MODES OF LAND ACQUISITION

	Nigeria		Ethiopia		Mozambique		Malawi	
	Total	% of parcels with women as rights holders	Total	% of parcels with women as rights holders	Total	% of parcels with women as rights holders	Total	% of parcels with women as rights holders
	(1)	(2)	(1)	(2)	(1)	(2)	(1)	(2)
PANEL (A)								
Aggregate	29.74		56.08		34.41		39.18	
PANEL (B)								
Mode of land acquisition								
Purchase	4.59	7.69***	4.22	4.1	13.62	13.3	3.58	4.59***
Sharecrop/rent in	9.41	13.43***	12.26	13.33	0.56	0.37	7.52	10.01***
Inherit/gift	11.88	9.51**	42.64	42.64	32.18	41.5***	21.56	18.45***
Allocation (customary/formal)	74.12	69.37**	37.96	38.06	21.38	21.28	65.94	65.66
Other		0	2.91	1.86	32.26	24.55***	1.4	1.29
Aggregate		100	100	100	100	100	100	100
Source: Authors' computation. Note: ** is 5% and *** is <=1% level of significance.								

Panel B examines how these figures change depending on how land was acquired. For each country, the numbers reported in the first column indicate the aggregate (men and women included) prevalence of each mode of acquisition, and the numbers in the second column indicate the relative prevalence of each mode of acquisition over which at least one female is reported to have land rights. In general, in a case where there is complete gender equality, the results would yield columns that are equal to each other. Any deviation from that indicates that women are more likely (or less likely) than the sample as a whole to access land through that modality if the number on the second column is larger (or smaller).

As can be seen from Panel B, for Ethiopia there is no statistically significant difference between the total sample mode of land acquisition and the mode of

⁵ See Chapter 4 Appendix Table A.1 for details. (<https://www.resakss.org/node/6744?region=aw>).

land acquisition of parcels over which women were reported to have land rights. This is an indication of little or no discrimination against women's land rights regardless of how the land was acquired by the family/household.

In the other three countries (Nigeria, Mozambique, and Malawi), discrimination against women's land rights varies depending on how the parcel was acquired. In Mozambique (a relatively land-abundant country compared with Nigeria and Malawi), women have proportionally greater land rights over parcels acquired via customary sources (family inheritance or gift) than the total sample, while no statistically significant difference is registered for women's land rights for land acquired via market-based sources (purchased or rented parcels). However, in Nigeria and Malawi (countries in which land is subject to more constraints or is more scarce compared with Mozambique), the results show that women's land rights are more constrained on parcels acquired via customary or traditional sources (such as through inheritance or gift or through allocations by traditional authorities) compared with parcels acquired via market-based sources. In Nigeria, for example, the overall sample averages for parcels acquired via traditional or customary sources (11.88 percent for inheritance/gift and 74.12 percent for allocation by traditional authorities) are significantly larger than the proportions of parcels with women having land rights that are also acquired through similar means (9.51 percent and 69.37 percent, respectively). The story is similar in Malawi, where the proportion of parcels with land rights by women acquired via purchase and rentals (4.59 percent via purchase and 10.01 percent via rentals) is significantly larger than the total sample average of parcels acquired via similar sources (only 3.58 percent and 7.52 percent, respectively).⁶

The findings in Nigeria and Malawi contradict the narrative that women's land rights are protected under customary or traditional systems, whereas the results from Mozambique support that

narrative. To investigate whether the ongoing social, demographic, and economic transitions on the continent have anything to do with eroding the protection of women's land rights by the customary/traditional land tenure system, Tables 4.5 through 4.7 present the results by comparing the proportions of households reporting at least one female having land rights using community-level indicators for social, demographic, and economic dynamics.

TABLE 4.5—WOMEN'S LAND RIGHTS, DEMOGRAPHIC CHANGE, AND SOCIAL DYNAMICS IN FOUR AFRICAN COUNTRIES

Community-level indicators	% of parcels with women reported to have land rights			
	Nigeria	Ethiopia	Mozambique	Malawi
Homogeneity of a community (I)				
More homogeneous	56.87	55.31	56.88	NA
Less homogeneous	43.13	44.69	43.12	NA
Youth bulge (II)				
More youth population	36.86	40.81	46.69	34.18
Less youth population	63.14	59.19	53.31	65.82
Population density (III)				
More dense	34.65	48.69	NA	40.81
Less dense	65.35	51.31	NA	59.19
Land abundance (IV)				
More abundant	57.41	77.77	53.77	58.74
Less abundant	42.59	22.23	46.23	41.26
Source: Authors' computation. Note: Homogeneity of community: Dummy variable equals 1 if the village-level proportion of households whose head and/or spouse is nonindigenous is greater than the sample median proportion, and zero otherwise. Youth bulge: Dummy variable equals 1 if the village-level proportion of youth (within the age bracket of 15–35) is greater than the sample median proportion, and zero otherwise. Population density: Dummy variable equals 1 if the population density of a given village is greater than the sample median, and zero otherwise. Land abundance: Dummy variable equals 1 if the village-level per capita landholding is greater than the sample median, and zero otherwise.				

⁶ See Chapter 4 Appendix Table A.2. (<https://www.resakss.org/node/6744?region=aw>). As shown in Appendix Table A.2., the results remain robust/consistent. For example, in the case of Nigeria, the proportion of parcels over which at least one female is a land right holder is relatively larger for parcels acquired via market-based sources (33 percent for purchased parcels and 48 percent for rented or sharecropped- in parcels) than for parcels acquired via customary/traditional-based sources (that is, only 27 percent and 30 percent for parcels acquired through inheritance/gift and allocation by government/traditional authorities, respectively). The story is the same for Malawi.

Social and Demographic Changes (Dynamics)

The results reported in Panels I and II of Table 4.5 suggest that a lack of social harmony or homogeneity in a community (indicated by a larger proportion of immigrant household heads or spouses in the community) and a higher concentration of youth in a community are threats to women's land rights, as the proportion of parcels over which at least one female is reported to have land rights is significantly lower in communities characterized by relatively less homogeneity and a higher concentration of youth. The latter is probably due to high competition for land by youth. Such findings are robust across the four countries under study. Consistent with the findings reported in Table 4.4, population density also seems to erode women's land rights under the customary tenure system, especially in Nigeria and Malawi, as the figures in Panel III of Table 4.5 demonstrate. Similarly, the results reported in Panel IV suggest that a relative abundance of land in a community seems to matter the most for women to enjoy rights over land. This result is consistent with similar findings from Ghana (Ghebru and Lambrecht 2017), Nigeria (Ghebru and Girmachew 2017), and Mozambique (Ghebru and Girmachew 2019) showing the vulnerability of women (especially female heads) in areas with relative land scarcity, given that they are most likely to be residual claimants as their ownership and/or control over land is often targeted by in-laws in land-constrained areas.

Economic Vibrancy and Land Market Vibrancy (Dynamics)

To investigate the notion that increasing land values and the commodification of land may further marginalize women as competition for land intensifies, we conduct further differential analyses (shown in Table 4.6). We assess for possible variation in women's land rights by comparing areas/communities depending on the levels of agricultural modernization, agricultural commercialization, and land market development or vibrancy. Directly or indirectly, we expect these factors to help explain how economic and market dynamics influence women's land rights under the customary/traditional land tenure system.

The results reported in Panel I of Table 4.6 show that communities with less vibrant land rental markets have higher proportions of women who hold land

TABLE 4.6—WOMEN'S LAND RIGHTS AND THE ROLES OF ECONOMIC VIBRANCY AND PREVALENCE OF LAND MARKETS IN FOUR AFRICAN COUNTRIES

Community-level indicators	% of parcels over which women are reported to have land rights			
	Nigeria	Ethiopia	Mozambique	Malawi
Land market vibrancy (I)				
More vibrant community	48.2	41.51	47.59	NA
Less vibrant community	51.8	58.49	52.41	NA
Agricultural commercialization (II)				
More commercial	31.95	19.78	31.77	NA
Less commercial	68.05	80.22	68.23	NA
Agricultural modernization (III)				
Modern	36.55	15.88	43.04	NA
Traditional	63.45	84.12	56.96	NA

Source: Authors' computation.

Note: Land market vibrancy: Dummy variable equals 1 (more vibrant) if the village-level proportion of households that have at least one parcel acquired via market (rental/purchase) is greater than the sample median proportion, and zero otherwise. Agricultural modernization: Dummy variable equals 1 (modern) if the village-level proportion of households that utilize modern agricultural practices (such as use of irrigation, use of fertilizers, participation in an extension program, and so forth) is greater than the sample median proportion, and zero otherwise. Agricultural commercialization: Dummy variable equals 1 (more commercial) if the village-level proportion of households that report selling at least one agricultural output (crop, fruit tree, livestock products, and so on) is greater than the sample median proportion, and zero otherwise.

rights. The data show that in areas with high levels of land rental market activity (above the sample community median level), the status quo tenure system (customary tenure system) may not be doing enough to protect women's land rights compared with areas where the land market is less developed. In support of the notion that women are more marginalized in areas with relatively higher shadow values for land, the figures in Panels II and III of Table 4.6 further reveal that women living in areas marked by a high level of agricultural commercialization and modernization face more constraints to their land rights than women residing in less commercialized areas.

Overall, the results suggest that as land commodification (due to urban expansion and emerging land markets) increases, women will become more vulnerable and marginalized if control over resources (the decision to sell or rent property, including land) remains mainly in the hands of the husband (principal

male). Such findings support the notion that traditional institutions and the protection they can provide matter more for women than for men (Ghebru and Lambrecht 2017; Deininger et al. 2018).

Role of Land Tenure and Land Tenure Security

We also attempted to investigate the differential effects of the recent wave of land governance reforms in Africa over the past two decades on women's land rights by conducting a differential analysis considering three community-level parameters on land tenure and security issues, namely, intensity of land registration/documentation, legal literacy, and prevalence of tenure insecurity. As Table 4.7 shows, the effect on women's land rights of the intensity of land registration appears to vary by country. In Ethiopia, we see a higher proportion of women with land rights in areas with more intense land registration, but the opposite holds true in Mozambique.

Such contrasting evidence could be due to the highly participatory process and systematic nature of land registration (Holden et al. 2009; Deininger et al. 2008) as well as to the complementary legal provisions for joint land certification in Ethiopia, especially when compared with Mozambique, where the registration process is of an ad hoc and sporadic nature (which is, often, less transparent and participatory compared with systematic registration).

Community-level legal literacy seems to boost women's land rights (in Mozambique), as the results show that a higher prevalence of land-related legal knowledge is associated with a higher proportion of parcels where at least one female is reported to have rights to manage or control the land. Such empirical evidence reinforces the belief that the Sustainable Development Goal indicators for land tenure security that incorporate legal literacy on land matters are effective measures of enhancing tenure security, especially for women.

When we compare communities based on the perceived level of land tenure insecurity (Panel III in Table 4.7), we find that, in all four countries, communities with lower levels of perceived tenure insecurity have significantly higher proportions of parcels where at least one female holds land rights. Empirical studies have shown that the prevalence of land market transactions in a given community is associated with erosion of perceived tenure security of households. In customary areas with potentially lucrative land markets, a noticeable shift has been seen in

TABLE 4.7—WOMEN'S LAND RIGHTS, LAND TENURE, AND TENURE SECURITY

Community-level indicators	% of parcels with women reported to have land rights			
	Nigeria	Ethiopia	Mozambique	Malawi
Prevalence of land registration (I)				
More registration	NA	61.25	44.81	NA
Less registration	NA	38.75	55.19	NA
Legal literacy (II)				
More literate	NA	NA	58.09	NA
Less literate	NA	NA	41.91	NA
Collective perceived tenure security (III)				
More secure	65.56	63.8	51.33	54.85
Less Secure	34.44	36.2	48.67	45.15

Source: Authors' computation.

Note: Prevalence of land registration: Dummy variable equals 1 if the village-level proportion of households reporting that at least one parcel is registered/documented is greater than the sample median proportion, and zero otherwise. Legal literacy: Dummy variable equals 1 if the village-level proportion of households reporting that they are aware of existing land-related legal and administrative procedures is greater than the sample median proportion, and zero otherwise. Collective perceived tenure security: Dummy variable equals 1 (more secure) if the village-level proportion of households reporting a fear of land loss due to expropriation is lower the sample median proportion, and zero otherwise.

the attitude of chiefs away from perceiving themselves to be custodians on behalf of their communities to being essentially private owners of the land (Cotula 2007). This has negative implications for the land rights of their constituency, especially women and nonindigenous groups. Hence, in areas where lucrative land deals abound, the customary tenure system (normally headed by a traditional chief who would be trusted as the custodian of the communal land) may not always act in the interests of groups (especially women).

Conclusion and Policy Implications

Since the turn of the millennium, the African continent has seen a series of legislative, administrative, and institutional land governance reforms in the advancement of gender parity in land governance. However, despite encouraging efforts by countries toward recognition of land rights of women (individually and/or collectively), a summary of findings from the LGAF assessments in selected African countries shows immense gaps remain when it comes to the

implementation of various land governance interventions with direct implications for women's land rights on the continent. Shortfalls in proper enforcement and implementation of the reform process, mainly due to a lack of capacity (financial and technical) and rent-seeking/corruption under the customary system, continue to undermine the position of women in SSA vis-à-vis land. The active participation of women in the land law drafting process and on land dispute resolution local committees is an important factor in the proper implementation of gender-equitable land laws (Meinzen-Dick et al. 1997; FAO 2013).

Empirical findings from four African countries show that the main factors associated with worsening positions of women vis-à-vis land include population pressure, commodification of land, and commercialization of agriculture, which ultimately result in increases in the value of land. With the increasing trends of land commodification and agricultural commercialization in Africa (due to urban expansion and emerging land markets), women's land rights appear to have eroded, mainly due to women having subsidiary and undocumented land rights under the customary tenure system. Such findings from this study support the notion that the status quo (customary tenure system) can be deemed insufficient and that if governments fail to counteract such damaging effects (on women's land rights), the social, demographic, and economic changes engulfing the continent will worsen women's position on the ground.

The four-country empirical case study also shows that factors contributing to the poor state of women's land rights vary not only across countries but also across several social, demographic, and economic conditioning factors within countries. Such results underscore the need for more pragmatic and more endogenous policy reform processes that consider the local administrative capacities to ensure the sustainability of interventions, programs, and reforms. Hence, the recent wave of systematic land tenure regularization programs on the continent (including in Rwanda, Ethiopia, and Nigeria, among others) should be carried on complemented by or packaged with explicit provisions for women's land rights (such as joint land registration and documentation) at least in areas with higher land values, while a more pragmatic approach that leaves a functional status quo (customary tenure systems) alone should be considered in areas with lower land values such as land-abundant settings lacking an active land market. Moreover, a solid understanding of the drivers of the perceived tenure security of individuals (especially women), households, and communities may not only help maximize the potential gender parity outcomes of such programs and reforms

but also address potential low program uptake—a challenge most SSA countries encounter as they try to implement programs that aim to enhance tenure security and safeguard land rights of vulnerable groups such as women (Atilola 2010; Byamugisha 2013; Ghebru et al. 2014; Javelle 2013).