

PANEL 1: ENSURING RURAL WOMEN'S LAND RIGHTS AND TENURE SECURITY AND STRENGTHENING FOOD SECURITY AND NUTRITION FOR RURAL WOMEN AND GIRLS.

Excellencies, Distinguished Delegates, Ladies and Gentlemen

First let me express appreciation to the UN-Women for convening and inviting me to be part of this important event.

Excellencies, as noted in the current Secretary-General's report on *Challenges and opportunities in achieving gender equality and the empowerment of rural women and girls*, that for rural women and men, rights to land and natural resources are fundamental, and land is perhaps the most important household asset. Land is indeed a critical resource for development, especially in countries that have economies which are heavily dependent on agriculture, including my own country, Malawi. Malawi recognizes that lack of land tenure security leads to low agricultural productivity and poor food and nutritional security since there is no sense of ownership in the land being held or used. To ensure food security means the women who constitute the majority of the farmers, should among other resources, have access to and control over land.

On this note, let me share briefly our experience in land rights and tenure security and strengthening food security and nutrition for rural women and girls. Agriculture remains the main source of Malawi's livelihood, with most of the smallholder farmers being involved in subsistence farming, with about 50 percent producing only what they could consume themselves. Women constitute most of the smallholder farmers, making the land rights and land tenure security issues very important them.

Historically, however, as the country with both matrilineal and patrilineal norms, the decisions on customary ownership of land and property in most of the rural areas are primarily made by men. This meant the women could not have direct access or control over

land, and this lack of ownership or tenure security contributed to low agricultural productivity.

I am pleased to report that the legal position has now changed with the enactment of Land Related Laws in 2017.

Of particular interest is the Customary Land Act, 2017.

Malawi has several legal instruments and policies that govern land administration and management in the country, these include: the Land Act and National Land Policy. Accordingly, the land tenure in Malawi falls into these three categories: first Public land; second, customary land; and third private land. Most of the subsistence smallholder farmers fall under the customary land.

To ensure progressive norms aimed at promoting and protecting women's rights, Malawi has over the years adopted and established laws and policies/measures; and these include: Malawi Constitution that prohibits gender discrimination whether on the basis of their gender or marital status, and states that both women and men have the right to own land, individually or jointly with others. Section 24(1)(a) (ii) states that women have the right "*to acquire and maintain rights in property, independently or in association with others regardless of their marital status.*" The Malawi Constitution is one of the few constitutions that provide for nutrition and rural life as some of its fundamental principles to guide national life, policies and legislation¹. Section 13 (b) provides : "*To achieve adequate nutrition in order to promote good health an self-sufficiency.*" Section 13 (e) provides for the principle of rural life as follows: "*To enhance the quality of life in rural communities.....*" Also promoting and protecting the rights of women is the Gender Equality Act of 2013; Deceased Estates (Wills, Inheritance and Protection) Act of 2011, which protects the spouse's and children's share in the estate and makes property grabbing a criminal offense.

¹ These provisions are mainly intended to guide national policies and development of legislation. They are to be progressively implemented and achieved. They may not be currently enforceable in court unless specifically provided for in a written law.

As said the 2017 Customary Land Act is significant in the following ways: There are three major changes of significance to women's land rights that the law brings about:

1. *The creation of private customary land estate.*

- Prior to 2017 customary land was either owned by the traditional chief or the community or the family. The most significant consequence of the new law is that the individual, including women, is able to own and register customary land in their own right, guaranteeing tenure security. Incidentally, section 108 of the Registered Land Act allows for the registration of persons under the age of 18 as owners in their own right. This is very progressive. It ensures that even young girls can own and register their own land.

2. *Principles of land adjudication and dispute settlement are provided for as one of the considerations in decision-making on land tenure and rights.*

- Section 43 (2) of the Customary Land act provides for principles in land adjudication. It provides: In making any determination a land committee or an adjudication officer shall have regard to and treat the rights of women ...to occupy or use or have interest in land not less favorable than the rights of men.”
- Section 22 provides: “in granting an application for a customary estate the land committee shall treat an application from a woman or a group of women no less favorable than an equivalent application from a man or a group of men.”

3. *The governance and institutional structures.*

- The new land laws provide for the establishment of land committees at the local level and the National Central Land Board.
- To ensure that there is women's voice at the decision-making tables membership of the local land committees shall comprise of six persons, **three of whom shall be female.** (Section 5 Customary Land Act). **Two** of the **six** members of the National Central Land Board shall be women. (Section 48) Similarly membership of the

Customary Land Tribunal shall consist of at least **three** female members out of the **six**. (Section 44)

- Surely this should ensure that women's land rights are appropriately protected.

However, despite instituting these progressive measures there is still more work to be done since ensuring rural women's land rights and tenure security alone, would not translate to strengthening food security and nutrition, if not successfully implemented. Malawi has in this regard, been working with various partners, including the civil society. On the other hand, Malawi has also been promoting sustainable agriculture and the use of weather resistant crops to help counter the effects of climate change that have continued to negatively affect agricultural productivity, and hence threatening food security and nutrition.

In summary the Constitution, Gender Equality Act, Deceased Estates Act, the new Land Related Laws and the National Land Policy among others, are some of the steps undertaken by the Government of Malawi and will play a greater role in promoting the rural women's access to, control over, and ownership of land and other productive resources, including food and nutritional security. This will likely have an impact on the security of women's land tenure and rights as the bulk of agricultural land used by women and girls is in the rural areas. Malawi seeks and encourages partnerships/ cooperation in promoting and implementation such laws and policies in land rights and tenure security for accelerated results.