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Customary land tenure dynamics and women's access to land in the Mambay community

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Abstract — This paper presents and analyses data on women challenging customary land tenure arrangements, as they strive to gain access to much needed farmland. The research was conducted in the Mambay community: Bipare, Kaboung-ni and Kafinarou. It is clear that 'customary' law is always in the process of adapting itself to what is actually going on in the everyday lives of those who till and own land. Increasing land scarcity and the introduction of money into most local land transactions have transformed arable fields into high value commodities. These and many other changes have important repercussions for local land relations and affect the way the customary tenure system operates. Women's husbands' and fathers' lineages are no longer the only social spheres that predetermine their opportunities to access land. On a certain level, by making strategic use of money, as well as kinship and membership groups, women are redefining the arrangements that govern their access to land.

Résumé — Cette étude présente une analyse de l'accès à la terre des femmes dans trois localités du pays Mambay précisément à Bipare, Kaboung-ni et Kafinarou, dans le contexte du système foncier coutumier. Ce dernier système est susceptible d'évolutions et d'adaptation. La saturation foncière croissante, la pression démographique et l'insertion de la monnaie dans la majeure partie des transactions foncières en milieu rural mambay redéfinissent la valeur de la terre aux yeux des paysans. Ces dynamiques et bien d'autres participent à la manière dont le système foncier coutumier opère, et influe sur les rapports que la femme rurale mambay entretient avec la terre. La tutelle de leur époux et la lignée parentale ne constituent plus les seules sources de leur accès à la terre. Par une utilisation stratégique de l'argent, de la parenté, de ses affinités etc., les femmes rurales mambay d'une manière ou d'une autre redéfinissent les arrangements qui gouvernent leur accès à la terre arable.

The context

Women are challenging customary land tenure arrangements in rural areas, as they strive to gain access to the farmland they need. The research was conducted in the Mambay community, which is localised around 9°40'LN and 13°56'LE. Mambay people can be found in Cameroon and Chad. In Cameroon, they are part of the Mayo Louti subdivision. In Chad, they are part of the Lac Léré subdivision in southwest Mayo Kebbi. They are found specifically in Bessoli, Kagouma, Lagzoua, Kathéo, Kakou, Bouza, Piaga, Kakala, Kafinarou, Kaboung-ni and Bipare. The last three villages were chosen because of accessibility, the degree of land scarcity, and lastly, because we are native to the areas. As an ethnic group, the Mambay people are not well known. This is probably because they are relatively few in number and have not attracted much interest from social science researchers. However, there is little unanimity among the various authors who have written about their origins as a distinct group. The origins of the Mambay have predominantly been described by Lestringant (1964), Eldrige Mohammadou (1982), and Jean Boutrais (1984).

Years ago, land was managed by heads of families, as common property given by ancestors. The paramount chief only has a symbolic role of organiser of rituals and land protector for blessing during the sowing and harvesting periods. Nowadays, the communal tenure system has been modified to resemble individual land tenure in which all land is the property of local chiefs.

Many other ethnic groups from elsewhere, attracted by the fertile soil and changes in the way land is managed, are now living in this community. Thus, pressure and changes in the law are factors that explain the recent land scarcity, which is making farming activities and access to land precarious for farmers.

In the Mambay society, there is hardly any land to inherit, either for men or women in households. Most land is rented from the chief or from 'private' farmers. Changes in the customary land tenure systems are perceived and mainly discussed by local farmers as being a consequence of land scarcity. Land scarcity can be attributed to a combination of factors: demographic pressure, the use of modern inputs (herbicides, chemical fertilizers, etc.) and associated intensive farming methods, as well as the various changes in land management and land transfer procedures. However, we do not consider that these factors fully account for the ways in which the customary system has responded to such changes, by simple cause and effect. The changes are far more complex than it would appear. In order to grasp the complexity, it is necessary to understand what is actually happening in the land tenure system in terms of activity on the ground in relation to women's rights to land, on one hand, and their practical access to it, on the other.

The strategies used by rural women to acquire land out of the customary land tenure system are not depicted or analysed. It is a mistake to continue to consider women's relationship to land simply on the basis of the restrictions determined by the fact that women do not inherit land according to the customary land tenure system. In the past few years, major changes have taken place in rural land tenure systems, which are based on a wide diversity of local contexts. Women's husbands' and fathers' lineages no longer seem to be the only social spheres that predetermine their opportunities to have access to land. By making strategic use of money, as well as kinship and affinity, women are continuing to define the arrangements that govern their access to land. This may explain the paradox that although rural women as the primary stakeholders in African farming systems only have 2 % of land (Quisumbing, 1995), they constitute 70 % of the continent's farming force and produce the majority of basic foodstuffs. However, this paradox reveals the complexity of gender access to land and the dynamics of customary land tenure systems in rural areas.

In the context of the environmental and neoliberal conditions imposed by the World Bank's structural adjustment programme, Cameroon has recently built its land policy on customary systems rather than individual ownership (a more efficient ownership system that was previously encouraged). At the beginning of the seventies, the World Bank, being the major influential body with regard to African land policies, initially encouraged land reforms while laying emphasis on individual ownership through registered freehold titled land. The Bank funded a series of land registration and titling projects in the 1980s. Their aim was to promote development by eliminating communal tenure systems through more efficient land use and more secure land ownership (Tripp, 2004).

As the World Bank policies were implemented, a key study in 1994 (Peters, 2007), found that securing a land title was not sufficient to invest in land and increase production because of other exogenous factors like land abundance, farm size and access to credit and water. Moreover, pastoralists and other seasonal users of land were losing out, as land became titled and registered. The World Bank's Land Policy Division has sought to encourage a combination of customary and privatized land arrangements. However, the point is that customary land law is not static.

The communal tenure system has been modified to resemble individual land tenure in which all land is the property of local chiefs. In many parts of Africa, assertive customary chiefs are reinterpreting their guardianship powers, as those of owners and are allocating or even selling common land for private gain. In this context, weaker rural groups are being squeezed out and are losing access to the resources on which they depend for their survival (Cotula, 2007).

In this way, local chiefs have redefined the customary law, which is ultimately their "law". After examining these changes, we consider that any strengthening of the customary law, as it is interpreted in folklore, will create confusion and uncertainty as far as land rights are concerned. This is because land rights usually involve multiple and overlapping claims over the same resources.

It is also important to bear in mind that the concept of "no man's land", which was developed by the French colonial forces, still legitimises the rights of the Cameroonian state and, by extension, those of customary chiefs on untitled land, thus making it their property.

“Northern Cameroon is characterised by the political and land tenure hegemony of the Fulani political powers, the lamido. The lamido’s power was strengthened by a post-independence alliance between the new Cameroonian government authorities, mainly representing the interests of groups from central Cameroon, and the Fulani chieftaincies of the North. The local government administration has been captured by the lamido, who organise incomers’ access to land, grant incomers only precarious use rights, and levy fees upon harvest. Through these fees and others sources of income, land is one of the lamido’s principal sources of revenue and remuneration of their “staff”” (Cotula, 2007). Today, almost 80% of households on Mambay land obtain land by renting it. Given this situation, how can we still analyze women’s land rights solely on the basis of the fact that women do not inherit land if there is no land to be inherited even by men? Land is increasingly becoming a marketable commodity and there is little family land for children to inherit. It is difficult enough for a husband to hold on to his farmland, yet it is even harder for a wife because she generally gains access to the land she tills via her husband. As farmers strive to survive, they might have ways of overcoming land rights restrictions, which are due to many exogenous and endogenous factors.

“It’s not easy to have access to land in Kafinarou in general, but we, the local peasants, we have our ways”

As researchers, we consider it important to explain how the knowledge presented here was produced. We used mainly qualitative research, based on observations and interviews with focus groups. Our topic was chosen after several discussions we had during meetings with a group of women from the *Soufari* cooperative¹. We asked them directly if women could actually own land. They answered all at the same time *“Yes!”* They repeated themselves, surprised by my question, *“Yes, women can have their own land, we, here, we have our own land”* they said, smiling at us.

Our investigation was further clarified by answers to similar questions from Elisabeth, Ruth and other women *“Is it a problem,”* we asked, *“that, women don’t have their own land?”* Elisabeth answered: *“Women in Bipare don’t so much face problems of land access; there is land available for cultivation. The major problems that we face are those of access to money, to markets, in order to access good soil. We just don’t have a market where we can sell our crops after harvesting...”* And, according to Ruth, *“Well, it’s not easy to have access to land in Kafinarou in general. But we, the local peasants, we have our ways of seeking out plots and arranging to use them.”*

Ruth is a married woman, whose husband Moussa is short of land. Elisabeth is included because we wanted to look at land access issues from a single woman’s perspective. In addition to these three informants, we studied many other households and groups to collect data: immigrant women (15), women from *Soufari*, who were mainly Muslim (30), women from the Fraternal Lutheran Church (25) of Kafinarou, the Bunu (land manager), 3 Lawan (local chief). All these groups and individuals were studied in order to understand the particular status of women within a variety of roles, as well as in relation to both parental and marital kin, which determines their access to land and security of tenure. According to women, they do not inherit land, yet they do have access to it and can even gain ownership of it. Our preoccupation was to show that, notwithstanding claims that “women do not inherit land” or that customary law makes things difficult for women, they do have means of access to land nevertheless. How can it be possible that women do not have property rights, as far as customary law is concerned, yet still have both access to and ownership of land?

Before discussing these questions with women, we started with the following assumptions: customary law is losing ground as the main way of regulating ownership of and access to land. To an increasing extent, land is becoming a marketable commodity. This leads us to the following sub-questions: What are the consequences of these changes to women’s land access and land use patterns? To what extent is the privatization of land ownership, through the use of money in land transactions, a setback for women?

The anthropological approach to the study of gender approaches the topic from two different perspectives. Gender may be seen either as a symbolic construction (Ortner, 1974) or as a social relationship (Leacock, 1978). The first perspective views the universality of women’s subordination through the perspective of the symbolic valuations given to women and men in any society. The second perspective does not view

¹ *Soufari* is a cooperative with mainly Muslim women, where young and old come together to ask the Lamido for land.

women's subordination as universal. It tends to approach the problem of gender relations by considering what women and men do. They are usually concerned with more sociological explanations of gender: gender as a social relationship. The general anthropological debate going on about the concept of gender helped us to understand how Mambay define what a "woman" is. How local understandings of "woman" are applied and thus determine the position and status of women, which varies, of course, from culture to culture over time. This helped us to understand that age is a determining factor in land ownership for women. Whilst the transition from girl to woman is, of course, a matter of ageing, the fact that 'womanhood' is culturally accomplished in the household illuminates some relevant concepts of power and gender. The established principle of co-ownership between husband and wife is the basis on which women's duties and land rights are negotiated. The concept of gender and power, combined with the native conception of gender, is still useful for examining a socially constructed relationship, which can therefore be changed and is by no means "natural". In households, power is often defined as control over resources. Power is not something that is simply held. It implies a relationship and one party can promote its own perceived interests within that relationship (Schlyter, 1996).

Customary law is losing ground as a way of organizing ownership in rural areas

Land tenure arrangements have always been gender related. Claims about the inherent insecurity of customary land laws have been challenged by research that has demonstrated the resilience of these systems and their capacity to adapt to changing circumstances. Traditional rights to inherit no longer seem to be a guarantee of land ownership: land is no longer for inheriting but for renting. Most informants express this change in land transfer practice, although what Moussa said seems astonishing:

- *Us: But you get by with a plot from your father. How will your children ever be able to farm?*
- *Moussa: It will be tough. But do kids settle anywhere now? They don't tend to stay in any one place. This year many young people left the village in order to look for land in Lagdo, some for fishing, others for farming. That's what our kids usually do, they move around. There is no land left here to be inherited.*
- *Us: You hope your kids will leave the village?*
- *Moussa: Only if they want to. If they decide to move away I will not try to stop them.*
- *Us: And if they decide not to leave the village, what'll you do?*
- *Moussa: We'll just have to ask the chief. We'll have to beg from the chief. As long as that's the chief's role, we could petition land from him. We'll beg to use it for one or two years. If he takes it back we'll look somewhere else. For that we need money.*

Of course, this statement cannot be taken for granted. More analyses that go beyond our research and include different informants are required in order to grasp what is actually going on with customary law and farmers' land rights. However, it is undoubtedly relevant for demonstrating the dynamics of land management in these villages. In addition, farmers can negotiate customary law.

"Men own the fields, women own the crops"

This part presents specific empirical data from Moussa's and Ruth's household. The data can be observed in other households. It shows how the customary land tenure system within households is being redefined. In fact, an individual's land rights are quite negotiable within the household. Ruth and Moussa's case opens up discussion about women's strategies to obtain land beyond their household and customary arrangements.

When we asked Moussa how he obtained his land, his answer not only revealed his own story but also the general precariousness of tenure nowadays for men, as well as for women:

"Actually, I am only working a quarter of a hectare. And even this little bit, people are angling to get it off me... There are many fields around here that used to belong to my father. I cannot get them back because someone swindled my mother out of our lands. For that reason she had to move to another village. And it was only with my uncle's intervention that I was able to get the quarter of a hectare back." There is fierce competition for land access. Customary law can no longer be relied upon to secure land rights by inheritance. Moussa's mother was unable to assert her widow's rights to inherit her husband's land in

order to keep them. Moussa, as a son, had great difficulty maintaining any rights over what he considered to be his rightful property. Nevertheless, it certainly seems easier for men to secure tenure for their property than it is for women.

The case above and Ruth's case below link to show that men are entitled to land ownership while women have control over the resources that come from men's fields.

Moussa's compound has five huts. The first house we see when we enter Moussa's compound is his own. He uses *seko*² to separate his area from those of other family members. In the middle of the compound there is a dwelling, which belongs to Ruth. She lives there with the female children. In front of Ruth's house is the granary for storing millet, maize, white beans and dry vegetables. Ruth is the one who has the key and manages the crops.

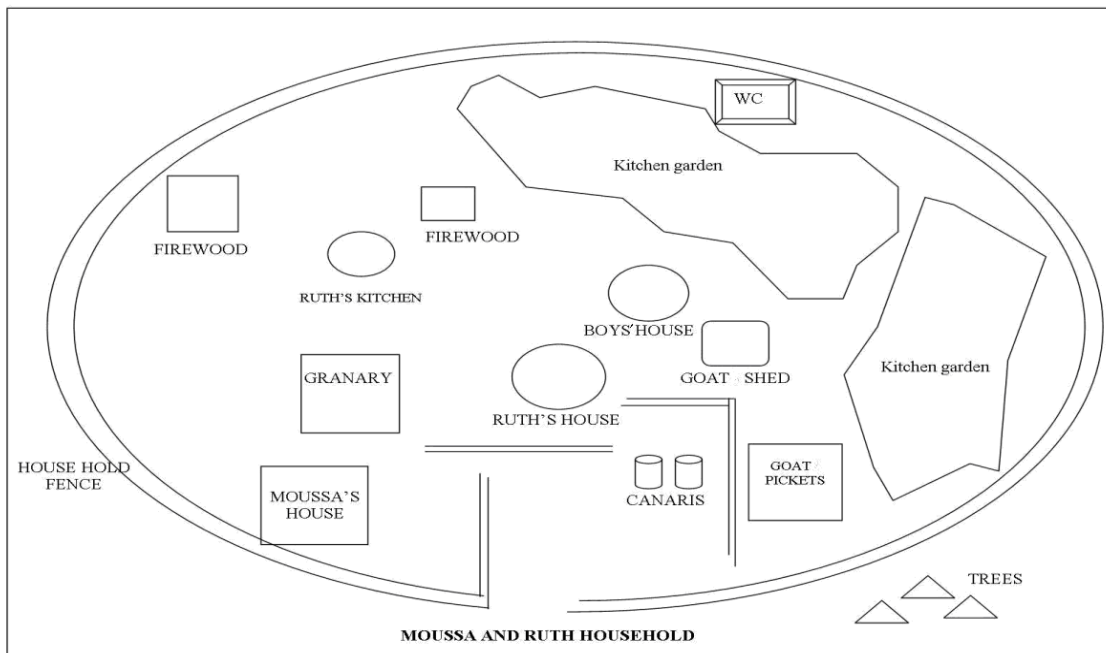


Figure 1. Moussa's compound.

The door to the granary is always locked. One day, before going to the market, Ruth opened it and measured out the quantity of millet she intended to sell. Then she closed the door and put the key away where she always kept it. From this everyday story of Moussa's and Ruth's household, we can see clearly that although customary law is the basis for farmers' use of land, relationships based on individual rights can also be manipulated by stakeholders who are affected by customary arrangements. Such cases indicate how rights might be negotiated within the household and, by extension, within extended family groups.

The empirical data presented above seems to indicate that there is a considerable gap between what is supposed to happen and what actually does happen as far as women's access to land is concerned. Therefore, viewing female rights from a "women don't inherit land" perspective alone may be inadequate for grasping the real situation faced by rural women. This leads us to focus on how women do, in practice, negotiate beyond their usufruct entitlements and their negotiated rights as "crop managers" of their husbands' fields.

Her age helps a woman to own land

As women, we have strategies, which are socially negotiated, and others, which are more personally chosen. In our area of research, the set of social relations in respect of land tends to reflect relations on a broader social level. The reorganisation of the ways that women gain access to farmland reflects the

² A type of wall made with grasses

patterns of overall social change. This can be seen in the ways that women approach negotiations involving kinship issues and make use of whatever status they may have.

In Mambay society, there are three categories for which a 'woman' is designated: *bik Vina*, a female who is still too young to be married; *bik Koulla*, a female of marriageable age; and *Vina*, a married female. Certainly, the way a woman gains access to land cannot be analysed properly unless her household position and marital status are taken into account. The native definition of gender roles is related to a person's age and marital status. A new household is indicative of a woman having accomplished her change in status from "*bik Vina*" to "*Vina*". Marriage can be seen as the rite of passage to a status of complete "female" and the foundation of her rights regarding land at the same time. A woman's relationship to land begins in her father's house as a girl (*bik Vina*) and ends in her husband's family as a wife (*Vina*). Her age group also determines her land rights within the household.

A woman's age is a determining factor in her overall social participation and acquisition of certain rights. Nevertheless, age-based seniority does confer some particular rights on women where land is concerned. We were surprised to hear women saying that: *a woman can inherit or own land when she gets older*. Does this mean that women's access to land is related to the degree of dependency between a husband and his wife? And does this dependency tend to lessen as they grow old? Or is it, rather, that women simply gain more trust, as they get older?

In any case, there is a considerable amount of inconsistency between known rules and actual practice when it comes to local land tenure. A woman cannot inherit land from her father's lineage although she may gain co-ownership in her husband's house. This is the reality of the situation. Yet, it turns out that a woman of a certain age can negotiate access to her own farmland and own it. The latter does not seem to be an established principle of local land tenure. However, it appears to be a common practice within households. Does this mean that as a woman gets older, she acquires more rights in her society? Or does it reflect the fact that if a woman is older, there is less chance of her leaving her husband's lineage and taking land back to her father's lineage or contracting another marriage? Does it mean that the acknowledged customary law is only applicable to young married women? Perhaps the way mature women are treated in respect of land rights is indeed linked to their inability to contract new marriages. They use their position in their lineages, on one hand, and in their households, on the other, to gain access to land in other lineages as well. Women, in their quest for land, have opened up new paths of communication.

Common rights on common fields help

Women realised that they can easily have access to land if they come together as a group. The chief allocates farmland to them through the cooperative organisation *Soufari*.

Cooperatives such as this have helped women obtain secure land tenure and increase their co-ownership. The cooperatives enable women to control their crops and also give them some control over their income. Each year, they manage to expand their land holdings by gaining other fields for maize cultivation.

Kinship, affinity, church and profession

Domestic units can be seen as hubs in a vast network of social relationships, which link together diverse individuals and kin groups within and beyond the village (Smedley, 2004). Ruth and many other women gained access to their field through their affinity. However, they work alongside their husbands' field. Ruth, in her case, has not been given a plot of her own by her husband; his only land is actually too small to be shared. However, Ruth does farm some rented fields on a regular basis. These rental arrangements are based on her own personal relationships. She managed to acquire a plot from her neighbour for groundnut cultivation. She also rents a one-hectare farm in her brother-in-law's village for growing maize. She has been managing these fields regularly for several years now. Basically, land is distributed according to kinship. However, where money and marriage are involved, the system sometimes seems open to negotiation. In this way, it becomes possible to own land belonging to a lineage to which one has no direct ties. Women gain access to land both from their father's and their husband's lineage groups and beyond this kinship using the flexibility around kinship.

Education, work experience and church membership have opened up new visions for Elizabeth, as well as new opportunities for her in terms of gaining access to land. This analysis is based on observations of day-to-day life.

Elizabeth is a member of the Fraternal Lutheran Church. She holds the office of women's general secretary. Elizabeth also tills the soil. She usually does her farm work in the afternoon after finishing her job at the clinic. The excerpt below explains how Elizabeth obtained her land.

– *Elizabeth: I was able to ask the church land manager. They still have a few free plots. The manager told me there was some land they weren't sowing. He said they had a spare hectare and he offered to rent me half of it. That's the one I'm working.*

– *Us: But you got it because you're in the church? It wasn't available to just anyone?*

– *Elizabeth: Yes, because we are in the same church...*

But her Christian status does not seem to be the only factor that helped her obtain land from the Church. Elizabeth reveals that there was competition for land between her and her neighbours. It seems that Elizabeth succeeded in holding on to her field not simply because of her Christian status. After all, the neighbours belong to the same church. On the other hand, her high rank within the church may have been a factor (her neighbours hold no such office), combined with the high social standing she enjoys as an area nurse and midwife (the neighbours have no such public function). Perhaps it was considerations like these that helped Elizabeth hold off the neighbours' challenge despite the impediment of her status as a single woman. We can, therefore, observe an implicit hierarchy among women based on what they do, their level of education and their social standing. In this case, these factors combined to place Elizabeth well up in the hierarchy and helped her to secure land despite her status as a single woman.

A woman's particular status within a variety of roles, in relation to both parental and marital kin, determines her access to land and security of tenure

We have looked at gender relations in the area of research being studied, not only in respect of husbands and wives, but also with regard to more distant kin and non-kin networks. The fact that women have a connection to the land and a role as producers means that they should be seen not only as wives but also as daughters, in-laws, and separated or single women, for example. A woman's particular status within a variety of roles and in relation to both parental and marital kin determines her access to land and security of tenure. With their many strategies, women have demonstrated the negotiable nature of kinship arrangements and the flexibility of the customary law. Allowing women to inherit land in rural areas does not seem to be the main solution to solving the precariousness of their land rights. There is no land to be inherited and customary law can no longer be relied upon to secure land rights by inheritance. The multiple and varied strategies that rural women use to gain access to land should be examined in order to see how their land rights can be secured. In fact, household and lineage structures, often seen as spheres that limit women's rights, should instead be considered as tools that women use to obtain land. Church groups, cooperatives, kinship and affinity, as well as friendship, status and, more recently, money are all means that women use to open up heterogeneities and thus challenge the existing system.

In a world where everything is rapidly becoming a commodity, women's control over food and cash crops may be strengthened in some ways and their rights to land use extended because there are more plots for rent. The increased availability of rental plots pushes up commercial demand for land, as well as opportunities for cash cropping as a way to supplement incomes: a woman, with money gained from cultivating cash crops, bypasses pre-established arrangements which have, until now, defined her land rights and limited her economic power. We cannot pretend that our study covered the whole topic and the results we obtained in the three villages cannot yet be generalised. Further studies are required in order to support our research work. Grasping the real impact that rural women have on their environment is imperative for the effective improvement of farming activities in sub-Saharan Africa.

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