



Women and Inheritance

Opportunities and Challenges
for Policy and Practice Change
in 5 Sub-Saharan African countries



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Inheritance as critical point

- Critical points in lifetimes: birth, marriage eligibility, marriage, divorce, retirement, death
- ‘Window’: perspective on vulnerabilities

Inheritance as complex

- Conflations - often contests - of multiple layers of laws, political economy contingencies, social and cultural norms, local systems of legitimacy, individual histories, strategies and preferences

Political economy of inheritance

- status of women
- land ownership and control
- legitimacy of statutory and customary systems

Moral economy of inheritance

- local brokerage of authenticity of right
- interpersonal processes and decisions

“Across the board, whether someone is legally married or not, even when your rights are clearly outlined in law, there are major challenges because it starts with relationships in the family.”

Common policy issue frame:

Women's disinheritance from property – especially land rights – due to patriarchal customary practices

Common policy & practice approaches:

2 levels: legal rights & local processes

- Marriage recognition and rights
- Customary land governance
- Local arbitration

What criteria for rights? **Marriage.** What criteria for marriage?

Rwanda land titling: how to register the rights of cohabitating (unmarried) women on the land?

Ghana courts: (how to get people married?)
how to recognise customary marriage?

Mozambique media: what is fair?

Mozambique Family Law (2004): *de facto* unions recognised after 1 year; but as not full marriage & no recognition of polygamous marriages

Marriage and Inheritance

- Recognition of customary marriages
 - Lack of registration (despite eased procedures)
 - Legal precedents (inconsistently applied)
 - Local arbitration of authenticity of claims
- Rights for cohabitating partners?
 - Legal definitions (1, 2, 5 years); political opposition
- Spousal rights to property 'jointly' acquired
 - Statutory recognition of in-kind contributions
- Property rights for polygamous spouses
 - Divisions between wives and children

Customary land governance

- Using customary governance as safeguard
- Proactive, participatory processes
- Partnering customary and legal apparatus

"I have already made my will because at some point I will die and in my will, my girls will inherit from me."

Ugandan President Yoweri Museveni (June 2010)

Local arbitration

	Women's Estimates	Officials' Estimates
Elders	\$14	\$2
Chiefs	\$35	0
Land tribunals	\$53	\$21
Courts	\$142	\$142-428

Study of local land dispute resolutions, western Kenya.
Henrysson & Joireman 2009

- Capacity building and formalisation
- Building consensus to bridge law into legitimacy
- Monitoring & reporting

Thank you.

<http://www.chronicpoverty.org/publications/details/inheritance-and-the-intergenerational-transmission-of-poverty-in-sub-saharan-africa-policy-considerations>



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