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SUPPORT TO THE IMPLEMENTATION OF THE NEW LAND LAWS IN MALAWI

Mai 2019

SDGs:



Countries:

Malawi

Project Codes:

TCP/MLW/3601

FAO Contribution:

USD 452 000

Duration:

16 January 2017 – 16 January 2019

Contact Info:

FAO Representation in Malawi

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Implementing Partners

Ministry of Lands, Housing and Urban Development (MLHUD); UN Women; LandNet.

Beneficiaries

MHLUD, women forums.

Country Programming Framework

4 - Improved enabling environment for food security and sustainable agriculture through the achievement of more secure land rights and sustainable land use for smallholder farmers. 4.1 - Capacities of MLHUD to coordinate action on land governance strengthened; 4.2 - Land policy and new land laws implementation supported.



BACKGROUND

The Government of Malawi began the process of land law reform in 1995. In 2016, four of ten proposed land and land-related bills were enacted by Parliament. However, a poor understanding of the land bills threatened to impede the enactment of the remaining six bills, which were crucial to the implementation of the already enacted four laws. In partnership with UN Women and LandNet, a local civil society network, the project aimed to support the land law reform process, and to ensure that the land governance framework was operational and that it supported the people of Malawi in the fight against rural poverty and hunger. It would assist the Government to implement the reform by building the capacity of national, district and local structures in preparation for both the implementation of the four newly enacted laws and the enactment of the remaining six laws. It would support awareness-raising for national, district and local structures on the provisions of the new land laws. In particular, it would support women beneficiaries with training in advocacy, confidence-building and group dynamics in order to prepare them for the implementation of the new laws. It would also raise awareness of the Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), the Principles of Responsible Agricultural Investment (RAI) and the Right to Adequate Food Guidelines.

IMPACT

The project assisted in the reduction of rural poverty through the implementation of all ten recently passed land laws, which secured land rights for women, men, children and other vulnerable groups. The laws will contribute to ensuring adequate food and improved income security for customary land users, who form over 80 percent of the population. The project also built confidence among women to defend their land rights at community level. In the patriarchal society of Mzimba, for example, women now hold leadership positions and speak in public.

ACHIEVEMENT OF RESULTS

The project achieved its outcome of securing land rights for women, men, children and other vulnerable groups through the enactment and operationalization of the ten land laws. Awareness of the new laws was raised at government, district and community level, and women groups were trained and enabled to claim their rights. MLHUD now has enhanced capacity to coordinate the implementation of the new land laws. Although work remains to be done, the Ministry is now in a better position to ensure the fulfilment of land rights for the majority of Malawians, who reside on insecure customary land.

The project achieved almost all the outputs envisaged. Activities that were not implemented were impeded by factors beyond the project's control. For example, the political situation and the sensitivity of land issues in the country prevented the hosting of a land forum and the validation of key messages. As these activities were primarily concerned with awareness-raising, other ways of transmitting the necessary messages to the people were adopted.

IMPLEMENTATION OF WORK PLAN

All project activities were implemented within the given timeframe, with the exception of the development of key messages and the hosting of a land forum, both of which were impeded by government elections. Delays in planning and land law implementation also led to a late start in implementing activities during the second year of the project.

The budget was adequate for all the activities envisaged. Funds originally intended for the two activities mentioned above contributed to regional land forums, designed to sensitize women forums on sexual and reproductive health as a way of managing population growth, and on gender-related laws, which work hand in hand with land legislation.

FOLLOW-UP FOR GOVERNMENT ATTENTION

With subsidiary legislation in place, there is now a need to raise the awareness of people in communities with regard to the operation of the law, enabling them to claim their land rights in line with the law. The new regulations must be translated and simplified to allow ordinary people to refer to them during the land registration process.

SUSTAINABILITY

1. Capacity development

The land laws will assist people, especially in rural areas, to obtain their land rights. Some policies, such as the Urban Development Policy, the National Housing Policy and the Resettlement Policy, need to be approved to ensure that all the provisions of the laws are implemented.

Structures developed under the project, such as the Land Reform Implementation Unit and the Inter-ministerial Land Reform Steering Committee, have been recognized by the Office of the President and Cabinet and are now able to work independently.

The Ministry has the skills, structures and systems required to continue beyond the project. Funds should be found for two guidelines that have not been finalized, while the pending validation workshops will be supported by another FAO project, the Promotion of Secure Land Rights for Women and Vulnerable Groups.

2. Gender equality

The needs of women and men have been largely met. Women understand the land laws and can use their knowledge to protect their land rights. Reaching out to chiefs and government officials has ensured that support structures respond to the needs of both men and women, while engendering the monitoring and evaluation (M&E) system will guarantee that men and women benefit from the land laws and that interventions can be made if the aims of the laws are not respected.

Women who underwent confidence-building now participate at household and community level. Chiefs recognize women forums and include them in discussions on community development. There has been an increase in women's access to, and control over, land and other productive resources, although the presence of women in decision-making has not yet been fully embraced.

3. Environmental sustainability

Although environmental sustainability was not at the core of the project, issues of security of tenure and environmental sustainability formed part of the training sessions.

4. Human Rights-based Approach (HRBA) – in particular Right to Food and Decent Work

The right to food was the main focus in securing land rights for rural men and women, and right to food guidelines were a core module in all training sessions. The inclusion of gender-related laws in training for women encouraged them to work together to improve their economic and social lives. Two women groups trained under the project have been included in economic empowerment activities promoted by UN Women.

5. Technological sustainability

At national level, the capacity built in MLHUD will facilitate the smooth implementation of the land laws. The engendered M&E system will help to monitor land law implementation, while the pilot implementation plan will assist in resource mobilization and coordinated efforts. At district level, civil society now provides checks and balances in land law implementation, as well as sensitizing communities, and government officials are trained to respond to the needs of both men and women. At community level, sensitization meetings on local and international land governance instruments will help to defend land rights. In addition, women are now able to organize themselves and to interface with government and traditional leaders.

The capacity of stakeholders to work independently of technical assistance has improved but continued support is required. The communities targeted by the project are now able to defend their land rights but others lack the knowledge required. Staff turnover in targeted organizations remains a challenge, especially at government level.

6. Economic sustainability

MLHUD has obtained funding to support some of the structures created under the project. The World Bank now supports four pilot sites, while the Flemish Government plans to support land law implementation in one or more districts, integrating land governance with agricultural land use planning.

The project provided technical assistance to establish the Land Reform Implementation Unit and the Inter-ministerial Steering Committee. The women forums and district civil society networks trained to support community demands for information do not require further support; these structures have now embedded land governance in their daily activities.

DOCUMENTS AND OUTREACH PRODUCTS

- ❑ Midterm term report, 2017.
- ❑ Pilot Land law Implementation Plan, MLHUD, 2017.
- ❑ Key messages for land law sensitization (not validated), MLHUD, October 2017. 5 pp.
- ❑ Media articles on new land laws, The Nation, Daily Times, Malawi Broadcasting Corporation, Zodiak Broadcasting Station, 2017-2018. Customary Land Act Regulations, MLHUD, 2018.
- ❑ Registered Land Act Regulations, MLHUD, 2018.
- ❑ Land Act Regulations, MLHUD, 2018.



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ACHIEVEMENT OF RESULTS - LOGICAL FRAMEWORK

Expected Impact	Reduced rural poverty through implementation of the recently passed land laws		
Outcome	Secure land rights for women, men, children and other vulnerable groups through the implementation of the newly enacted land laws		
	Indicator	Number of land bills passed; number of women forums articulating their land rights; number of local, district and national structures aware of new land laws.	
	Baseline	Four laws; six women forums; 36 structures	
	End Target	10 land laws; 14 women forums; 84 structures	
	Comments and follow-up action to be taken	All targets were met by March 2018; all ten land and related laws were enacted and made operational.	
Output 1			
	Output Statement Support the operationalization of the enacted land and related laws		
	Indicators	Target	Achieved
	Number of laws enacted	Ten	Yes
Baseline	Four		
Comments	<p>All ten laws were enacted by the Government and operationalized. In particular, the project supported the development and publication of subsidiary legislation for the Land Act, Customary Land Act, Land Survey Act, Land Acquisition Act, Registered Land Act and Physical Planning Act.</p> <p>To facilitate implementation, the project financially and technically supported the development of the pilot land law implementation plan. The plan was validated and endorsed by the Minister in December 2017 and has been used by the Government to fund-raise for land law implementation; so far, pilot sites have increased from three to seven. Other partners support various elements of the plan.</p> <p>With subsidiary legislation in place, there is a need to raise awareness of people in communities to understand how the law will operate, enabling them to claim their land rights. Regulations must be translated and simplified to enable people to refer to them during land registration.</p>		
Activity 1.1			
	Activity Title Support MLHUD in the enactment process of the six remaining land-related bills		
	Achieved	Yes	
	Comments	<p>The project supported the Government to mobilize support for enactment of the remaining six bills by using media training and messages, and workshops with parliamentary committees, chiefs and civil society to raise awareness of content of the land bills and the aims of the Malawi National Land Policy. The six remaining land laws were enacted and are now operational. This completes the package of ten land laws presented to Parliament in 2016. The six land laws are:</p> <ul style="list-style-type: none"> – Registered Land (Amendment) Act. – Land Acquisition (Amendment) Act. – Public Roads (Amendment) Act. – Local Government (Amendment) Act. – Forestry (Amendment) Act. – Malawi Housing Corporation (Amendment) Act. 	

Activity 1.2	Activity Title Build capacity of MLHUD in the implementation of the new land and related laws		
	Achieved	Partially	
	Comments	<p>The project provided technical support to MLHUD in establishing a platform to coordinate and oversee implementation of the new land laws, ensuring that all relevant actors play their rightful role in the process. The project supported MLHUD in establishing the institutional arrangements required for implementation of the land laws. A structure of relevant committees was established, including a Land Reform Implementation Unit to coordinate implementation of the laws and provide guidance to development partners. To further enhance coordination, a steering committee comprising all relevant ministries was set up. The first meeting was held in November 2018.</p> <p>The project supported the development of a Pilot Land Reform Implementation Plan by MLHUD to coordinate land reform in the country. This is also a government tool for resource mobilization towards land law implementation.</p> <p>Standards and guidelines for the Land Act, Customary Land Act, Registered Land (Amendment) Act and Land Acquisition (Amendment) Act were completed and published by MLHUD. Validation exercises for the Land Survey Act and Physical Planning Act remain to be conducted.</p> <p>The Government must ensure the finalization of the Land Survey and Physical Planning Act regulations as these support implementation of the rest of the laws.</p>	
Activity 1.3	Activity Title Support learning visits for civil society, government and traditional leaders in implementation of the new land laws		
	Achieved	No	
	Comments	Learning visits were not supported by the project as MLHUD decided that these were no longer necessary.	
Output 2	Output Statement Raise awareness of various stakeholder groups on the new laws		
	Indicators	Target	Achieved
	Number of structures aware of new land laws	84	Yes
Baseline	36		
Comments	<p>Government, civil society, local leader groups and communities in the target districts were sensitized to increase understanding of the new land laws and support the bills during debate in Parliament. Sensitization was conducted within the VGGT framework. Awareness of this and other global land governance instruments (e.g. RAI) enhanced acceptance of the land laws.</p> <p>Chiefs who were initially against the land laws supported their enactment as a result of the understanding gained through project activities.</p> <p>Only 84 structures in 14 districts were reached; requests to be sensitized also came from other parts of the targeted districts.</p>		
Activity 2.1	Activity Title Develop messages on local and international land governance instruments		
	Achieved	Partially	
	Comments	<p>Existing messages on VGGT, RAI and free, prior and informed consent (FPIC) were adapted and used in training and awareness meetings at national, district and community levels. Together with MLHUD, messages to communities were agreed on. These must be validated by the Government to ensure that uniform messages go out to communities.</p>	
Activity 2.2	Activity Title Support the preparation for a national land forum		
	Achieved	No	
	Comments	The delay in validating messages at national level made it difficult to hold a national land forum. This will be supported through other projects.	
Activity 2.3	Activity Title Support the preparation of media houses to have a clear understanding of the new land and related laws		
	Achieved	Yes	
	Comments	<p>Training sessions for 60 media houses (20 from each of the three regions in Malawi) were conducted and 3 media outreaches held in three districts to interact with communities that had land rights challenges.</p>	

Output 3	Output Statement Build capacity of women forums, district and local level structures in advocating for equitable access to and management of land		
	Indicators	Target	Achieved
	Number of women forums articulating their land rights	14	Yes
Baseline	Six		
Comments	14 women forums at district level were trained in application of VGGT, RAI, FPIC and customary land law to strengthen their ability to claim and defend their land rights with chiefs, family members and investors.		
Activity 3.1	Activity Title Build capacity of women in group dynamics, confidence building and advocacy		
	Achieved	Yes	
	Comments	14 women forums were trained in three-day sessions on confidence building, group dynamics, advocacy and leadership. They now apply the lessons learned not only in land rights but in many other aspects of their lives. Women also provide advice to those that have not been trained and speak during community gatherings to make sure that other women are self-confident and work together. Chiefs in these areas have been very supportive. The sessions were designed to prepare women to take up leadership positions in land committees, as provided for in the land laws.	
Activity 3.2	Activity Title Conduct interface meetings for women and duty bearers on land-related matters		
	Achieved	Yes	
	Comments	Women forums in all 14 districts conducted interface meetings with chiefs to seek clarification or present issues related to their land rights. Each district registered at least two cases resolved through these meetings, making a total of 30 different cases. Levels of confidence have risen among the women who were trained.	
Activity 3.3	Activity Title Organize a national women land forum on land and related laws		
	Achieved	Partially	
	Comments	Instead of a national women land forum, three regional land forums were held in all three regions to allow women to share experiences and learn from one another. Women implemented action plans without further support and were able to help women whose land rights had been violated. Women forum members testified that the confidence-building sessions helped them to challenge land rights violations for themselves and other women in the communities. The women are now ready to take up their roles in community-level land administration structures.	
Activity 3.4	Activity Title Support women forums in advocacy and lobbying for land rights		
	Achieved	Yes	
	Comments	The project, in collaboration with LandNet, coached and supported women during initial interface meetings with chiefs. The current demand from women is that women groups meet government officials on matters related to land ownership for women, especially in patrilineal societies, and to the challenges faced by women. The outstanding demand from women to interface with central government officials will need to be addressed so that they can obtain commitments and clarifications from central government on the implementation of the new land laws.	
Activity 3.5	Activity Title Build capacity of district and local level structures on local and international land governance instruments		
	Achieved	Yes	
	Comments	In collaboration with LandNet, training sessions for 84 structures at local and district level were conducted; these are now able to articulate and share with others in their areas.	

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