



# MALAWI

## A SUMMARY OF ILC'S CONTRIBUTIONS

INTERNATIONAL  
**LAND**  
COALITION



The **NES MALAWI** works towards the realisation of the following ILC commitments for People-Centred Land Governance:

- » **Commitment 1:** Secure Tenure Rights
- » **Commitment 4:** Equal Land Rights for Women
- » **Commitment 7:** Inclusive Decision-Making
- » **Commitment 8:** Transparent and Accountable Information
- » **Commitment 9:** Effective Actions Against Land Grabbing





**ILC'S NATIONAL LAND GOVERNANCE PLATFORM (NES) IN MALAWI** facilitates the country's reform processes as it transitions from an archaic legal framework towards people-centred land governance. Since 2013, the NES has worked to **unify civil society efforts on land-related issues; strengthen collaborations between the government and other key stakeholders; and to influence the formulation and implementation** of a set of 10 progressive laws to guide improvements in land tenure security, transparency, and accountability. The growth and expansion of the NES, from a purely civil society oriented platform to an inclusive space for a variety of actors, has further provided novel entry points to pursue change and to build on the platform's diversity of knowledge and expertise.

Among the most significant of these legislative changes is the **2016 Customary Land Act**, which recognises the role of traditional chiefs in land administration, and guarantees smallholder farmers legal title and protection of their land. The Act furthermore incorporates **a gender-sensitive lens, due in part to the work of NES members and other development partners** in securing women's access and control over land in Malawi.

At the community level, the NES engages traditional leaders, political actors, and the youth in awareness raising and sensitisation campaigns to ensure the gender-just implementation of the new laws. The NES also assists the **land registration and joint titling processes**, led by Oxfam Malawi, the European Union (EU), and the World Bank.

At the district level, the NES supported **effective actions against land grabbing by bridging at-risk communities with pro-bono legal institutions** and by **collaborating with the media and traditional authorities** in challenging harmful customary norms. As a result, community members and smallholder farmers in the Nkhosha district have resumed agricultural production on their land, whilst in the Chikwawa district, community members won a legal battle over land dispossession.



# NOTABLE OUTCOMES

## UNIFYING CIVIL SOCIETY STANCES ON LAND AND LINKING EFFECTIVELY WITH GOVERNMENT STAKEHOLDERS AND STATUTORY BODIES

Albeit the civil society network in Malawi has participated in the land law review processes since 1995, their advocacy initiatives often lacked coordination and operated without a harmonised strategy. LandNet Malawi scaled-up its collaborative efforts through the establishment of the NES Civil Society Land Governance Platform in 2013, by providing a unified space to address the political, legal, and cultural land governance issues, and to consolidate inputs to serve policy recommendations.

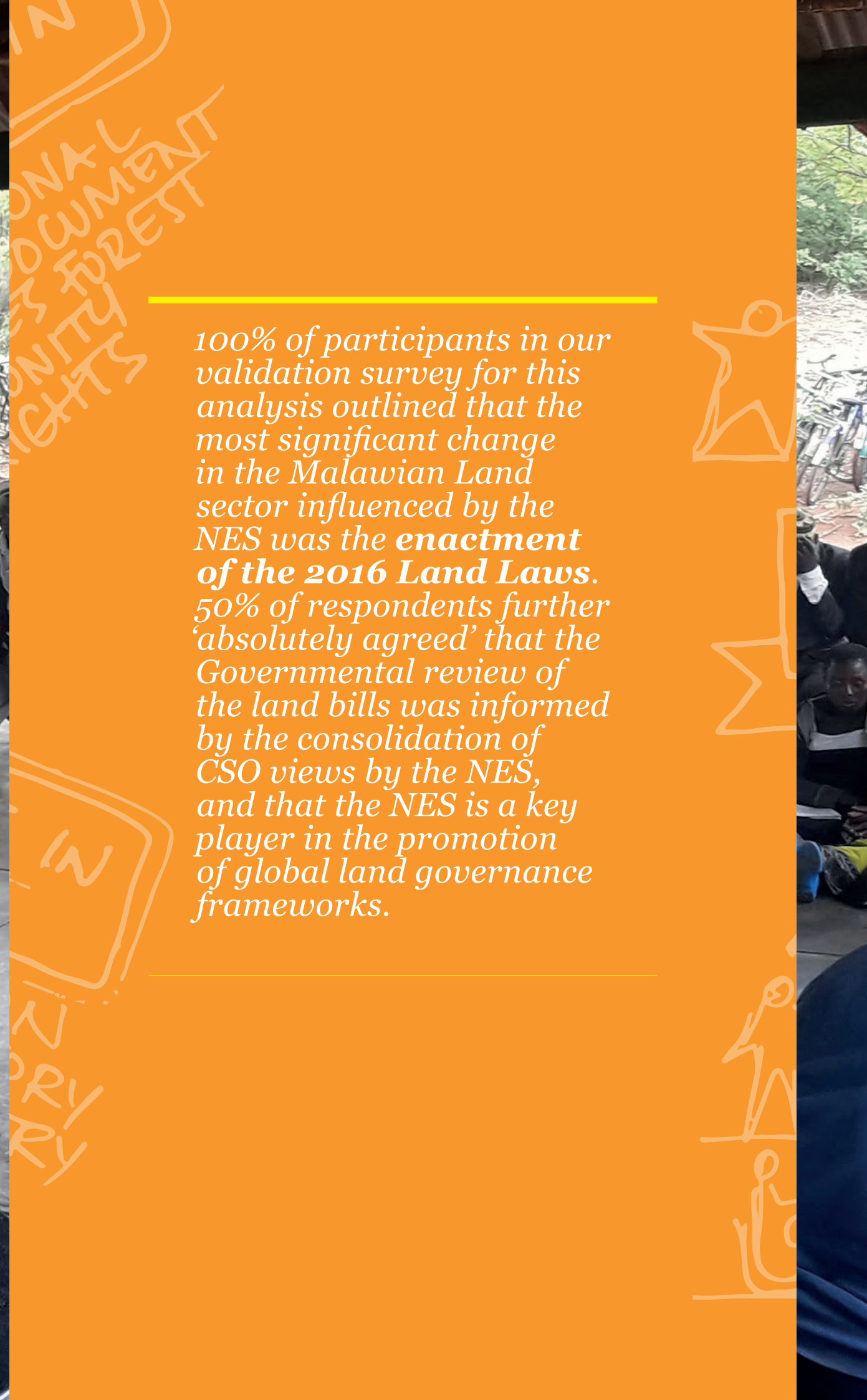
In order to present a unified stance to the Malawian Government regarding the 10 land-related bills, the NES submitted amendment proposals based on the inputs of platform members to the Ministry of Lands regarding the 2013 Land and Customary Land Bills- advocating for the incorporation of the views of dissenting groups, including traditional leaders and gender activists.

**The Ministry of Lands officially recognised LNM's role in land advocacy the same year.**

**In 2016, the joint civil society advocacy efforts culminated in the parliamentary approval of the ten land-related bills** that provide a novel framework for democratic and gender-sensitive land transactions in Malawi. Whereas the old land laws vested all land in the President (administered through local chiefs), the new laws bestow the land to the public- allowing the chiefs, as representatives of the people, to maintain their status as the overall land administrators.

The key changes implied by the laws include: land registration and tilting, through nationwide registration of customary lands; new local land management structures, by decentralizing land governance structures at community, district, and national levels, as well as novel land dispute resolution mechanisms, through the establishment of land tribunals; and additional efforts to ensure equal access and ownership of land, through the recognition and protection of women's land rights.

*100% of participants in our validation survey for this analysis outlined that the most significant change in the Malawian Land sector influenced by the NES was the **enactment of the 2016 Land Laws**. 50% of respondents further 'absolutely agreed' that the Governmental review of the land bills was informed by the consolidation of CSO views by the NES, and that the NES is a key player in the promotion of global land governance frameworks.*





## CHANGING PRACTICES: ENGAGING TRADITIONAL AUTHORITIES AND THE MEDIA IN LAND GRAB MITIGATION AND ADVOCACY FOR WOMEN'S LAND-RIGHTS

### RAISING AWARENESS ON THE NEW LAND LAWS

The NES Malawi assists in the public dissemination and interpretation of government policies and strategies pertaining to land and natural resources, incorporating a wide array of actors including the private sector, academia, the media, and government ministries and representatives.

In collaboration with the Malawian Government, the NES embarked on an awareness-raising campaign in order to clarify doubts and misconceptions of the new laws with traditional leaders and communities. Between 2014-2015, the NES held 12 community awareness meetings around the proposed land bill, engaging with some 2000 women and 1640 men from rural communities.

The NES, together with the Legislative Council and the Ministry of Lands, conduct orientation workshops to new Members of Parliament in relevant committees (Agriculture, Natural Resources, Legal affairs and Women Caucus) to familiarise them with content of the revised Land Bills.

### A MATURING PLATFORM: ENGAGING TRADITIONAL LEADERS AND THE YOUTH

As traditional leaders in Malawi play an instrumental role in ensuring that their constituents have secure tenure rights, the NES organised community meetings to raise the awareness of the new land laws, training more than 460 traditional leaders. Whilst the new land bills were initially met polarising opinions, **numerous chiefs changed their views because of clarifications achieved through the sensitisation campaigns. The supportive leaders further committed to encourage fellow district chiefs to implement the new laws in order to minimise land disputes.**

As a result of these engagements, five influential traditional leaders **officially joined the NES platform** in 2018. However, there remains a strong need for a nationwide awareness campaign to further communicate the specific provisions of the new land laws to the public and traditional leaders alike.

### THE YOUTH

Despite the new land laws making specific provisions for vulnerable and marginalised groups, they failed to recognise the youth as a target demographic. The NES collaborated with three Secondary schools, namely the Ntaja, Bolero and Natola Community Day Schools, where students were encouraged to apply creative outlets to advocate for the promotion of youth and female voices in the context of land issues. The outputs of the students (including songs, recitals, and performances) were **aired on community radio stations funded by the NES- drawing an audience of some 5.5 million rural Malawians.**

### Preventing Land Grabs through Media Exposure and Linkages with Pro-Bono Legal Institutions

Existing pressures on land in Malawi have intensified as a result of a lack of effective land policy implementation, and commercial initiatives that seek to improve natural resource management and food security- yet which overtly favour the interests of large-scale investors. In 2010, the Malawian Government began promoting commercial agriculture and supporting large-scale land acquisitions (namely through the Green Belt Initiative), leading to major spikes in land pressures in areas with fertile soils conducive to sugarcane cultivation. This phenomenon trickled down to the village level, with local chiefs selling their own community land, causing entire communities to lose their livelihoods.



In response, the NES launched a media and awareness campaign in collaboration with eight local media houses, exposing the corrupt practices of multiple village chiefs selling community land to private investors. The campaign drew widespread public attention and ushered in a **major investigation into land grabs initiated by the President of Malawi.**

The campaign further called on the government, policy-makers, and members of parliament to expedite the process of enacting the new land laws to mitigate the plight of smallholder farmers in the wake of a proliferation of large-scale investments. The process ultimately led to the **passing of four key land laws<sup>1</sup> in 2016 that seek to safeguard tenure rights of smallholder farmers.**

ILC documented and published a **Good Practice** outlining how the NES' media outreach campaign successfully minimised land grabbing in 2016.

### LINKAGES WITH PRO-BONO LEGAL INSTITUTIONS

Following the media campaign, the NES provided legal aid to two communities facing land grabs. NES members trained pro-bono legal institutions and paralegals on land pressure issues, and linked displaced and vulnerable communities with such institutions- building the capacities of rural communities in practicing their land rights.

Once the communities were sensitised on both international and local land governance frameworks, they began actively defending their rights. In the Chikwawa district, **community members sued a land investor for land dispossession and ultimately won the case.** Likewise, in the Nkhotakota district, community members and smallholder farmers confronted the Traditional Authority regarding the land grabbing facilitated by their chief.

1 Namely, the Principle Land Act, Customary Land Act, Physical Planning Act and Land Surveys Act



Following the extensive media coverage and community sensitisation workshops on tenure rights, **the case was referred to the courts, which ruled in favour of the smallholder farmers** and who have now resumed agricultural production on their land. Furthermore, in the **Ntcheu district, a restraining order helped protect a community of 200 households protesting the sale of land by their traditional leader. Legal assistance was also provided to a community of 270 farmers in the Dwangwa district whose land was grabbed in 2008 for sugar-cane cultivation.**

Despite these successes, there is a need for further legal reforms that would protect the land of vulnerable communities and enshrine the titling of customary land. The introduction of local level structures, such as the land committees, represent the first steps towards ensuring transparency and justice in local level land administration.



GENDER JUSTICE

Despite the approval of the new land laws, men continue to mediate women's access to land in both patrilineal and matrilineal societies. The NES aims to ensure that the adaption and implementation of the new laws are gender-just, and to cultivate awareness on gender-sensitive tools, including the Global Land Tool Network's Gender Evaluation Criteria and the UN's Convention on the Elimination of All Forms of Discrimination Against Women alternative reporting methods<sup>2</sup>. Through policy trainings, community meetings, public awareness campaigns and orientation sessions for community leaders, the NES has enhanced women's land rights, reduced land disputes, and protected them against land grabbing.

Within the gender dimension of NES Malawi, significant achievements to date include: the inclusion of the gender dimension in the 2016 Customary Land Act; the engagement of traditional leaders in challenging harmful customary norms; the successful sensitisation of political actors, the media, and the youth; the application of gender-tools in awareness building activities; as well as the involvement of the NES in national and regional gender justice networks, through the Gender Justice Forum and the 2016 Kilimanjaro Initiative.

With the support of the Parliamentary Women's Caucus, the NES lobbied the Malawian Parliament through a position paper calling for the inclusion of affirmative statements in the 2016 Land Bills to safeguard women's land rights. Together with 30 civil society organisations, the NES conducted an assessment of the revised Land Bill and customary Land Bill following the Gender Evaluation Criteria, using the findings as a basis to demand the enhancement of gender considerations in the land reform process.**The resulting land bills are non-discriminatory and allow for the registration and titling of customary land.** The new Land Bill (effective since 1 March 2018) furthermore **requires a minimum 50 percent female representation in the new customary land committees**, which are responsible for the management of customary land in a Traditional Land Management Area.

A variety of stakeholders (including the government, the media, the youth, as well as community and traditional leaders) were sensitised on the gender dimension of the land laws. Traditional leaders are among the main targets of NES actions as their involvement is crucial in order to overcome harmful customary norms. These engagements have proven particularly successful, as in 2018, after the implications of the laws and their initial reservations were addressed through sensitisation workshops, **five traditional chiefs (from both patriarchal and matriarchal regions) began advocating for women's rights by interacting with the government, politicians, and investors on the topic, and by further promoting community sensitisations regarding the land laws.**

2 The formulation of an Alternative Report to the CEDAW Committee provided further data on the situation of women's land rights in the country, reinforced connections with other national actors, and elaborated concrete suggestions for the review of the land laws.



# TIMELINE AND THEORY OF CHANGE



## ONGOING 2019

**PROMOTION OF GLOBAL LAND GOVERNANCE FRAMEWORKS**  
(Free, Prior And Informed Consent; Responsible Investment in Agriculture and Food Systems; Voluntary Guidelines on Tenure)

**SUPPORT TO LAND LAW IMPLEMENTATION**  
in pilot districts

## 2017

NES representation in multi-sectoral National **LAND GOVERNANCE TECHNICAL WORKING GROUP**

Assistance to pilot **JOINT-TITLING AND LAND REGISTRATION PROCESSES**

## 2018

Support to District Land Network **MONITORING OF 2016 CUSTOMARY LAND ACT IMPLEMENTATION**

**SENSITISATION CAMPAIGNS**  
targeting traditional chiefs regarding new land laws

**10 LAND-REALTED BILLS**  
operationalised

## 2016

Incorporation of **GENDER LENS IN CUSTOMARY LAND BILL**:  
Gender Evaluation Criteria analysis serving implementation guidelines

## 2014-15

**PREVENTION OF LAND GRABS**  
by providing linkages with pro-bono legal institutions

## 2013

Official **RECOGNITION OF LANDNET MALAWI** by Ministry of Lands, Housing and Urban Development

**UNIFICATION OF CIVIL SOCIETY VOICES**  
on the land question in Malawi

## 2013-15

**GOVERNMENTAL REVIEW OF LAND-BILLS**  
informed by NES consolidation of civil society views



THEORY OF CHANGE

Since its formulation in 2012-13, the Malawi National Engagement Strategy on Land Governance has fostered partnerships and collaborations at local, regional, national, and international levels (Connect); spearheaded capacity building and awareness raising processes aimed at enhancing the know-how of all stakeholders (Mobilise); and conducted vast lobbying and advocacy campaigns with community institutions to ensure gender-balanced representation and practices (Influence).

The aforementioned NES activities have contributed to considerable changes in policies and practices alike, from the formulation and implementation of inclusive land-related laws, to providing crucial support to communities facing land grabbing.

The NES Malawi Contribution Analysis outlines and corroborates evidence of how the platform has made significant progress towards its strategic objectives outlined in its 2017-2020 strategy document.

CHANGES IN POLICIES

Influence the development of guidelines and procedures to inform the implementation of the new land laws to take into consideration the views of key and marginalised stakeholders such as women, youth, traditional authorities, large-scale investors and civil society.

CHANGES IN PRACTICES

Support the set-up of a decentralised land governance system under the new land laws, under which women's land rights (and particularly ownership rights) are promoted and secured.

CHANGES IN AGENDAS

The Malawian government recognises the importance of inclusive and participatory implementation of the new land laws.

OVERALL OBJECTIVE

To enhance coordination between civil society and government to ensure the implementation of the new land laws is people-centred and gender sensitive

THE MALAWIAN CONTEXT

Malawi struggles with rapid population growth that exacerbates land degradation, landlessness, and the fragmentation of customary land. 83 percent of Malawi's 17.5 million people comprise a rural population, of which 25 percent live in extreme poverty and suffer from chronic food insecurities.

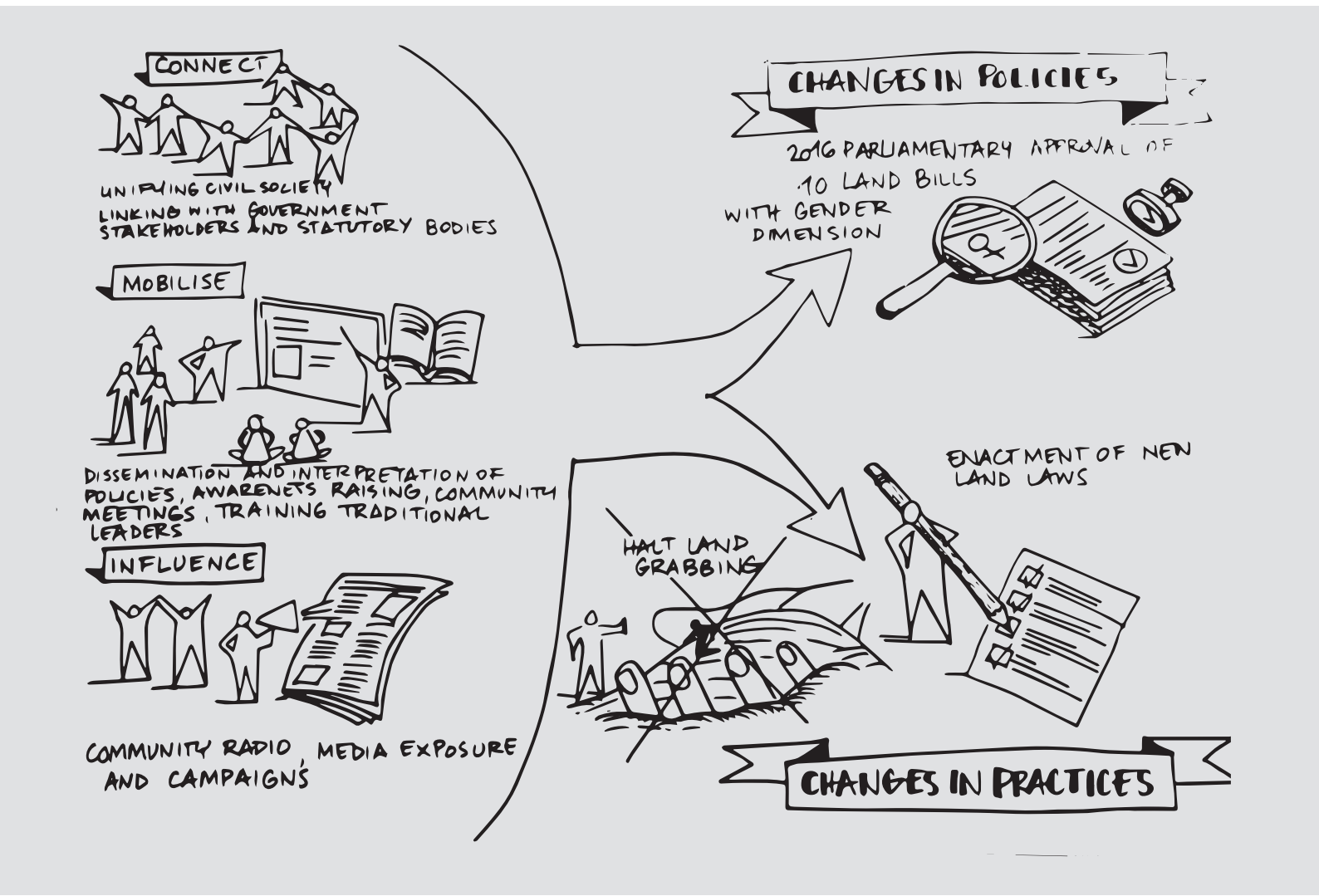
DUAL-GOVERNANCE AND TRADITIONAL AUTHORITIES IN MALAWI

Dual governance constitutes the practical and formal coexistence of the state and traditional authorities. Traditional Authorities act as the custodians of cultural and traditional values, and hold over 250 areas under their jurisdiction in Malawi- controlling customary land, ensuring its passage through customary inheritance laws, and executing semi-judicial functions, such as the settling of land disputes.

The preceding legal framework on land (dating back to 1965) had failed to protect smallholder rights and safeguard the interests of poor land users in the face of commercial pressures. The last two decades saw several attempts at reform and decentralisation, including the 2002 Malawi National Land Policy (MNLP).

In 2003, the Malawian Government appointed a Special Law Commission to review land related legislation and to draft new bills to realise the policy. LandNet Malawi was appointed a member of the Commission the same year. However, the Malawian parliament rejected the first drafts of the new bills as they lacked recommendations made by the Special Law Commission, which had consolidated inputs from relevant stakeholders. In particular, concern was raised by gender activists about the Land and Customary Land Bills for their failure to address gender disparities in the land sector, as well as by Chiefs who felt that their authority had been substantially reduced.

Following NES and other stakeholders' consultations with civil society, the private sector, traditional leaders, and smallholder farmers, 10 land-related bills were re-drafted and presented to Parliament in June 2013. The 10 bills were finally operationalised in 2018. Nonetheless, their application continues to stall due to alleged bureaucratic corruption, high illiteracy levels, and widespread lack of awareness about the new laws.





ILC IN MALAWI

**LandNet Malawi** (LNM) is a network of over 40 civil society organisations working towards equitable land policies by advocating for decision-making processes that enhance sustainable livelihoods, as well as the adoption and implementation of pro-poor legislation concerning land and natural resources.

LandNet Malawi joined the International Land Coalition (ILC) in 2007.

WE COULDN'T DO IT ALONE!

The NES has consolidated linkages with other relevant actors and development partners working within the Malawian land sector in order to promote complementary activities, knowledge sharing, and to avoid the duplication of efforts.

The main actors involved in the Malawian land sector include the following:

- » **CISANET CSO Network** is a part of the NES steering committee and assists capacity-building initiatives to strengthen policy process around food security and agricultural development.
- » **DanChurchAid** funds responsible land governance by addressing issues of land grabbing and the marginalisation of women.
- » **The European Union** funds the piloting of the new land laws, including the registration and titling of customary estates in collaboration with the Malawian Government, Oxfam Malawi, and the Centre for Environmental Policy and Advocacy (CEPA).
- » **FAO and UNWomen** funds sensitization campaigns the Voluntary Guidelines on Tenure and the Responsible Investment in Agriculture and Food Systems.
- » **Flanders International** funds work with the private sector in testing the Analytical Due Diligence Framework and promoting responsible land investments.
- » **OXFAM Malawi** is leading the piloting of the customary land laws, and works to facilitate dialogue regarding land reform processes and enhance women's land rights.
- » **The World Bank** is funding the implementation of the new laws in pilot districts, in collaboration with the Malawian Government.

KEY CHALLENGES

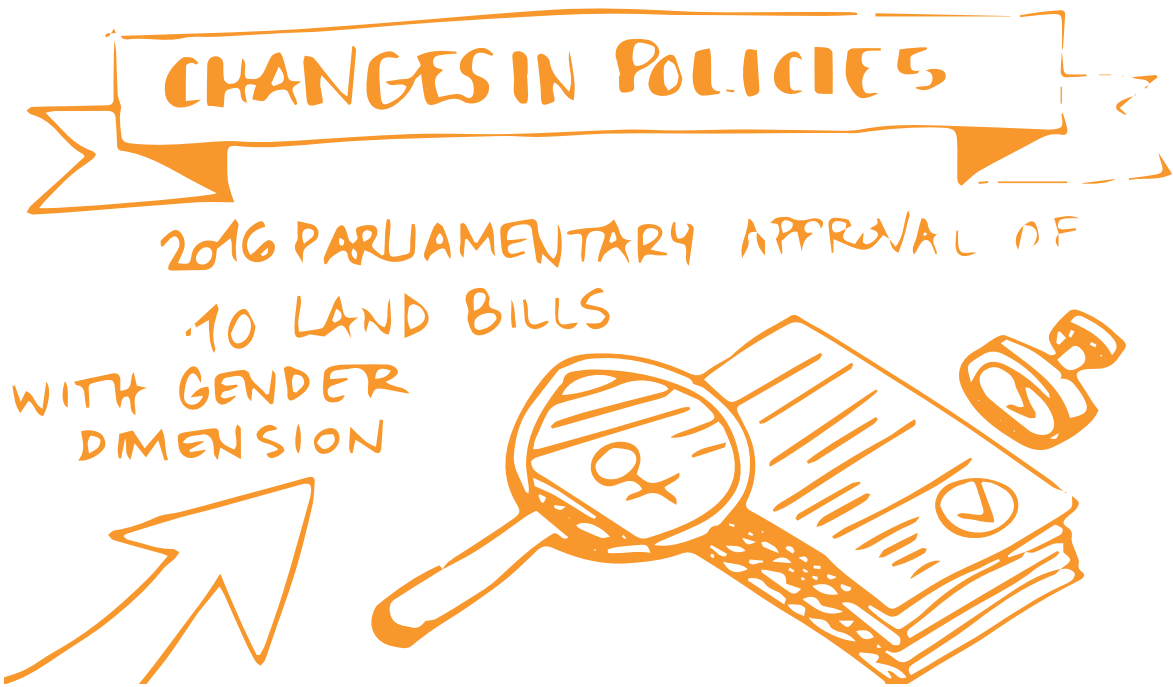
TRANSLATING COMMITMENT INTO PRACTICE

PUBLIC AWARENESS OF THE NEW LAND LAWS

The effective dissemination and sensitisation of the new land laws remains a crucial factor in their successful adaptation. As the new laws connote different roles and responsibilities for both right holders and duty-bearers, awareness of such provisions is vital in ensuring that the laws work for the benefit of all Malawians. Yet inadequate financial, technical, and institutional support currently impede the sensitisation process.

THE CULTURAL CONTEXT AND ENGAGEMENTS WITH POLICY-MAKERS

Cultural challenges can hinder progress towards improved land governance. Albeit the new laws (notably, the Customary Land Act) cater to a more equitable distribution of land through joint titling and equal participation in land governance, the laws diverge from the established cultural, social, and administrative practices. The newly established land committees, tribunals, and other land governance structures have furthermore caused some to feel deprived of their authority as the sole custodians of customary land. These sentiments have led to backlashes in pilot areas in the Mzimba, Kasungu and Phalombe districts.





# LESSONS LEARNED

Effective lobbying for people-centred land governance necessitates approaches that consider the inherent complexities of land governance processes, and the non-linear and unpredictable nature of change in this sector. The expansion of the NES from a purely civil society oriented platform to an inclusive space for a variety of actors provides novel entry points to pursue change and to build on the diversity of knowledge and expertise.

In May 2020, ILC published a knowledge product entitled **Learning from NES Malawi** that further documents the good practices and lessons learned from the multi-stakeholder platform.

## 1 REGULAR CONNECTION WITH GOVERNMENT STAKEHOLDERS

The NES is a member of the government's Land Governance Technical Group, and was previously involved in the Malawi Land Law Commission, the statutory body on the review and drafting of laws in the country.

The NES regularly communicates with the Ministry of Lands, Housing and Urban Housing (MLHUD), especially regarding the development of guidelines and procedures for the implementation of the new land laws.

The NES is also supporting the work of the Ministry of Land, Housing and Urban Development; the Centre for Environmental Policy and Advocacy; the European Union; and the World Bank in piloting the new laws in three districts.

## 2 THE IMPORTANCE OF PLATFORM DECENTRALIZATION

The centralised implementation of NES activities by the LandNet Malawi Secretariat vis-à-vis the NES secretariat did not represent a sustainable approach in the long-term. In order to ensure inclusive land governance processes, and to align with ILC's 2016-2021 Strategy, the NES necessitated an expansion beyond the civil society realm under LandNet Malawi.

A new steering committee elected in 2018 further transferred the duties from LandNet to a seven-member board.

## 3 AWARENESS RAISING

To guarantee the success of the recently enacted gender-sensitive land laws in Malawi, all stakeholders must have a strong understanding of the land laws in order to be able to defend, demand, and ensure secure tenure rights.

# MEET THE PLATFORM

The NES Malawi brings together diverse but complementary efforts, particularly between intergovernmental and civil society organisations. As of 2019, the platform works at both district and national level, encompassing 25 of Malawi's 28 districts, and comprising 37 members.

### *Academia & Research*

- » Malawi Polytechnic – Faculty of Built Environment
- » Mzuzu University – Urban Research and Advocacy Centre
- » National Learning Alliance

### *Associations*

- » Mzimba Youth Association

### *Civil Society Organisations*

- » Centre for Community Empowerment and Sustainable Development (CCESD)
- » Centre for Community Organisation and Development (CCOD)
- » Centre for Environmental Policy and Advocacy (CEPA)
- » Circle for Integrated Community Development (CICD)
- » Coordinating Unit for the Rehabilitation of the Environment
- » Land Governance Alliance
- » Total Land Care
- » Women's Legal Resources Centre (WLRC)

### *Civil Society Network Land Governance Subcommittees (District Land Networks)*

- » Chkwawa District Land network
- » Karonga District Land Network
- » Mangochi District Land Network
- » Mzimba District Land Network
- » Nsanje District Land Network
- » Phalombe District Land Network

### *Development Partners*

- » ActionAid
- » Danchurchaid
- » Food and Agriculture Organisation (FAO)
- » Oxfam Malawi
- » WeEffect

### *Government Ministries*

- » Ministry of Gender, Children, Disability and Social Welfare
- » Ministry of Lands, Housing and Urban Development
- » Ministry of Local Government and Rural Development

### *Media*

- » Malawi Broadcasting Station
- » Times Media Group
- » Zodiak Broadcasting Station

### *Networks*

- » Civil Society Agriculture Network (CISANET)
- » LandNet Malawi
- » Malawi Youth Network

### *Statutory Bodies*

- » Malawi Law Commission
- » National Initiative for Civic Education

### *Traditional Leadership*

- » Traditional Authority Chikumbu
- » Traditional Authority Kachindamoto
- » Traditional Authority Mbenje

### *Women's Groups*

- » Coalition of Women Farmers





## STRATEGIC PARTERS AND CORE DONORS



Government of the Netherlands



Federal Ministry  
for Economic Cooperation  
and Development



Investing in rural people



Sverige



Irish Aid  
Rialtas na hÉireann  
Government of Ireland



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra  
  
Swiss Agency for Development  
and Cooperation SDC



# NES

NATIONAL  
ENGAGEMENT  
STRATEGY

National Engagement Strategies - often referred to as “NES” – are multi-stakeholder platforms set in motion by the International Land Coalition (ILC). They are led by national actors, and include ILC members and partners to promote the Coalition’s joint goal of people-centred land governance.

NES platforms are helping to simplify and unpack land governance complexities by setting priorities and suggesting solutions to some of the most difficult land-related issues in a country. NES platforms are promoting collaboration and bridging the gap between government, the private sector, civil society including grassroots organisations, international agencies, traditional authorities and academia.

All ILC members have the opportunity to set up national platforms with the technical and financial support of the ILC.

These platforms use ILC’s 10 commitments to people-centred land governance as their compass, while promoting the Voluntary Guidelines for Land Tenure (VGGTs) and the Framework and Guidelines on Land Policy in Africa.

10 LAND BILLS  
WITH GENDER  
DIMENSION



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MOBILISE



DISSEMINATION AND INTERPRETATION OF  
POLICIES, AWARENESS RAISING, COMMUNITY  
MEETINGS, TRAINING TRADITIONAL  
LEADERS

INFLUENCE

