

**“WHAT’S MINE?” RURAL WOMEN’S
EXPERIENCES AROUND PROPERTY RIGHTS IN
THE CONTEXT OF DISSOLVED MARRIAGES IN
MATRILINEAL SOCIETIES: A CASE STUDY OF
MULUWILA VILLAGE IN KUNTUMANJE AREA,
ZOMBA DISTRICT, MALAWI**

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the Faculty of Arts and Social Sciences at
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Declaration

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Abstract

Granting women access to and rights in property (including housing and land) is widely regarded in the literature on gender and development as contributing significantly both towards women's empowerment and to social development in general. In this regard it is often assumed that women in matrilineal societies enjoy strong ownership rights to land because descent follows the female line and marriage is commonly uxorilocal. However, there is a body of literature that argues that women do not enjoy strong rights over land because decision-making powers over family land are commonly vested in males within the maternal lineage, typically the woman's uncles and/or brothers. Furthermore, men entering marriage in matrilineal communities are said to be increasingly hesitant about making meaningful investments in their wives' land, as matrilineal custom dictates, while patriarchal values are also influencing matrilineal norms and customs to the detriment of women's claims. Problems around the strength and security of women's land rights in matrilineal societies are most likely to come to the fore in the context of marriage dissolution, whether through the death of a spouse, divorce or abandonment.

In Malawi matrilineal forms of social organisation are widely practised but the issue of married women's rights to matrilineal land holdings in the contemporary period is under-researched. This dissertation makes a contribution to this field by exploring the extent to which women in matrilineal communities in Malawi experience threats to or actual loss of rights to land and housing, if their marriages dissolve, through an in-depth study of the experiences of women in Muluwila village, in Zomba District in southern Malawi. Drawing on feminist standpoint theory, I have employed a mixed methods research design that included a background household survey, in-depth interviews with a selection of women in the village, key informant interviews and documentary and historical analysis. My conceptual framework was shaped by Connell's three-fold model for gender analysis, embracing power relations, production relations and 'affective attachments' (or 'cathexis'), used in combination with Bourdieu's notions of *habitus* and 'field' to explore women's experiences and their attempts to negotiate the complex terrain of marriage, property and customary law in a rapidly changing social and economic environment, characterised by acute land shortage.

The study found that women who opt to relocate from their maternal land when they marry and settle elsewhere with their husbands, either with his kin or in a neutral place, are the most vulnerable to loss of land rights if their marriages dissolve. They are not in a strong position to assert claims to the marital property but if they go back to their maternal home, they are likely to find that their family land has been shared among their siblings and other matrikin, leaving them landless. I suggest that gender policy in Malawi needs to address the challenges facing women at both the micro level of the household and the macro level of the legal system and make recommendations for further research.

Opsomming

Die meeste literatuur oor gender en ontwikkeling beskou die verlening van toegang tot en regte op eiendom (onder meer behuising en grond) aan vroue as 'n beduidende bydraende faktor tot vrouebemagtiging in die besonder, en maatskaplike ontwikkeling in die algemeen. In dié verband word daar dikwels aangeneem dat vroue in matriliniêre samelewings oor gevestigde eiendomsregte op grond beskik omdat afkoms die vroulike linie volg en huwelike meestal matrilokaal is. Tog beweer sekere literatuur dat vroue in dié samelewings nié oor sulke gevestigde grondregte beskik nie omdat besluitnemingsmagte oor familiegrond oor die algemeen by mans binne die vrouelinie, tipies die vroue se ooms en/of broers, berus. Voorts huiwer mans wat in matriliniêre gemeenskappe introu na bewering al hoe meer om aan die matriliniêre gebruik gehoor te gee om aansienlik in hul vrouens se grond te belê. Patriargale waardes beïnvloed ook matriliniêre norme en gebruike tot nadeel van vroue se aanspraak op grondregte. Probleme rakende die sterkte en sekerheid van vroue se grondregte in matriliniêre samelewings kom heel waarskynlik veral na vore wanneer huwelike ontbind word, hetsy deur die dood van 'n huweliksmaat, egskeiding of verlating.

Matriliniêre vorme van maatskaplike organisasie word algemeen in Malawi aangetref, maar die kwessie van getroude vroue se reg op matriliniêre grondbesit in die hedendaagse tyd is nog weinig nagevors. Hierdie verhandeling dra dus tot dié navorsingsgebied by deur ondersoek in te stel na die mate waarin die grond- en behuisingsregte van vroue in Malawiese matriliniêre gemeenskappe bedreig word of geheel en al verval indien hul huwelike eindig. Vir hierdie doel is 'n diepgaande studie van die ervarings van vroue in die dorp Muluwila in die Zomba-distrik in die suide van Malawi onderneem. Die navorser het uit feministiese standpuntteorie geput om 'n gemengde navorsingsontwerp te gebruik, wat onder meer uit 'n huishoudelike agtergrondopname, diepte-onderhoude met 'n gekose groep vroue in die dorp, onderhoude met sleutelinformante sowel as dokument- en geskiedkundige ontleding bestaan het. Die konseptuele studieraamwerk is beïnvloed deur Connell se driedelige model vir gender-ontleding – wat oor magsverhoudinge, produksieverhoudinge en 'affektiewe gehegtheid' (of 'kateksis') handel – sowel as Bourdieu se gedagte van *habitus* en 'veld' om ondersoek in te stel na vroue se ervarings sowel as hul pogings om hul weg te baan op die ingewikkelde terrein van huwelike, eiendom en gewoontereg in 'n snelveranderende maatskaplike en ekonomiese omgewing, wat boonop deur 'n erge tekort aan grond gekenmerk word.

Die studie bevind dat vroue wat met hul troue kies om van hul moedergrond weg te trek en hulle elders saam met hul mans te vestig, hetsy by sy familie of op 'n neutrale plek, die kwesbaarste is vir verlies van grondregte indien hul huwelike ontbind word. Aan die een kant het hulle geen werklike aanspraak op die huwelike-eiendom nie; aan die ander kant vind hulle meestal met hul terugkeer na hul

moederhuis dat die familiegrond onder hul susters en ander vroulike verwante verdeel is – wat hulle in wese sonder grond laat. Die studie stel voor dat genderbeleid in Malawi erns maak met die uitdagings van vroue op die mikrovlak van die huishouding sowel as die makrovlak van die regstelsel, en doen ook aanbevelings oor verdere navorsing.

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Dedication

To Tiko and Tako Katundu

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Acronyms

AU	African Union
CBRLDP	Community Based Rural Land Development Project
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CLC	Customary Land Committee
DAI	Development Alternatives Inc.
DAO	District Administration Ordinance
DR	District Resident
EISA	Electoral Institute for Sustainable Democracy in Africa
FTS	Fertilizer Tree System
FISP	Fertilizer Input Subsidy Programme
Genet	Girls empowerment network
GVH	Group Village Headman
IMF	International Monetary Fund
LHUD	Land, Housing and Urban Development
LLDPP	Lilongwe Land Development Project
MCI	Millennium Consultative Initiative
MYP	Malawi Young Pioneers
MNPO	Marketing of Native Produce Ordinance
NA	Native Authority
NGO	Non-governmental Organisation
NIZA	Netherlands Institute in Southern Africa
NSO	National Statistical Office
PCILPR	Presidential Commission of Inquiry on Land Policy Reform
SADC	Southern African Development Community
SAP	Structural Adjustment Programme
SARDC	Southern African Research and Documentation Centre
WIDSAA	Women in Development Southern African Awareness
SIDA	Swedish International Development Cooperation Agency
Sub-TA	Sub-Traditional Authority
UNDP	United Nations Development Programme

WOLAR Women and Land Rights
WLSA Women and Law in Southern Africa

Glossary of Chichewa terms used in the text

<i>Ankhoswe/nkhoswe</i>	Marriage counsellor (plural/singular, though the plural form may be applied to an individual as a mark of respect)
<i>Apantundu</i>	Matrilineal family network comprising of <i>nkhoswe</i> , <i>mbumba</i> and other relations
<i>Banja</i>	Family, but also refers to a household
<i>Bele laling'ono</i>	A person's younger sister's family
<i>Bele lalikulu</i>	A person's older sister's family
<i>Bele limodzi</i>	Of the same family
<i>Chikamwini</i>	A matrilineal form of social organisation in which upon marriage a man relocates and stays at the wife's place, otherwise known as uxorilocal residence
<i>Chitengwa</i>	A matrilineal form of social organisation in which the man takes his wife to another place of residence which can be either virilocal (to the husband's village) or neolocal (to a neutral place).
<i>Fuko</i>	Clan
<i>Gowero</i>	Girls' residence
<i>Limana</i>	Residential cluster consisting of several related households (<i>banja</i>)
<i>Mbumba</i>	All the members of a matrilineage
<i>Mkamwini</i>	Son-in-law who resides uxorilocally
<i>Mnansi</i>	A kin member who is not related by blood; he or she could, for instance, be regarded as related to the people concerned because they have stayed together for a long time
<i>Mphala</i>	Boys' residence
<i>Obwera</i>	A person from another village who has married into the village

<i>Ongotolana</i>	Those who just pick each other without a formal marriage
<i>Ziwiya zachikazi</i>	Property that is considered to belong to females
<i>Ziwiya zachimuna</i>	Property that is considered to belong to males

CHAPTER 1: INTRODUCTION

This dissertation explores the extent to which women in matrilineal communities in Malawi experience threats to, or actual loss of, both access and ownership rights to property, more specifically to land and housing, if their marriages dissolve. Dissolution of marriage in this dissertation encompasses divorce and abandonment by one's spouse, as well as the ending of the marriage as a result of the death of a spouse; given that my study is on the experience of women, here I am addressing the situation of widowhood. These issues are explored through a case study investigation of women's experiences in a village by the name of Muluwila, in Zomba district in southern Malawi, an area where matrilineal social systems are dominant. Matrilineal social systems, as discussed further below and more fully in Chapter 3, are ones in which descent and patterns of inheritance are traced through the maternal rather than the paternal line.

In this introductory chapter, I first outline my research focus and then offer the rationale for undertaking this study. This is followed by my research questions (in section three) and thereafter the key features of my research design. Section four briefly discusses four key concepts used in the study, namely: the matrilineal social system, marriage dissolution, property in the form of land and housing, and gender. This section is followed by an overview of my methodology and study site in section five. Section 6 offers a description of the study site. I conclude this introductory chapter by giving a brief chapter outline in section seven.

1.1 Research focus

Marital instability in Malawi is not a new phenomenon, with various studies noting an increase in the occurrence of marriage dissolution since at least the 1950s (Mair, 1951: 112; Phiri, 1983: 260; University of Malawi Centre for Social Research and Southern African Research and Documentation Centre-Women in Development Southern African Awareness (SARDC-WIDSAA, 1997: 23; Kambewa, Peters and Berge, 2008: 5; Manyozo, 2012: 2; Mponda 2012: 2; and Lovo, 2013: 7). A number of studies, furthermore, suggest that there

has been a more marked increase in divorce rates (as one form of marriage dissolution) in matrilineal communities within Malawi compared to patrilineal communities (Kaler, 2001: 531; Renier, 2003: 183; Mwambene, 2005: 20; Reneirs and Tfaily, 2008: 5; Kishindo, 2009; and Lovo, 2013: 7). Various authors also note that the marriage bonds between a husband and a wife are typically weak in the matrilineal communities of Malawi; hence these marriages break up relatively easily. In many cases, the parties remarry, hence marriage rates remain high (Kaler, 2001: 531; Renier, 2003: 183; Mwambene, 2005: 20; Reneirs and Tfaily, 2008: 5; Kishindo, 2009; and Lovo, 2013: 7).

At the same time, various academic studies, as well as more popular media accounts, suggest that a significant number of Malawian women are vulnerable to losing property as a result of the dissolution of their marriages (Mbaya, 2002: 8; White, 2010: 16; Millennium Consultative Initiative (MCI), 2010: 20; Linzi, 2011: 9; Nyondo, 2012: 14). For instance, Seodi White, an activist who has been instrumental in the reformulation of Malawi's gender-related laws as the Malawi Coordinator of the Women and Law in Southern Africa Research and Educational Trust (WLSA), argued in 2010 that women are discriminated against in terms of their rights to access and own property.¹ This was in the WLSA shadow report to the Malawian Government on the implementation of the United Nation's Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW).² According to White (2010: 14):

In matrilineal communities of Malawi, traditional land is vested in maternal uncles as the custodian of the land owned by his clan, while the women have user rightsWhen women marry, their (male relatives and) (*sic*) husbands control the land and assets. Upon marriage dissolution, husbands take the assets which they brought into the village together with the harvest and leave the land.

Similar sentiments have been echoed in studies by Maliro, M'chanju-Liwewe, Chirwa and Matenje (2003: 48), ActionAid Malawi (2010: 10), Linzi (2011: 9) and Nyondo (2012: 14).

¹ Seodi White has also coordinated and conducted research ranging from women's access to justice, women's property rights, constitutionalism and women's rights, legal pluralism, gender and HIV/AIDS, and sexual and reproductive health rights of women in Malawi, Southern Sudan, Liberia, Zambia, Zimbabwe, Mozambique, and Tanzania.

² Malawi became a signatory to CEDAW in 1987.

For instance, the 2010 report by ActionAid Malawi, concerning what happens when marriages dissolve, noted that: ‘Some husbands sometimes go as far as burning their marital house they constructed. Some take all property they had bought for the use of the family...’ (2010: 10). In an article in *The Nation Newspaper* dated 4 September 2012, Nyondo summed up women’s experiences around land in this way: ‘Women toil while men own the land’ (2012: 8). If this is the case, then one could indeed argue that women are ‘losing ground’. ‘Losing ground’ is a term that I have adopted to express the idea that the capacity of women in Malawi to exercise their rights to acquire, own and control property in the form of housing and land is being eroded and, in many cases, denied outright. I have utilised the term because it appears that previously women had stronger powers over land and housing than today. In this context many women are indeed asking, as stated in the title of my dissertation: ‘What is mine?’

As discussed further below, the term ‘matrilineal’ encompasses a complex set of relationships and practices. On the one hand, it is often assumed that women in matrilineal communities have strong ownership rights to land because descent follows the female line and marriage is commonly uxorilocal. In practice, however, decision-making powers over the land that women are said to own are commonly vested in males within their maternal lineage, i.e. in the hands of the uncles or brothers of the woman in question. On the other hand, some men in matrilineal marriages are said to be hesitant to make meaningful investments in the land that they access through their wives and may not even build a house on this land, as matrilineal custom dictates (Mbaya, 2002: 8; White, 2010: 16; MCI, 2010: 20; Linzi, 2011: 9; and Nyondo, 2012: 14). According to Maliro, M’chanju-Liwewe, Chirwa and Matenje (2003: 48), ownership entails having the power to make decisions pertaining to the use and disposal of the property in question, as well as being able to exercise control over the property. The authors argue that from this perspective women in matrilineal societies of Malawi do not have such powers, even though they are commonly thought to be the primary land owners in their communities. This is despite government interventions, including the drafting of a National Gender Policy, which was first introduced in 2000-2005 and again in 2006- 2011 and finally passed into law in February 2013.³ It provides for equal and secure property rights for men

³ The Policy was initially a temporary measure; hence it was valid only from 2000 to 2005. The Bill to enact the Policy stalled because gender activists were still lobbying for the inclusion of considerations of policies that reflect women’s experiences. This Bill was finally adopted in 2013 without amendments.

and women, including in cases of marriage dissolution. Furthermore, according to Chapter 24 section (1) (b) (i) of Malawi's Constitution (2000), women are entitled to a fair disposition of the property that was held jointly with the husband at the time of the marriage dissolution. Thus the state formally recognises the importance of women having access to and ownership rights in property after a marriage has dissolved.

Building on this earlier body of work, my study seeks to establish whether women in matrilineal communities whose marriages have dissolved or are in the process of dissolving are, indeed, losing ground with respect to their property rights to land and housing and, if so, why this is happening. It does so through an in-depth exploration of the experiences of women in Muluwila village, in the Kuntumanje Traditional Authority Area of Zomba District, in the southern region of Malawi. Historically, Zomba district has been characterised by matrilineal norms and practices with regard to household relationships and forms of property inheritance.

My primary interest is in understanding the contemporary experiences of women in this community with regard to their property rights, although I recognise that women's experiences cannot be looked at in isolation from the views and experiences of men. The study also seeks to locate these experiences in the context of the complex processes of social change that have taken place over the years and have affected married women's claims to land and housing in this particular area of Malawi.

1.2 Research rationale

Granting women access to and rights in property (including housing, land and other assets such as household items and farm tools) has been widely recognised in the literature on gender and development as a significant contributor towards women's empowerment as well as important for social development in general (Agarwal, 2003; Chiweza, 2005; Mascari, 2005; Wiczeoreck-Zeul, 2007). This is evident in the high-level policy attention that the subject has received within Africa and globally in recent decades, particularly in relation to rights in land and women's position in decision-making. International Conventions and Declarations on gender equality and empowerment that highlight the importance of decision-making powers and land rights for women include CEDAW (1979) , the 1995 Platform of

Action adopted at the World Conference on Women (Beijing), the UN Millennium Summit in 2000 on Gender Equality and Empowerment of Women, the 2003 African Union (AU) Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, and the 2008 Protocol on Gender and Development adopted by the Southern African Development Community (SADC) in 2008. For instance, in its efforts to eliminate discrimination against women and to protect women's property rights, the AU stipulates in article 21 of the AU Protocol that:

... women and men have the right to inherit property in equitable shares. In particular, a widow shall have the right to equitable share in inheritance and to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it (AU, 2003: 19).

However, many studies argue that notwithstanding this high-level attention, women are often marginalised in terms of secure property rights.

Malawi is a signatory to all the international conventions mentioned above. Nevertheless, various studies and media reports suggest a similar pattern of marginalisation of women in terms of secure property rights. According to Nyondo (2013) women in Malawi contribute about 90% of the labour that goes into the production of food but only 4% of women have formal ownership rights in land. A more recent study by Chiwona-Karltun, Chinsinga, Hesselmark, Mkwambisa and Gerremo (2013) concurs with this assessment, that most women in Malawi do not have ownership rights to land even though they make significant contributions to labour in the agricultural sector. This is regardless of whether they hail from a patrilineal or matrilineal social system (Chiwona-Karltun *et al*, 2013: 1-2). This suggests that the extent of marginalisation of women in Malawi may be even larger than the picture indicated previously for sub-Saharan Africa overall.

As already noted, at the societal level there is a widespread acknowledgement within Malawi of the matrilineal norms embedded in the kinship system to which most Malawians belong. Sixty-nine percent of Malawi's population practice matrilineal customs (Reniers, 2008). The matrilineal social system appears to accord women the right to access and own property (Mbaya, 2002: 8; Mwambene, 2005: 33; Munthali, Berge, Khaila and Wiig, 2007: 3; Peters 2009; Kishindo, 2010: 89; White, 2010: 14). Yet despite the protection of property rights

being enshrined in Malawi's Constitution and strong property rights for women lying at the core of Malawi's matrilineal social system, a number of recent studies suggest that currently women are losing ground in terms of accessing and owning property and that discrimination and property-grabbing from women is on the increase (Mbaya, 2002: 8; Chiweza, 2005: 84; Inter Press Service, 2009: 1; White, 2010; ActionAid, 2010: 10; Nyondo, 2011:14).

According to the authors above, women are most vulnerable to being denied access to and ownership of property by their former spouses when they experience divorce or abandonment. Mair noted incidences of husbands destroying marital houses in a matrilineal community in Malawi as early as the 1950s; she also reported that some husbands would remove the roof or window frames of their former marital home after divorce (Mair, 1951). Maliro, M'chanju-Liwewe, Chirwa and Matenje (2003: 54) also describe a case where a husband set his matrimonial house on fire after his marriage ended. There is also evidence of women being denied access to property and ownership rights by their husbands' relatives after the death of their husbands. In other cases women may struggle to assert or regain rights in their natal homes upon the dissolution of their marriages. According to the Women and Land Rights (WOLAR) Shine report on a project implemented in 2009 (in collaboration with ActionAid Malawi), some women who opted to stay at their husbands' homes during the duration of their marriage found that they were denied rights to land in their natal homes when they tried to relocate there after their marriages had dissolved (WOLAR, 2010: 2⁴).

Clearly, based on the preceding accounts, there is a significant discrepancy between those who argue that women in matrilineal communities enjoy ownership rights to land and housing and those who argue that women do not fully enjoy these rights because it is their male counterparts that control and make decisions regarding the land and housing. In 2008 Mchanju-Liwewe argued that women in matrilineal communities could be losing out on the gains that matrilineal social organisation supposedly accorded women in terms of accessing and owning customary land (Mchanju-Liwewe, 2008). Berge, Kambewa, Munthali and Wiig (2014: 64) have argued that the volume and extent of matrilineal land holding across Malawi seems to be a neglected research topic. These authors agree with Peters (1997: 207) who pointed out that there is dearth of research on basic issues relating to residence after marriage

⁴ The author of this report is unknown.

in these communities. Hence my interest in filling this knowledge gap and understanding rural women's experiences around land and housing in matrilineal communities of Malawi after their marriages dissolve.

1.3 Research questions

My study has been designed around four overarching sets of research questions. These are:

1. What is happening to married women's property rights around land and housing in my study site in cases of marriage dissolution? Are women 'losing ground' as suggested by various studies?
2. If women in this matrilineal society are indeed losing land rights when their marriages dissolve, how and why is this happening?
3. More particularly, what are women's own experiences around issues of property in the context of marriage dissolution in my study site?
4. How significant are national legal provisions and customary rights that allow women to access and acquire property in mediating these experiences?

Flowing from these broad questions, a number of more specific research questions follow:

- i. What significant changes around land ownership, land use and land values have occurred in my study area dating back to the colonial period?
- ii. What meanings are attached to the matrilineal social system, marriage and property in my study site in the contemporary period and what changes have people observed in this regard over time?
- iii. How are issues around women's property rights being resolved in case of marriage dissolution?

- iv. What are the implications of changing norms and practices around marriage and property in this district for national policy on gender equality and women's rights to land?

1.4 Key concepts utilised in this study

At this point I consider it useful to explain briefly how I am using the following key concepts: matrilineal social system, marriage dissolution, property (with respect to land and housing) and gender. These concepts, which I use throughout the dissertation, are revisited in chapters 2 and 3. Here it is also worth noting that in this dissertation I make use of Chichewa terms to refer to local relationships, institutions and practices. Chichewa is the language which the respondents in my study area speak. I frequently use Chichewa terms to convey the meanings that the respondents have expressed to me, because many of these terms cannot be easily translated into English.

1.4.1 Matrilineal social system

The term 'matrilineal' refers to a complex set of social practices, with many variations existing in practice in the various localities where it is practised. Broadly, matrilineal social systems are social systems in which descent and patterns of inheritance are traced through the maternal lineage (Peters 1997; Mwambene 2005; Takane 2008; Kishindo 2010; and Berge, Kambewa, Munthali, and Wiig 2014). In the ideal type, mothers pass on their land to their daughters to inherit while their sons acquire land through their wives when they marry; men are also expected to follow their wives to their natal homes, a residence pattern which is known as uxori-local residence (Mair, 1951: 104; Kishindo, 2010: 89; and 2011: 7). However, the potential son-in-law is also expected to cultivate in his potential mother-in-law's field. The woman in question (the bride-to-be) has access and ownership rights to the matrimonial house built by her future husband at her mother's place (Mwambe, 2005: 17). This account of matrilineal marriage ought to be understood as an ideal construct. In practice there are a variety of residential arrangements for married couples under matrilineal social systems, which I discuss in more detail in Chapter 3.

In this dissertation, my understanding of ‘matrilineal’ takes into account the way in which the respondents in my study perceive it. According to the residents of Muluwila village, the matrilineal social system comprises two forms: that of *chikamwini* and *chitengwa*. The first form, *chikamwini*, entails that upon marriage a man relocates and stays at the wife’s place. The second form, *chitengwa*, entails that a man takes his wife to stay with him, either at his natal home or at a neutral place. However, in cases where the husband takes the wife to stay in his home or to a neutral place, he is still expected to honour his social obligation to build a house at his wife’s place. These concepts are discussed further in Chapter 3.

1.4.2 Marriage dissolution

I use the term ‘dissolution of marriage’ in Malawi’s matrilineal society to encompass divorce, abandonment and the death of a spouse. Here it should be noted that my definition does not extend to formal separation as a result of the estrangement of the parties to the marriage, because traditionally separation is not recognised as a form of marriage dissolution in Malawi’s matrilineal marriage system. The view is that one cannot be partially married and therefore a couple cannot be both separated and still married: one is either in or out of the marriage. The distinction between divorce and abandonment relates to the level of formality involved in the ending of the marriage, with divorce involving both partners to the marriage acknowledging its ending and participating in certain socially recognised practices to mark its ending.

As already noted, marriage bonds between a husband and a wife in Malawi’s matrilineal societies are commonly said to be weak, leading to the relative ease of marriage dissolution (Mair, 1951: 112; Phiri, 1983: 260; University of Malawi (UNIMA) Centre for Social Research *et al*, 1997: 23; Mwambene, 2005: 14; Kambewa, Peters and Berge, 2008: 5; Manyozo, 2012: 2; Mponda 2012: 2 and Lovo, 2013: 7). These authors argue that the bonds among sisters and between sisters and brothers tend to be stronger in the matrilineal communities of Malawi than the bonds established through marriage between a husband and his wife. Apart from reflecting on marriage instability among the matrilineal communities of Malawi, these authors have also established that there are high rates of remarriage in these communities. I explore these points further in the literature review in Chapter 3.

1.4.3 Property vis-à-vis land and housing

My understanding is that property refers not simply to an external ‘thing’ or object, such as a house or a field. Rather, following Hoebel (1966: 424) and Hann (1998: 4), property involves a network of social relations that govern the conduct of people in relation to the way they use the thing (the land or house in question) as well as the meanings they associate with the property and the way they dispose of it. Thus Hann (1998: 34) argues that the ultimate determinant of what property is and what it is not is embedded in the attitudes of the group whose culture is being studied.

In my study I make use of Hoebel and Han’s analyses of what property is to explore three pertinent points. Firstly, I explore the meanings that the respondents in my study attach to their land and housing in order to probe the value that they attach to the property. Secondly, I explore the histories of these forms of property to understand how my respondents have come to access, own and use the said properties. Thirdly, I explore the network of social relations that influence decisions around property sharing when a marriage is ended.

I also find useful a definition of property developed by Gray (1991) which Maliro *et al* (2003: 50) have also employed, which is complementary to the analyses of Hoebel and Hann. According to Gary (1991: 39):

the law does not view property as things, but as power relations constituted by legally sanctioned control over access to the benefits of excludable resources... Property is about excludability and not really the conventional legal emphasis on the assignability and enforceability of benefits. For property resides not in the consumption of benefits but in control over benefits. Property is not about enjoyment of access but control over access.

In my understanding, Gary’s argument is that generally when property ownership is considered in terms of the law (regardless of how the law is formulated and applied), property ownership deals as much or more with who is excluded as with who is said to have the ownership rights or is seen to enjoy the benefits thereof. In essence, his view is that property ownership is about who has control over it, to the exclusion of others. In my view, then, Gray’s understanding of property ownership rights in terms of power relationships conversely implies that property can also be a source of vulnerability (Maliro, M’chanju-Liwewe,

Chirwa and Matenje, 2003: 43). This is particularly the case in relation to gender roles and relations, which also involve power relations.

In my study the property that I focus on comprises land and housing. The choice of land and housing as the primary forms of property under consideration is informed by the fact that both are central to the organisation of Malawi's matrilineal communities, particularly in those communities where the practice is one in which a husband, upon marriage, is supposed to build a house for his wife on her maternal land that she has inherited from her mother or maternal relations. As the economy of Malawi's matrilineal societies is largely agriculturally based, land is crucial for household production. Housing and land are thus the forms of property that are most likely to be contested when marriages dissolve. This is because rights to these properties, although not exclusive, are central to people's economic and social empowerment. This is evident in the custom that dictates that when a man wants to marry, he ought to build the woman a house at the place of the mother of the bride (Mair, 1951: 109; Phiri, 1983: 260; and Mwambene, 2005: 15).

1.4.4 Gender

Connell (1995: 34) defines gender as 'a way in which social practices are ordered. In gender processes, the everyday conduct of life is organised in relation to the reproductive arena, defined by the bodily structures and structure of human reproduction.' In other words, 'gender' is socially constructed, over time. Connell (1995) further suggests a three-fold model for understanding gender. This involves looking at:

- (i) Power relations
- (ii) Relations of production (which includes reproduction), and
- (iii) 'Cathexis' or emotional attachment.

Walker (2009: 470) proposes that understanding women's rights to property such as land, as in my study, requires engaging with 'gender' as a primary construct but, equally importantly, it also requires understanding the significance of the social, demographic and spatial changes that have reorganised relationships within families and households over time. She further argues that 'women' do not constitute a simple social category and should thus not be treated as a homogenous unit. According to her, women's interests in property (such as land) vary.

Their interests in land are shaped by complex intersections amid various issues, including the broader economic context, their social location, and the effects of social change on family forms and household structures.

In trying to understand women's experiences around property rights, then, it is imperative that the context of the women in question be understood, including processes of change that have affected their context over time. I expand on these points and how they are used to analyse the experiences of women in my study site of Muluwila in Chapters 3 and 5.

1.5 Research design and methodology

To assist me in answering my research questions, I have adopted a mixed-methods research design, drawing on both qualitative and quantitative methods of data collections. Details of my research design are developed in more depth in Chapter 4 but, briefly, this case study of Muluwila village has relied on both secondary and primary sources of data. Secondary sources were identified through my literature review and included other published studies as well as government documents, newspaper articles and non-governmental organisation (NGO) materials such as pamphlets and reports. My primary sources of data came from the following methods of data collection:

- (i) Transect walks around Muluwila village at the start of my study. These were conducted to understand the geography of the area, establish rapport with community members and make initial observations critical to the study.
- (ii) Mapping the area in order to partition the study area into manageable research sections and to establish a general picture of the area in terms of its geography and resources.
- (iii) A background survey of respondents from 100 randomly selected households in order to obtain a general understanding of such issues as household composition, marital status, the extent of marriage dissolution, livelihoods, land ownership and use, and how issues of property allocation are handled between estranged partners in the case of marriage dissolution. While the households were randomly selected,

the choice of actual respondents within each household to participate in the survey was weighted towards senior women. The survey was also used to identify households that have undergone or are in the process of undergoing marriage dissolution, which could then be approached to identify individuals who would be willing to serve as respondents for further in-depth follow-up interviews.

- (iv) Follow-up in-depth interviews with 12 respondents who were selected through the background survey as described above; three-quarters of them (9) were women, all of whom had experienced marriage dissolution at some point. The purpose of these interviews was to gain a deeper understanding of experiences pertaining to issues of access and rights to property ownership in Muluwila village.
- (v) Key informant interviews with the chief of Muluwila village, the Zomba court magistrate and nine marriage guardians/ counsellors/ avunculates, otherwise known as *nkhoswe*.⁵ These counsellors are usually the maternal uncle or brother to the woman or husband in question.
- (vi) One mixed-gender focus group discussion to probe further the issues that emerged through the background survey and the in-depth interviews.

Details of my research design are developed in Chapter 4 but at this point it is worth mentioning that it is shaped by feminist standpoint theory. Feminist standpoint theory, as discussed more fully in Chapter 2, argues for the need to ground one's analysis of marginalised groups such as women in an understanding of their every-day experiences. At the same time, I recognise the need to consider the issue of intersectionality in understanding women's experience. Defining intersectionality, Davis (2008: 68) notes that the term refers to:

⁵ *Ankhoswe/nkhoswe* are the local Chichewa terms that are used to refer to senior members of one's matrikin, generally but not exclusively male, who act as marriage counsellors. The English equivalent of 'avunculate' derives from the term uncle, signalling the importance of the brothers of the mother, hence the maternal uncles, of the individual in question. *Ankhoswe* denotes the plural form but may be applied to an individual to denote respect; *nkhoswe* is the singular form.

the intersections between gender and race and other categories of difference in individual lives, social practices, institutional arrangements, cultural ideologies and the outcomes of these interactions in terms of power.

According to Crenshaw (1989: 39), the feminist theorist who first coined the term intersectionality, feminist research ought to consider the ‘multidimensionality’ of marginalised subjects’ lived experiences.

In my dissertation, I make use of Crenshaw (1989), Hill (2000), Burman (2003), Bhavanani (2007), Davis (2008) and Hesse-Biber (2010) (among others) to look at the differences as well as the interconnections that configure women’s experience around land and housing. I also work with Bourdieu’s notions of ‘*habitus*’ and ‘field’ as part of my conceptual framework, as a way of understanding the setting within which the women I am studying are located. Here I draw especially on his 1990 book entitled *The logic of practice*. According to Bourdieu (1990), an individual’s actions are shaped by the environment in which she or he lives, including influences exerted by principles or norms embedded in his or her culture. Various feminists have argued that Bourdieu’s work offers relevant conceptual insights that are useful for determining the ‘field’ in which various gendered interactions are at play and could inform new directions for developing feminist theory (Lash 1995; Moi, 1999; Fowler, 2003; Adkins and Skeggs, 2004). This is in spite of the fact that Bourdieu himself did not deal in any significant way with the concept of gender in his work.

Feminist standpoint theory, Connell’s work on gender and Bourdieu on *habitus* and ‘field’ are all discussed further in Chapter 2.

1.6 Brief description of study site

As already noted, my study site is Muluwila village, in the Kuntumanje Traditional Authority (TA), in Zomba District, Malawi. Malawi is partitioned into three regions, namely, the Northern, Central and Southern regions. Each region is divided into various districts. Zomba, the district where my study site is, is situated in the Southern region. Muluwila village is located some 12 km north-east of Zomba town, the main town in the district. The Naisi River borders the north-western side of the village. Figures 1.1 and 1.2 below show the location of

Zomba district within Malawi and the approximate location of my study site within the district.

In order to conduct my study, I had to find a study site that met my main selection criteria, namely that it is rural and matrilineal in its social organisation. I chose Muluwila village because it met these criteria and had also not been previously researched. Even though prominent academics such as Peters (1994, 1997, 2012); Tromich, Peters, and Deolaliker (1995) and Kishindo (2010) have studied developments in other places in Zomba, Muluwila has not featured in these studies. The socio-economic profile of Muluwila also appears different in some respects from the sites these scholars have studied.



Figure 1: Map of Malawi, showing administrative regions and approximate location of study site. (Source: www.nationsonline.org/oneworld/map/malawi_map.htm .)

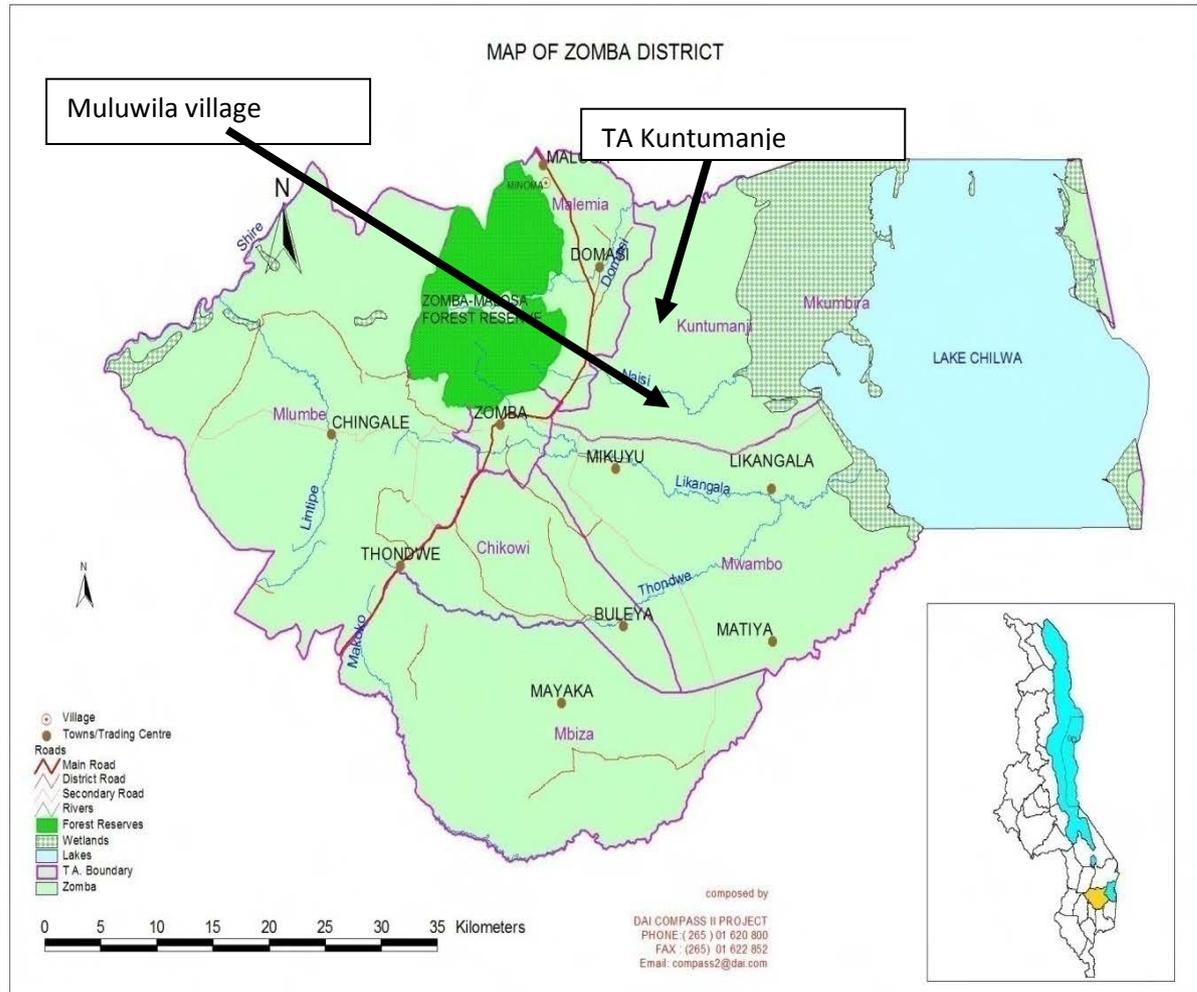


Figure 2: Map of Zomba district, Malawi, showing approximate location of study site.

(Source: Development Alternatives Inc. (DAI), 2007.)

Zomba district is surrounded by Chiradzulu, Machinga, Blantyre, Mulanje, Phalombe, Balaka and Machinga districts. It is well connected to districts that are seen as the commercial hubs of Malawi. These districts include Blantyre on the southern side of Zomba and Mangochi on the north eastern side of Zomba. In 2009 Zomba district had a population of 583,167 (Zomba District Assembly, 2009: vii). The dominant language is Chichewa, Malawi's official language that is spoken by most people in Malawi. However, languages such as Chiyawo and Chilomwe are also spoken in the district (Zomba District Assembly, 2009: 16).

The people living in the area of my study site are predominantly of the Yao and Lomwe ethnic groups, but there are small numbers of other ethnic groups such as the Chiwas. Reniers and Tfaily (2008: 5) and Kunchulesi, Palamuleni and Kalule-Sabiti (2011: 3) have pointed

out that residents of Yao villages in Malawi are predominantly Muslim. They also argue that the incidence of early marriages, marriage dissolutions and re-marriages is higher in Yao villages compared to other ethnic groups in the Central and Northern regions of Malawi. (As will be seen in my chapter on my research findings, most of the respondents in my study are Muslims.) To underscore the point, according to Reniers and Tfaily (2008: 5) marriage dissolution rates in the Southern region of Malawi are the highest in the country. They affect 50% of marriages as compared to the North and Central regions, where the estimates range between 30 to 40% respectively. Most of those people whose marriages dissolve remarry. This indicates that there are high levels of marital instability in this region. Reniers and Tfaily add that polygyny is also high in the matrilineal communities of Malawi's Southern region.

Agriculture is the backbone of the Zomba economy, as in the rest of Malawi. Crops include maize as the staple food, tobacco,⁶ rice, cassava, sweet potatoes, beans, pigeon peas, and groundnuts (Zomba District Assembly, 2009: 16). These crops are usually grown on family land held under customary law, with plots averaging some half a hectare per household (Chinsinga and Chasukwa, 2011: 68). According to the Zomba District Assembly (2009: 16) animal husbandry is under-developed in Zomba, although households rear cattle, goats, and poultry. Fish farming is also practiced in the district, with fish from nearby Lake Chilwa being one of the main sources of protein for households. However, according to the Zomba District Assembly (2009: 16), the residents of TA Kuntumanje, in which my study site of Muluwila falls, are not involved in this practice because of their relative distance from the lake. Kuntumanje area is also said to be poorer than other areas in Zomba, because its residents are not as involved in the more remunerative economic activities such as tobacco or fish farming. Most residents of Muluwila are subsistence farmers, growing food crops mainly for home consumption. Only a few individuals manage to produce a small surplus for sale.

As a result, the socio-economic conditions in my study area are generally poorer than in those areas in Zomba district that have been studied by Peters (1994, 1997, 2007 and 2012) and others, where residents grow tobacco and, in some cases, practice fish farming as well. These ventures tend to fetch relatively more income than the returns from the livelihood options practiced in Muluwila village.

⁶ Tobacco is not grown in Muluwila village where I conducted my study, but in parts where it is grown in Zomba it is grown for commercial purposes.

1.7 Chapter outline

This dissertation is organised as follows. The next chapter, Chapter 2, sets out the conceptual framework of my study. In Chapter 3 I review various debates on kinship and matriliney and then provide selected examples of matrilineal practice in other parts of the world before looking briefly at matrilineal social organisation in Malawi. Chapter 4 presents the methodology that I have used in my study. Chapter 5 outlines the history of land in Malawi and gives an overview of Malawi's national provisions around marriage, gender equality and the status of women, while Chapters 6 and 7 present my discussion of the research findings. Chapter 6 focuses on general socio-economic features of Muluwila village, drawing largely on the background survey I conducted as part of my field work; it looks at demographic characteristics, respondents' marital status and household composition, as well as livelihoods and relationships around land more broadly. Chapter 7 explores issues around marriage dissolution and women's property rights in more depth, here focusing in particular on women's experiences as narrated by informants with whom I conducted in-depth interviews. In my concluding chapter, Chapter 8, I review my findings in relation to my conceptual framework and general literature review, and reflect on the significance of my study for policy and further research.

CHAPTER 2: CONCEPTUAL FRAMEWORK

In this chapter I discuss the major theoretical underpinnings which have informed my study. As indicated in Chapter 1, feminist standpoint theory has been important for the framing of my research design. My choice to use feminist standpoint theory has been influenced by the fact that this body of work argues for the need to ground one's analysis of marginalised groups, including women, in an understanding of their every-day experiences. As already pointed out, numerous studies have shown that despite what it appears like on the surface, women hailing from matrilineal communities within Malawi appear to be facing threats of becoming marginalised and in some cases might already be victims of marginalisation in terms of how they enjoy access and ownership rights to property. Authors such as Strickland (2004), Mbaya (2002), Mchanju-Liwewe (2008) and Ngwira (2009) have all argued that women's rights to access and own land and housing are threatened since they do not have strong decision-making powers and, as a result, do not exercise effective control over the land they are said to own at times when such control really matters. This scenario is despite the common assumption that matrilineal custom dictates that women ought to own land and housing. According to these authors, women do not have real powers; rather, they argue, real power to make decisions concerning property rests with men. These men can be either the women's husbands, acting as the head of the nuclear family, or their brother(s) or uncle(s) as *mwini mbumba* (which literally means the owner of a clan). These norms, which are embedded in matrilineal cultural practice, are reinforced by men who hold the power to make decisions over matters that concern women, as their *ankhoswe*.

In light of this, feminist standpoint theory is deemed useful for understanding the experiences of the women in my study site. Given that feminist standpoint theory has its roots in feminism, I begin my discussion in this chapter with a brief overview of feminism and selected feminist theorists, both western and African, before looking in more detail at feminist standpoint theory in section 2. At the same time, I recognise the need to understand how men and women in my study site relate to each other and how this affects women's experiences around land and housing. This leads me to a consideration of gender relations and, more particularly, a discussion of Connell's (1995) three-fold model for understanding gender relations in any given society in section 3. As already indicated, I find her conceptualisation

of gender relations in terms of power, labour and cathexis useful for understanding gender dynamics in Muluwila village. I then move on, in section 4, to a discussion of Bourdieu's notions of '*habitus*' and field, which I draw on in my conceptualisation of the cultural norms and practices which shape the everyday experiences of women in Muluwila village, including in relation to property rights when their marriages dissolve. Bourdieu's *habitus* lays a foundation for understanding the cultural environment of Muluwila. In my study, Bourdieu's concept of 'field' also works well with Connell's idea of 'sites of configuration' in which gender is constructed and operates. I end this chapter with some thoughts around women's land rights and 'living' customary law.

2.1 Feminism and feminist theory

Conceptualising feminism is a challenge. Over the decades, various activists and scholars alike have grappled with this challenge, without reaching a unified definition. A conventional starting point, reflecting popular understandings of the term, is provided by the *Cambridge English Dictionary and Thesaurus* (2014):

Feminism is the belief that women should be allowed the same rights, power and opportunities as men and be treated in the same way as men. Feminism may also entail the set of activities intended to achieve the same state of according women the same rights, power and opportunities as men.

In practice feminism embraces a number of social, cultural and political movements, as well as a range of theories and moral philosophies concerning gender inequality and issues of equal rights for women.

2.1.1 Genesis of feminism

According to Goldstein (1982: 92), the term feminism was coined by the French socialist and philosopher Charles Fourier in 1837, while he was affiliated to a movement that was fighting for equal political and legal rights for women. According to Denslow (2007: 169), Fourier was sympathetic towards women and critical of the way they were generally treated in society; he 'believed that all important jobs should be open to women on the skill and aptitude (basis) rather than closed on account of gender...He spoke of women as individuals'.

Noting the differences between different strands of feminism around the world, as far back as the late 1980s Caroline Ramazanoglu (1989: 5) submitted that ‘feminism does not have an agreed meaning or content around the world’. However, she argued that all versions of feminism assert that relations between the sexes in which women are subordinated to men are unsatisfactory and ought to be changed. Feminism thus challenges much that is taken for granted as natural, normal and desirable in terms of relationships between men and women in different societies.

First, second and third-wave feminism in the west

The history of western feminism is commonly depicted as evolving in three overlapping phases or waves. According to Burn and Chantler (2011: 70), first-wave feminism is said to have begun in the mid-19th century and ended around 1945. They describe its proponents as mainly advocating that women should have rights to vote, rights to own and access property and also rights to acquire education, which women in the west did not fully enjoy through much of that period. According to Ramazanoglu (1989: 8), the advocates of first-wave feminism were more concerned with the suffrage than with shifting the power relations between men and women.

Second-wave feminism is generally located in the period dating from the 1960s to the 1990s. Proponents of second-wave feminism were mainly concerned with challenging the idea of biological determinism based on one’s sex while also being concerned with the issue of equality between men and women in an attempt to end discrimination (Hubbard, Henifin and Fried, 1982; Burn and Chantler, 2011). It was in this time that the concept of ‘gender’ became prominent as feminists grappled with the social factors shaping male and female identities and sought to distinguish social from biological determinants. Second-wave feminists argued that gender is not determined by an individual’s biological make-up but, rather, that gender is socially constructed (Burn and Chantler, 2011: 70). Judith Butler (1990) took this further to argue that sex itself is socially constructed. Generally, societies are organised around expectations of what constitutes appropriate behaviour for males and for females. These behaviours and roles are enacted over time and become normative. In this vein Connell (1995: 34) defines gender as ‘a way in which social practices are ordered’ - in gender processes, ‘the everyday conduct of life is organised in relation to the reproductive arena, defined by the bodily structures and structure of human reproduction’. I discuss Connell’s

perspective of gender and her proposed analytical framework for gender studies later in this chapter.

Proponents of second-wave feminism lobbied for equality in the work place and opening the professions to women. They also lobbied for women's unpaid work to be recognised as having economic value, which led to the claim that domestic labour should be paid (Mosse, 1993: 167; Burn and Chantler, 2011: 70). Feminist activists embarked on raising awareness among women that their personal lives were deeply political and reflected the sexist power structures that are prevalent in society. They lobbied for women to take control of their reproductive capacity so that they would be able to decide if and when they wanted to bear children and generally to be able to control all issues concerning reproduction. It was also during this period that feminist standpoint theory, which I make use of in this dissertation, emerged as feminists began to question the way in which knowledge was produced. According to Fonow and Cook (2005), feminists argued that conventional research was excluding women's experiences, which are crucial for understanding women's position as well as their place of subordination in society. Key theorists here who focused especially on the position of black women in western society include Bell Hooks and Patricia Collins, among others.

The third wave of western feminism is traced from around the 1990s onwards. According to Burn and Chantler (2011: 70), third-wave feminism extended from second-wave feminism, with the aim of responding to the perceived failures of second-wave feminism. A major concern here was the way in which the experiences of white, western, middle-class women were emphasised at the expense of the experiences of working-class women and minorities in the west and women living in non-western societies. Third wave feminism was also influenced by post-structuralism (see below) and focused on 'difference' in relation to gender and sexual identities as a key concern. According to Snyder (2008:175), third-wave feminism emphasises an inclusive and non-judgemental approach that allows for what is termed 'multivocality', ie many voices, in which space is created for different personal narratives and multiple perspectives on women's experiences.

Against this background, feminist theory has taken different directions over the decades, as feminism itself has evolved as a social and political project. In what follows I first briefly review major developments within western feminist theory, namely: liberal feminism, radical

feminism, Marxist feminism, post-structuralist feminism and black feminism. I then briefly consider some African feminist perspectives as an important contribution to the development of non-western feminist theory that is particularly relevant for this study.

2.1.2 Major developments within western feminist theory

According to Hooks (1981) and Ramazanoglu (1989), liberal feminism assumes that women suffer injustices because of their sex. Hines (2008: 22) argues that liberal feminists tend to attribute women's inequality to gender stereotypes about men and women. Such being the case, liberal feminism often employs demonstrations lobbying for equality on such issues as equal pay, equal civil rights, equal access to education, health and welfare and equal access to democratic political process. They argue that equality for women can be achieved through gradual processes of social and legal reform.

The focus of radical feminism, unlike liberal feminism, is on questioning women's relationship to men, which is seen as politically problematic. Radical feminists believe that male power structures and authority are the culprits causing inequality and oppression for women. They also regard the oppression of women as a fundamental form of social inequality. Ramazanoglu (1989: 68) notes that for radical feminists the violence that happens in the private sphere cannot be separated from the greater value accorded men in society, and the dominance of patriarchal institutions in the public sphere. In this regard, the concept of patriarchy was developed as central and was seen to be present in all cultures and historical periods (Hines, 2008: 22). Radical feminists believe that what a woman experiences in private is crucial for the public life of the society. According to Ramazanoglu (1989: 11), this approach focuses political attention on patriarchal oppression in every area of women's lives, from the most private to the most public. This implies that how a woman is treated in her family will not only affect how she acts in public but it will also affect how the wider society is organised, hence the radical feminist slogan: 'the personal is political' (Ramazanoglu, 1989: 11). With this, the proponents of radical feminism question the legitimacy of any social order which creates and maintains the oppression of women by men. According to Hines (2008: 22), radical feminism argues that women's liberation from men's oppression can only be possible if patriarchy is overthrown.

Marxist feminism is concerned not only with the struggle to advance the interests of women as women but also with the struggle to advance the interests of the working class, which, as Ramazanoglu (1989:14) describes it, entails feminists struggling with some men and against some women for a non-capitalist social order. In essence their argument is one that says that gender inequality is structured by the system of capitalism. The oppression of women, the Marxists feminists argue, is maintained through their unpaid domestic labour, which serves the ruling class (by reproducing workers) at the expense of women (Hines, 2008: 22). In line with this thought, Marxist feminists argue that women's liberation can only be possible if capitalism is deposed.

As Marxist social theory came to be critiqued from the late 1980s by post-structuralists emphasising discourse and contingency rather than structure, feminist theory also began to shift. Prominent post-structuralist theorists such as Judith Butler argued for rethinking concepts such as sex, gender and sexuality. Butler (1990) challenged the way in which the biological categories of sexed bodies were still regarded as given or natural in feminist theory, while only gender was seen as socially constructed. She argued that sex, gender and sexuality are all socially and culturally constructed through 'regulative discourse' (Butler, 1990: 17).

At the same time, and despite the strides made as a result of feminist activism in the United States of America and in Western Europe, including the United Kingdom, black women in these societies felt that they were being marginalised and openly discriminated against and in some ways oppressed by what was predominantly a white women's movement (Charleswell, 2014). Their frustration was heightened by the fact that they felt that these groups were not factoring in the concerns of black women and that black women therefore found it difficult to build solidarity around common concerns with white women (Hull, Scott, and Smith, 1982: 11). According to Charleswell (2014):

All too often, "black" was equated with black men and "women" was equated with white women; and the result was that black women were an invisible group whose existence and needs were (and many would rightfully argue) continues to be ignored.

Other critics made similar claims. Ramazanoglu (1989), Robinson (1997) and Hines (2008) have all argued that despite their other differences, liberal, radical and Marxist feminisms carry a Eurocentric notion of universality.

Hooks (1981), Ramazanoglu (1989), Robinson (1997) and Hines (2008) all argue that failing to take into account other variables than gender, such as the ways in which race and social class intersect with gender relations and processes of power, mars the understanding of women's experiences of oppression. For black women, issues concerning race and class are central to the questions of women's experiences, since they experience these issues simultaneously.

Intersectionality

This line of critique encouraged ways of framing women's experiences in terms of multiple social factors that intersect, influencing the lives of individuals in complex ways. This led to the concept of 'intersectionality' as a tool for the analysis of gender issues, in order to understand more deeply complex social relations of domination and resistance in a society. According to Davis (2008: 68), intersectionality can be defined as:

the interaction between gender, race, and other categories of difference in individual lives, social practices, institutional arrangements, and cultural ideologies and the outcomes of these interactions in terms of power.

Crenshaw (1989) is credited for coining the term "intersectionality" in gender studies (Yuval-Davis, 2006: 189; Davis, 2008; Sharon, 2014). According to Davis (2008: 68), Crenshaw originally coined the term to address the struggles of women of colour in the United States of America and to understand their experiences since they were not addressed by white feminists nor in anti-racist discourses. After this term appeared in the literature, other scholars and practitioners have grappled with the term and have made use of it in their studies. While Crenshaw's initial discussion of intersectionality centred on race and gender, Spragues and Zimmerman (1993), McCall (2005), Nash (2008) and Connell (2009) have extended the discussion to include consideration of how gender intersects with other social factors such as class, sexual preference, nationality and disability.

McCall (2005: 1771) and Nash (2008: 1) have heralded intersectionality as a primary tool for analysis within feminist studies. However, Bhavnani (2007: 640) is critical of the concept,

arguing that this approach does not work well because it suggests that each ‘category of difference’ is like a distinct road going to a given destination; for this reason it also fails to empower women. She proposes as an alternative the idea of ‘interconnections’ that offers a way of thinking about how all the various social categories (including not only race and gender but also nationality, sexuality and wealth) interconnect and thereby help configure and re-shape each other (Bhavnani, 2007: 640). In similar vein, Patricia Hill Collins (1990) earlier argued that it is only by exploring the intricate ‘matrix of domination’ that researchers can best understand an individual’s experience.

2.1.3 African feminists’ critiques of western feminist theory

The arguments put across so far have reflected the views of western feminists. Western feminism has been heralded for having made women much more visible in the political, academic, social and economic arenas. Despite these gains, non-western women have criticised western feminism in that it appears not to take into consideration the specific situations in which non-western women find themselves, particularly as a result of the history of western colonialism. The development of feminist thought in Europe and the United States has certainly been significant for African feminists, particularly the critiques advanced by black feminist scholars in these societies. However, post-colonial feminists in Africa and elsewhere have criticised western feminism for universalizing western feminist ideologies and overlooking the impact of colonialism on social and economic conditions in Africa and other parts of the third world. These feminists argue that in certain contexts cultural and class issues may take precedence over specifically gendered issues for women in developing countries. At the same time, they have also criticised mainstream post-colonial thought for its lack of attention to gender issues (Mills, 1998: 98).

African feminists emphasise the importance of fighting gender oppression while bearing in mind their own culturally specific forms of society (Bulbeck, 1997). Thus Oyèrónké Oyěwùmí (2005: 1) has argued that the narrative of ‘gendered corporeality that dominates the western interpretation of the social world is a cultural discourse and cannot be assumed uncritically for other cultures.’ She challenges the idea of understanding issues of gender in non-western societies by using western-generated theories. She observes that western theorists conceive of gender in terms of ‘a dichotomous biological category which is then used as a foundation for the construction of social hierarchies in which men are the privileged

category’ (Oyěwùmí, 2005: 1). This, Oyěwùmí argues, is because in western thought the body is regarded as central to placing persons in society, to the extent that the presence or the absence of certain body parts (such as male or female reproductive organs) inscribes different social privileges or disadvantages. This, she continues, is not necessarily the case in African thought. For instance, these observations do not hold true for the Yorùbá in south-western Nigeria, for whom age seems to be far more significant than gender in determining social standing in many contexts. Oyěwùmí thus cautions researchers who are working on gender issues ‘that they should not only be concerned with the “what-ness” of the gender category but also the “who-ness” because one determines the other’ (2005: 115). She further argues that:

... western scholars make use of the concept “women” as a given rather than a part of the “whole ideological apparatus”. “woman”/ “women” is a social construct although it is invoked asocially and ahistorically. There were no women in Yorùbá society until recently. There were, of course *obìnrin*. *Obìnrin* are anafemales. Their anatomy, just like that of *akùnrin* (anamales), did not privilege them to any social positions and similarly did not jeopardize their access (to any social position) (Oyěwùmí, 2005: 115).

This emphasises the point that one should not simply import ideas from one cultural context and fit it into another context, without first understanding the cultural context of the society in which the imported ideas are expected to work. Tsikata (2011: 7) makes a similar observation. She argues that western liberal feminists tend to treat women as a homogeneous group and focus on the promotion of gender equality, while ignoring equally important questions about the limitations of neo-liberal reforms for tackling inequalities in resource tenure and labour relations.

Another African feminist, Paula (2005: 300), has pointed out an additional challenge facing gender studies in Africa. She argues that the education and research industry has continued to use Africa as a testing ground whereby those involved in various studies bring their metropolitan-brewed ideas and test them in Africa. The problem is worsened by the fact that most African researchers are directed by the availability of research funds which may influence both the choice of what to study and the interpretation of the results that are found. At times African scholars are forced into certain forms of intellectual endeavors that are not

relevant for development in their societies and may have little to offer African women. Paula (2005) advocates that feminists in post-colonial societies ought to look at the differential impact of socio-economic conditions on men and women during the colonial and contemporary neo-colonial periods. For instance, she suggests that researchers should study the impact that colonialism had when men were required to migrate from their homes to find work, while women were required to remain behind to take care of domestic production in the fields as well as the children, among other responsibilities (Paula, 2005: 301). Zeleza (2005: 2211) has noted that in most western discourses, women tend to be portrayed in their stereotypical reproductive roles as wives and mothers. The language used presents women's activities or experiences as inferior and yet in most African societies in the pre-colonial period, women were considered to be powerful and important (Zeleza, 2005: 208).

2.2 Feminist standpoint theory

As already noted, feminist standpoint theory emerged within feminism in the late 1970s and early 1980s, as an alternative to traditional forms of research and research design. Harding is credited for coining the term 'feminist standpoint' as a tool for gender analysis after reading the work of prominent feminists such as Hartsock, Smith and Rose (Hekman, 1997; Kenney and Kinsella, 1998; and Harding, 2004). Other leading scholars who have also worked on developing standpoint theory over the decades include Haraway, Collins and Hekman.

Key texts in the development of feminist standpoint theory were Hartsock's *Money, sex and power: Towards a feminist historical materialism* (1983a) and Smith's *The everyday world as problematic: A feminist sociology* (1987). Hartsock saw the importance of reflecting on the lived experiences or standpoint of women, in order to better understand the phenomena that concern women. Using a Marxian perspective of class domination, she also proposed that feminists ought to 'consider the advantages of adopting a historical materialism approach to understand phallocratic domination' (1983a: 283), which she reckoned could unravel the structures of patriarchy that shaped male domination and women's subordination in societies. Initially she was working on the experience of women in western societies, even though in her 1983b work entitled 'The feminist standpoint: Developing the ground for a specific feminist historical materialism' she extended the scope of her focus (Hartsock, 1983b: 283).

In this work, Hartsock pointed out that the approach could well be extended to include all human activities and not just focus on ‘phallocratic domination’ under capitalism.

Hartsock (1983b: 117) argued that men and women create their own realities through various activities and experiences and that marginalised women are in a better position to articulate their own experiences than men: it is the varying lives and particular experiences of women that provide the starting point for asking new and critical questions concerning not only women’s lives but also men’s lives and the social institutions that have been designed by men to serve “humanity” (Hartsock, 1983b: 117; see also Hekman 2008: 276). However, Hartsock’s main concern was with the usefulness of a feminist standpoint for understanding women’s experiences and probing beneath the surface of social relations. By considering the experiences of the marginalised, a researcher is able to gain a more accurate and theoretically richer set of explanations of the lives of the oppressed. This means that ‘at root, feminist standpoint theory is a mode of analysis and a method of approaching life and politics, rather than a set of political conclusions about the oppression of women’ (Hartsock, 1983b: 35). In similar vein, Smith (1987) argued that women’s experiences are best understood by taking their circumstances fully into consideration. This can assist the researcher in determining gaps that occur when women try to fit their lives into the dominant way of conceptualizing women’s situation. Thus in addition to studying women’s perspectives, a researcher should also consider other structures that shape women’s experiences.

Much as these leading authors have all grappled with theorising what it means to adopt a feminist standpoint, the authors have had some variations in the way they tackle it. According to Spargues and Zimmerman (1993: 266) a primary aim of a feminist standpoint is to change the basic structures of oppression. Hesse-Biber (2010: 172) argues that methodologically a feminist standpoint perspective aids in analysing the impact of gender differences on social problems, not by adding women as a category and stirring them into the same old mix of research questions, but by including gender as a distinct category and primary basis of analysis in developing one’s research questions. Hesse-Biber also stresses the importance of the concept of intersectionality for feminist standpoint theory, and the importance of considering how gender intersects with other aspects such as ethnicity, race, class and sexual preference. The central understanding here is that women are not all the same.

2.3 Connell's account of the structure of gender' in society

The scholarly literature on gender is extensive. In my study, I have drawn heavily on Connell (1995) and her three-fold model for my analysis of gender dynamics and power relations in Muluwila village.

As already noted in Chapter 1, this model identifies three main dimensions for analysing 'the structure of gender' in society, namely:

- (a) power relations, more specifically, the gender division of power;
- (b) relations of production, more specifically, the gender division of labour; and
- (c) 'cathexis' (emotional energy), involving sexual desire (Connell, 1995: 73).

For Connell these three dimensions shape gender as a 'way of structuring social practice in general' (1995: 75) in various institutions, including the family.

Along with other feminist theorists Connell argues convincingly that we cannot understand inequalities in society without looking at gender and gender relations. She submits that gender relations are a major component of the social structure, to the extent that much of our collective fate can be attributed to gender politics (1995: 76). Connell argues that in trying to understand gender, one needs to consider among others things that gender takes place in a reproductive arena, encompassing procreation, childbirth and childrearing, which is very significant for understanding not only gender relations but also the broader economic functioning of a given society. Her analysis of gender and power looks at the family and other social institutions as intertwined.

I find her perspective convincing for the study of gender relations within Malawian society and consistent with feminist standpoint theory. It is particularly relevant for my study because the experiences around property rights of the women that I am studying can only be fully understood by looking at what is happening in terms of how men and women relate in terms of their gendered roles and identities within their households as well as in their communities. Gendered institutions such as the avunculate or *nkhoswe* are critically important in deciding how property is shared when a marriage dissolves.

2.3.1 Connell's three-fold model

The first dimension, that of the gender division of power, draws attention to the differences in authority that exist between men and women. Connell argues that in the west the main axis of power in gender relations is patriarchal and involves the subordination of women and the dominance of men. Much as Connell's model has been developed with western societies in mind, I am of the opinion that understanding the gendered division of power is important for understanding changing gender relations in Malawi's matrilineal communities. The analysis of my field data reveals clearly the unequal power relations that operate among men and women in Muluwila in key areas. Thus although the women of Muluwila village are said to be the owners of household land, as matrilineal custom dictates, in practice they do not have decision-making powers over the land and houses that they are said to own and often struggle to assert their claims to property in relation to men at critical moments. Lack of decision-making powers means, for instance, that they do not have control over the disposal of these properties, which may leave them in a particularly vulnerable position if their marriages end. Vulnerability may also be enforced through gender-based violence, through which power imbalances between men and women can be both expressed and upheld.

With regard to the second dimension, Connell argues that 'the everyday conduct of life is organised in relation to the reproductive arena which is defined by the bodily structures and processes of human reproduction' (Connell, 1995: 71). The gendered division of labour that is related to the different reproductive roles of men and women filters through to the gendered division of labour within society more generally and supports the economic inequalities that exist between men and women (Connell, 1995: 73). For instance, in Malawi as in many other societies military officers are generally thought to be male while secretaries in business offices are assumed to be females. This division of labour is based on the fact that men are associated with qualities of leadership, assertiveness, domination, rigidity and physicality and as such their jobs tend to be valued more and are paid more than those associated with women. Women, on the other hand, are associated with maternal care, empathy, submission and sympathy, qualities which are associated with the domestic sphere and tend to be less highly valued by society (because considered 'natural'), with the consequence that where women's work is remunerated, it tends to be at a lower rate than that for work deemed to be male.

However, what is important to note is that the reproductive arena being referred to here is not strictly biological but, rather, has been socially constructed over time (Connell, 1999: 72). For Connell, gender is about the social practices that constantly refer back to bodies and what bodies do. However, she cautions that gender identity cannot be reduced to sexed bodies and ‘natural’ sexual differences but have to be understood as ‘projects’ that are established over time.

Gender relations, the relations among people and groups organised through the reproductive arena, form one of the major structures of all documented societies. Practice that relates to this structure, generated as people and groups grapple with their historical situations, does not consist of isolated acts. Actions are configured in larger units, and when we speak of masculinity and femininity, we are naming configurations of gender practice. ... Taking a dynamic view of the organisation of practice, we arrive at an understanding of masculinity and femininity as gender projects. They are processes of configuring practice over time... (Connell, 1995:72).

The third dimension of Connell’s framework recognises the centrality of ‘affective attachments’ (1995: 75) in gender relations, or what Connell also chooses to describe as ‘cathexis’. This refers to subjects’ emotional attachments to objects of desire, attachments that are often taken for granted as natural but are in fact gendered. ‘Cathexis’ is a Greek word which connotes an investment of one’s mental or emotional energy in a person. Here Connell was influenced by Freud’s use of the term in psychology (Wedgwood, 2009: 333). In Connell’s treatment, ‘cathexis’ is about the gendered character of sexual desire, for instance the way in which in a given society, heterosexual relationships are taken to be the norm and within them the dominant position is assigned to men. Connell perceives the emotional attachments as crucial in understanding gender and power relations that affect people in a society. Connell argues that in a society with patriarchal norms, sexual desire is harnessed and organised in ways that favour men over women (1995: 76).

Even though Connell was theorising with patrilineal contexts in mind, the idea of cathexis as central to the structuring of gender relations in societies with matrilineal forms of social organisations is valuable for analysing relationships between men and women. This aspect has proven difficult to explore in my study but remains an important part of my conceptual

framework. Thus in my study I have observed how ‘cathexis’ is organised in ways that reinforce unequal relationships between men and women. For instance, a number of expressions commonly used by the residents of Muluwila to describe sexual behaviour that is considered normal reflect the unequal terrain in which sexual relationships between men and women play out. One such expression used by respondents in my study to describe men’s sexual behaviour was ‘*mwamuna ndikabudula, amatha akuyenda*’, which literally translates as ‘a man is like short pants; he wears out as he is on the move’. What is actually being said is that it is considered natural for men to move from one sexual partner to another – i.e such behaviour is seen as normal because it is in men’s nature. Thus if a marriage ends, it is not a problem for the man who can always find another woman to marry, without encountering social stigma. Such attitudes have implications for the degree of attachment an individual man is likely to feel towards his spouse. The underlying values have implications for the stability of marriage and also how women are perceived in this society. They are expressive of the social dominance of men over women in sexual relationships in my study site.

2.3.2 Social practice

In terms of the significance of Connell’s argument that gender is about the way in which social practices are ordered, what is important to recognise is that both men and women go through a process of socialisation into their gender roles. That is to say, the roles for males and females are socially constructed in and through social practice over time. The process whereby men and women acquire the behaviours and values that society expects of them as men and women involves repeating the expected practices already prevailing in their society. At the same time, however, Connell recognises that gender dynamics are not fixed but fluid. Roles that are learned over a period of time can be modified under different social-cultural circumstances and hence they are dynamic (Connell, 1995: 71; see also Mkandawire, 1990 and Kayambazinthu, 1999). In my analysis the idea of social practices that are powerful but also dynamic provides a useful point of convergence with Bourdieu’s theory of *habitus*. As discussed further below, *habitus* represents ‘a fluid set of guiding principles for social actors’ that are internalised by the actors, ‘enabling them to understand and negotiate particular environments and cultures as well as express what is unique to each of them as individuals’ (Eisenberg, 2007). This fluidity can be seen at work in my study in the way in which norms

related to customary rights with respect to men and women's property rights have shifted over time.

Connell thus perceives social practice as 'creative and interactive and not rigidly fixed or complete' (Connell, 1995: 72). Thus social practices evolve over time, depending on the operation of many different variables that affect social relationships, such as what is happening in the political arena, for instance. What Connell is arguing is that social practice is responsive to particular situations as individuals and groups grapple with their particular historical context. This point is compatible with Bourdieu's idea of a social field, which is the arena or environment in which social actors live out their roles, as discussed further below. Social practices are thus configured within larger units and not as 'isolated acts'. Important here are various social institutions which function as important 'sites of configuration' for gender. These 'sites' include institutions such as the state, the police, the courts, the workplace, the family and schools among others (Connell, 1995: 73). I find this theoretical conceptualisation useful for my study in that gendered relationships to land and housing are configured in and across a number of institutional sites, including the family, both traditional and legal courts, and the state, through its legislation and policy provisions.

Connell also established that in the patrilineal and patriarchal societies in which her empirical research has been conducted, most positions of influence in the significant institutions mentioned above are occupied by men. The reason why men dominate these positions is because there is a gendered configuration at work in the process of recruitment and promotion, as well as in the internal division of labour and systems of control within these institutions, along with a gendered configuration of policy and decision making (Connell, 1995: 73). By way of illustration, Potgieter (2012) found that the South African police force is a highly gendered institution with a bias towards certain behaviours that are typified as masculine. Similar dynamics in key institutions can be seen in Malawi, notwithstanding the importance of matrilineality at the level of the family. Thus White reported to the Malawi government in her 2010 submission on the implementation of the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) that most positions in the courts of Malawi are filled by men, because men are perceived to have greater mental capabilities to deal with issues concerning the law than women. Such stereotyping of male capacities is consistent with what many feminist scholars have argued:

that masculinity is associated with leadership while femininity is associated with empathy and submission.

Thus the definitions of what it means to be masculine or feminine in a given society are embedded in and acted out within the institutions within that society. Individuals are socialised to embrace such world-views concerning men and women to the extent that the traits come to be believed to be natural. (See, for instance, and Potgieter, 2012: 19). This leads authors such as Alexander and Andersen (1993) and Connell (1995) to conclude that gender is not only performed (as argued by Judith Butler) but is also created through socialisation, with gendered experiences and roles coming to be accepted by both men and women. The outcomes may have negative implication for women, as is demonstrated by the way the stereotypes about male and female capacities described above play out. In the context of Malawi, for instance, White (2010: 14) argues that the absence of women in positions of power and decision-making in key institutions contributes to women not being served well in matters of access to and ownership rights to land, even in matrilineal communities.

That said, any analysis of gender relations in Malawi does need to take note of the fact that in matrilineal areas such as Muluwila women may also hold positions of authority within local institutions. Here the cautions of African feminists such as Oyěwùmí about eurocentric assumptions concerning gender roles and gendered bodies become significant. While men do exercise power as brothers and uncles in matrilineal households, the institution of the *ankhoswe* can include older women, especially if there are no males to exercise this function. In addition a woman can be a chief and consequently could be involved in decision-making around issues of access to and ownership rights to property that affect women. At the national level there is also not an absolute barrier to women participating at the highest level – thus Malawi was the first country within the SADC region to have a female President, from 2012-May 2014.

Understanding that gender is socially created but lived by individuals, then, makes it clear that gender identities and relations are crucial aspects of culture. They shape how daily life is experienced and understood by individual women and men not only in the family but also in the community at large.

2.4 Bourdieu's concepts of *habitus* and field

As already suggested above, Bourdieu's concepts of *habitus* and social field or fields have also been found to be useful in making sense of the experiences that women of Muluwila village have around the issues of property rights, especially when considered in conjunction with the ideas related to gender as conceptualised by Connell. Bourdieu's concept of *habitus* lays a foundation for understanding the way in which the women of Muluwila interact with and make sense of the social environment (or the social fields, in Bourdieu's terminology) in which they negotiate their relationships and claims to land. His ideas are useful in understanding how an individual's actions are shaped by the environment in which she lives, including the influences exerted on her by the values and norms embedded in her culture.

2.4.1 'Habitus'

As already noted, for Bourdieu the '*habitus*' represents 'a fluid set of guiding principles for social actors, enabling them to understand and negotiate particular environments and cultures as well as what is unique to each of them as individuals' (Eisenberg, 2007). This means that while an individual is embedded in his or her culture and thereby accepting of much of what happens in his or her environment, at the same time he or she is also capable of questioning and adapting certain aspects of the social environment, to suit his or her needs better. Bourdieu argues that agents shape their aspirations according to indices of what is considered 'accessible', i.e. approachable or possible, and what is inaccessible, i.e., of what is and what is not 'for us' (Bourdieu, 1990: 65).

In his book, *The logic of practice*, Bourdieu (1990) offers an example of how individuals calculate their actions to attain a desired goal, using the metaphor of a game. Bourdieu says:

A player who is involved in a game adjusts not to what he sees, but to what he foresees, sees in advance in the directly perceived present; he passes the ball not to the spot where his team-mate is, but to the spot he will reach before his opponent a moment later by anticipating the anticipations of the others and, as when 'selling a dummy', seeking to confound them. He decides in terms of the objective probabilities, that is in response to the

overall instantaneous assignment of the whole set by his opponents and the whole set of his team mates, seen not as they are but as in the impending positions (Bourdieu, 1990: 82).

In my understanding, Bourdieu's argument is that '*habitus*' embraces the existing norms, rules and values that an individual actor draws on in calculating and determining future actions within a given context. These existing norms, rules and values represent general social standards, but, importantly, they also interact with the specific situational and personal capacities and experiences of the individual actor. According to Bourdieu, the norms, rules and values associated with one's *habitus* are cognitively integrated into the actor's frame of reference:

The conditionings associated with a particular class of conditions of existence produce *habitus*, systems of durable, transposable dispositions, structured structures predisposed to function as structuring structures, that is, as principles which generate and organise practices and representations that can be objectively adapted to their outcomes without presupposing a conscious aiming at ends or an express mastery of the operations necessary in order to attain them. Objectively 'regulated' and 'regular' without being in any way the product of obedience to rules, they can be collectively orchestrated without being the product of the organising action of a conductor (Bourdieu, 1990: 53).

On the one hand, it is because of these integrated frames of reference that individuals are able to use elements of the structured social world that their society or environment imposes on them, together with their own subjective realities, to shape individually determined actions. On the other hand, variations in an individual's environment, or indeed what an individual aspires to, may influence that particular individual to challenge and even change some of the practices that are considered normal in a given society. Thus social actors interact continuously with their environment, including with other actors, in negotiating which among a range of possible actions they may take.

In making decisions about their actions, social actors consider the potential outcomes and not only their subjective motivations, and this enables them to try to position themselves in as

advantageous a position as possible, within their context (Bourdieu, 1990: 65). The desired results of their actions, as I argue in my analysis of Muluwila village, largely depend on how much power an individual perceives him or herself to have; how well targeted their calculations are; how well they think they are able to influence and adjust to their environment so that it can work for them; as well as how accurately they are able to calculate possible future outcomes, to attain their desired goal. As will be seen from my discussion of the results of my study, the calculations of individuals can be both inhibitory and emancipatory for the one doing the calculations. In Muluwila it is possible to see how individuals, both men and women, try to use their knowledge of local norms, values and rules concerning the ownership of land and housing for their own benefit. However, their calculations can also be to their detriment if they are not well targeted and the individuals concerned lack the power in decision-making to affect the outcome in their favour.

2.4.2 'Field'

According to Bourdieu, a 'field' is a 'relatively autonomous structured domain or space, which has been socially instituted, thus having a definable but contingent history of development. One condition of a field is that agents recognise and refer to its history' (quoted in Warde, 2004: 12). As already illustrated in the discussion on *habitus* above, Bourdieu likens his idea of field to that of a game in which the players have to know the rules in order to participate. Thus the 'game on the field' concerns itself with how both opponents and members of the same team relate to one another.

In my study I take this idea to mean that the matrilineal family that is the customary norm in Muluwila makes up one of the primary fields in which both the men and the women who are members of the particular matriline and the *obwera* (literally translated as 'those who just came', meaning those who have married into the matriline and reside in the village) know 'the rules of the game' but use different tactics to their advantage or disadvantage, including in matters relating to the acquisition and disposal of property. These tactics are likely to be particularly evident in key moments affecting the matriline, such as when an individual is entering into a marriage or when a marriage dissolves. The idea of 'field' as akin to a game is thus helpful for understanding and analysing the actions of players who are positioned on different sides of a social interaction.

At the same time, Bourdieu recognises that in every field there are struggles, the specific forms of which have to be looked for in each case, for instance between those who are newcomers, and try to break through the barriers to their participation and the dominant agents who will try to defend their space and keep out competition (Bourdieu, 1993: 72). This fits with his understanding of *habitus* as also incorporating calculations and a capacity for agency on the part of the individual actor. A difficulty here relates to the extent of the fluidity of the guiding principles that are prevalent in a society and to what extent this fluidity impacts on the way social actors enjoy and/or assert their rights. To contextualize this question for the women in Muluwila: to what extent are women in this village able to work with or exploit the fluidity that is said to be a feature of the customary laws, norms and values guiding decisions around access to and ownership rights to land and housing when their marriages dissolve? As will be seen from my results, it appears that some of the men in my study who asked their wives to leave their maternal homes and relocate to their new husbands' homes upon marriage were making calculations at the point of getting married that if and when the marriage was to dissolve in the future, they would not have to fulfil their obligation of building a house for their wife in the wives' natal homes, as custom dictates. The question that arises for the women in this scenario is what was shaping their decision or agreement to relocate and reside in their husband's village or home upon marriage? Should or could they have been in a position to calculate the potentially negative outcomes arising from that decision? This is where Connell's threefold model of gender relations, involving power, the division of labour and cathexis, can be useful for analysing women's lack of agency in important areas of experience.

Despite this reservation, I still find Bourdieu to be useful for my study. He has argued convincingly that actors or individuals can use their foresight to determine possible outcomes of their own actions as well as those of their team's or opponents' actions, and, within the constraints of their particular context, endeavour to take appropriate action based on their understanding of their experience. Bourdieu's theory is also relevant for understanding how the norms embedded in the matrilineal system, coupled with individuals' personal attributes and the networks and specific environment in which individual women find themselves, contribute towards shaping their experiences around property. The environment in this case includes but is not limited to the cultural expectations embedded in the matrilineal family network (*apantundu*), along with the wider policy environment and its legal provisions and

the livelihood options open to the actors. In my study I thus look at these latter aspects, as well as the norms and values embedded in the matrilineal culture of the respondents. Religious institutions could also influence the environment but, as I discuss further below, they did not emerge as major factors in Muluwila.

In my understanding, Bourdieu's idea of 'field' ties in well with Connell's idea around institutions as 'sites of configuration' around the practice of gender, which affect and influence women's experiences. Key institutions, as already noted, include the family, the courts and the state. For instance, in my analysis I show how men as *obwera* are able to manipulate the fears of their *apongozi* (parents-in-law) concerning the future well-being but also the social status of their daughters, and turn this to their advantage in deciding where the new marital home will be. The fear on the part of the woman's parents would be that if they were to stand in the way of their daughter getting married when she wanted to, by objecting to her going to stay either at her new husband's natal place or at a neutral place, in cases where this is what the man was demanding, their daughter could fall pregnant while risking being abandoned by the man who wanted to marry her (if his wishes about where to reside were not accepted).

The institutional sites of gender configuration that I have identified as significant for women's property rights – the family, the courts and the state – can also be seen as comprising social fields in which the contending parties to a dispute have to manoeuvre. In the case of the legal system, for instance, which covers both traditional courts and the magistrates' courts, couples who are undergoing a process of marriages dissolution may decide to take the matter to court, particularly if there are disputed issues relating to property sharing to be handled. If the traditional courts fail to resolve the disputes, then they may be referred to the magistrate's courts. In the legal field there are laws and guiding principles that may be written or unwritten (most customary law, which is applied by the traditional courts, is in an oral form) with which individuals have to abide.

My identification of *apantundu* as a field follows Atkinson (2014) who argues persuasively that the family is a field in Bourdieu's sense and that broader structures of social and cultural domination are constituted by the family. Atkinson argues that even though Bourdieu did not do much work on the family as a field directly, his work is very suggestive in this regard,

given that the family is constituted by ‘relationships that are constantly re-used’ and ‘reinforced in everyday practice and exchange’:

It comprises of communities of dispositions and interests; a set of ‘self-representations’ and efforts to maintain itself as a united and solidary group including with a specific constructed past which dominates agents... but also displays internal ‘power relations’, conflicts of interests, ‘tensions’ and struggles over membership and boundaries (Atkinson, 2014: 224).

Bourdieu’s ideas are thus very useful to seeing how particular marriage strategies are embedded in the existing relations of production while producing a system of social inequality. I draw on this in my analysis to illustrate how those in power in the matrilineal family, such as *nkhoswe*, use their power to monopolise control over land while the *obwera* use subversive strategies to try to turn developments to their advantages. Another example of subversive strategies is provided by those men who say, in the context of a threatened or actual divorce, that they will take custody of their children, which is contrary to the matrilineal customs of Muluwila. This is done in order for them to take control of the neutral land that they bought during the duration of their marriage. An important Chichewa maxim is the saying that ‘*malo ndi a ana*’, which means that land is for children. Thus by taking custody of their children, men seek to legitimise their taking of the marital land also, on the pretext that this land is for the welfare of the children and they are thus acting morally and in terms of local norms. However, in such cases the consequence for the children’s mother is that she is left both ‘childless’ and landless.

2.5 Women’s land rights and living customary law

In the literature on gender and development, women’s status is seen as significant for spelling out the level of development in a country. According to Mkandawire (2001: 7), Ngwira (2002), Mosse (2003), Chiweza (2005) and Tsikata (2009), women make a significant contribution to development both in terms of production and reproduction. Both Mkandawire (2001: 7) and Tsikata (2009) have pointed out that women are also crucial players in the field of producing knowledge about social development. Here both are critical of the fact that due to its reliance on external donor funding, gender studies in Africa is vulnerable to the

influence of shifting donor interests and motivations; the direction of research is, furthermore, often directed by scholars and networks that are not from the country concerned, who bring their own concerns and conceptual frameworks to the work. The challenge this creates for African gender scholars is that the research that gets funded and/or supported may not be in line with their own assessment of the most critical needs in the societies that they are studying, in which they live and/or work.

That said, many scholars across the board have argued for the importance of women having rights to access and to own land in their own right. Wieczorek-Zeul (2007) has argued both that there can be no meaningful development without women and that development involves issues to do with the ownership of property which spells out one's status. Thus, the position of any population group in terms of development cannot be separated from issues of access to and control over property, issues which lie at the heart of women's empowerment. Prominent scholars who have advanced these arguments with regard to women's property rights include Agarwal as well as Roy and Tisdell. Agarwal (2003) and Roy and Tisdell (2002) argue that strong property rights for women have the potential to reduce both their own and their households' risk of poverty. This is because, unlike men, women spend most of their income, whether realised from the property they own or other sources, on the needs of their families, notably their children, not only on their own needs. In this way, ownership of land which women can use productively is linked to improving the welfare of the family.

Agarwal (1994, 2003) has developed an influential set of arguments around why women's property rights are beneficial for development, especially with regard to land, spanning four broad themes. In terms of her analysis, strong land rights for women promote (1) the general social and economic welfare of the society (2) the more efficient use of resources (3) gender equality and (4) the empowerment of women. With regard to the first two points, she notes that property can often act as collateral to obtain credit from financial institutions, which enables women to make meaningful investments in seed, fertiliser, implements and the like, which in turn can increase their returns and thus bring significant benefits in terms of household poverty alleviation (Agarwal, 1994). In terms of the 3rd and 4th of her themes (equality and empowerment), owning property also enhances women's status in society and earns them respect, which can be turned to the advantage of both themselves and their families.

Roy and Tisdell (2002) concur with this point. They argue in their study on women's empowerment in rural India that women who owned land were more respected than those who did not. Agarwal (1994: 2003) adds that gender equality and empowerment can be achieved when women are economically independent, including but not only through access to and ownership of property. This can also facilitate their participation in mobilisation around developmental issues, since property ownership and access place one in a position of power to negotiate and make decisions by articulating one's priorities and needs. In consideration of these points, Agarwal makes a further case for collectives as an important mechanism through which women can group together to own and use land productively. She submits that collective land ownership could increase the chances for women to obtain credit using government funds; women are also likely to be in a stronger position to lease or purchase land collectively rather than individually. Furthermore, women might be better able to manage purchased land collectively than as individuals (Agarwal, 2003: 184).

Despite the commitment to empowering women through property ownership that sits at the core of Agarwal's account, critics have raised concerns about her arguments being regarded as a general prescription for improving the position of women globally. One that appears cogent to me is that Agarwal is treating "women" as a universal social category that needs external intervention, without first problematizing differences among women across different societies and also looking at women's particular interests in their own environments. Agarwal makes a case for women to have land rights collectively, but this begs the question: is this what women necessarily want in specific contexts? Jackson (2003) has argued in response to Agarwal's work that researchers need to understand the specific situation of the people that are being studied. She further argues that there should be a difference in the way one would address a situation in which women are landless because men have monopolized the opportunity to access and own land, and a situation in which both men and women do not have enough land due to the shortage of land. In the former situation it might make sense for a researcher to propose collective rights for women as a way of addressing the scenario, but one could not address the latter case with the same solution. Walker has argued further that Agarwal's policy recommendations regarding both individual and collective rights of land ownership by women may work well in the specific context of India, the primary focus of Agarwal's empirical material, but are less well suited to many contexts in sub-Saharan Africa where land is communally owned (Walker, 2003).

Jackson (2003: 255) also cautions researchers on the way research questions are formulated. She has criticised Agarwal for formulating her research questions as leading questions that directed the respondents towards the desired outcome, which was that they should want titled land that would be collectively owned by women. The important point which Jackson is advancing here is that research respondents should be given the space to reflect on and express to the researcher their understanding of their own experiences, and to articulate for themselves what they think the solution or solutions should be within their own context. This approach is consistent with feminist standpoint theory.

2.5.1 Culture and customary law in relation to women's land rights

This points to the issue of customary law as part of the cultural context within which gendered relationships to land are conducted. Rodgers and Rodgers (2001: 40) define culture as the network of customs, rituals and rules that give meaning and identity to members of a group and provide social coherence within that group. They argue that to belong to a particular group means that one is expected to adhere to the rules, rituals and customs of that group. Inglis (2004: 34) provides a useful metaphor for thinking about the authority of culture by suggesting that culture can best be understood as the 'hum and buzz of implication' in human activity and exchange. According to Inglis, the 'hum and buzz of implication' can be derived from the 'social ideal; the ideal concentrated in the expressive arts; and as the way of life distinctive to a particular society and is expressed visibly in its social symbolism' (Inglis, 2004; 34). Expounding on this point, Inglis says that culture can be seen in the *signs* of human interaction and the ideas embodied in peoples' actions. Culture is thus part and parcel of people's everyday life, the environment in which people live; it functions through interactions in everyday activities as well as through other mediums of social exchange such as the expressive arts. At the same time, as the discussion on Connell and Bourdieu and other theorists has made clear, culture and custom should not be regarded as static but as dynamic and changing over the passage of time. As already discussed, Bourdieu's ideas around *habitus* and field explore the ways in which individuals' actions are influenced but not completely dictated to by the norms, values and beliefs that are embedded in their culture. In researching women's experiences around property rights, I have taken the idea of people's agency in relation to the embeddedness of culture seriously.

Here a very important area of debate within the literature on women's land rights and cultural practice concerns the issue of what has become termed 'living customary law'. (See, for instance, Claassens and Mnisi, 2009.) Customary law is fluid in nature and often its various prescriptions and practices are in unwritten form. For this reason, various scholars have referred to it as 'living customary law' because of the capacity of customary law to change over time in response to new influences and demands, while still be considered embedded within inherited norms and practices. It can be modified both by leaving out elements that may be deemed no longer appropriate or beneficial and by adding other elements that may be deemed more appropriate and better suited to the circumstances of the people concerned. For instance, in South Africa popular understandings of women's property rights in terms of customary law have been significantly shifted in relation to debates on gender equality based on that country's strong articulation of gender equality as a primary constitutional imperative; this has been seen to operate even in rural areas that may appear quite remote from metropolitan centres. (See Claassens and Cousins, 2008.)

The extent to which this happens in a given context may be dependent on its particular historical circumstances but numerous studies have highlighted the changing nature of customary law over time in African societies. According to Cousins (2008), in southern Africa, colonialism impacted significantly on customary law by codifying it in ways that misrepresented communal land systems and served the interests of colonial rulers; at the same time, by writing it down the colonial authorities also undermined the capacity of customary law to adapt to new circumstances. According to him, the colonial regimes thus imposed some rules that were foreign to the indigenous social systems that they were attempting to regulate (Cousins, 2008: 127). Mundimba (1994: 140) has made a similar point with regard to the Congo, where, in an attempt to establish themselves, the colonial forces were obliged to construct new societies which included developing new 'customary' laws – innovations which over time became socially accepted as the norm. Chanock has made a similar observation for Malawi where colonial rulers imposed their preferred rules on the indigenous people in the name of customary law (Chanock, 1998).

Today, states and governments continue to make amendments to customary law (M'chanju-Liwewe, 2008). M'chanju-Liwewe (2008: 43) and Claassen and Mnisi (2009: 491) submit that often the amendments to customary law are detrimental to the rights of access and

ownership that women have historically enjoyed under customary law. A major issue of debate here concerns the issue of land titling and the individualisation of rights to communal and family land, which may threaten the tenure security of marginal groups, including women, if their rights are not recognised in the process. Both M'chanju-Liwewe, (2008), and Claassen and Mnisi (2009) have noted that legal provisions that attempt to take on board and codify customary law often overlook the rights to land that women do have in terms of local customary law. At the same time, Whitehead and Tsikata, have cautioned against the presumption that 'the turn to the customary' is necessarily beneficial for women, arguing that 'There are simply too many examples of women losing out when modern African men talk of custom' (Whitehead and Tsikata, 2003: 104).

Attempts to conceptualise 'living customary law' and the implications of law reform or the overhaul of customary law in matrilineal societies raise challenging issues about the nature of women's rights in these societies and the potentially negative consequences of law reform on such rights. M'chanju-Liwewe (2008: 43) has warned that in most cases those who amend the laws base their work on western legal provisions, which have their base in patrilineal societies, and are then imported into the local context without questioning their applicability or the value of the customary laws that are already in place. This makes a study of women's land rights in the matrilineal areas of Malawi of particular interest.

2.6 Concluding remarks

In this chapter, I have discussed the theoretical frameworks which I make use of in my study, in particular feminist standpoint theory, which emphasises the importance of understanding gendered social dynamics from the perspective of women; Connell's three-fold model for analysing gender; and Bourdieu's ideas on *habitus* and field. Drawing on Connell's ideas on the configuration of gender as social practice, I have identified the matrilineal family, the courts (both traditional and non-traditional) and the state as key sites of such configuration for the purposes of my study. These sites can also be understood as fields in Bourdieu's sense.

I have concluded my discussion in this chapter with a review of key themes in the literature on gender and development on women's land rights and the significance of customary law. The main thrust of this section is that women need to be seen as crucial agents of

development in their own right and that in a predominantly agrarian society such as Malawi secure land rights for women are crucial for development to benefit women. Customary law may offer women important rights, depending on how it is interpreted and engaged. At the same time, women should not be seen as a homogeneous and unified category, and the form that stronger land rights should take needs to be context-specific. These points are taken forward in the discussion on matrilineal society in the next chapter and the discussion of the history of land policy and development in Malawi in Chapter 5.

CHAPTER 3: MATRILINEAL SOCIAL ORGANISATION

In this chapter I explore various debates around the nature of kinship and matrilineal systems of organising descent. Kinship rules influence decision-making in homes (Meijer, Sileshi, Kundhlande, Catacutan, and Nieuwenhuise 2015: 70). It influences the exercise of authority in households as well as the way in which household or family property is organised, including by prescribing how land is obtained, worked, inherited and otherwise disposed of.

Broadly kinship can be defined as ‘the social relationships deriving from blood ties (real and supposed) and marriage’⁷ and encompasses the rules of descent and of care and reciprocity among the members of the socially defined group. Sahlins has highlighted the centrality of ‘mutuality of being’ in kinship relationships:

... the idea of kinship is about ‘mutuality of being’: people who are intrinsic to one another’s existence - thus ‘mutual person(s)’, ‘life itself’, ‘inter-subjective belonging’. I argue that ‘mutuality of being’ will cover the variety of ethnographically documented ways kinship is locally constituted, whether by procreation, social construction or some combination of these (Sahlins, 2011: 1).

Thus ‘kinsmen’ are ‘persons who belong to one another, who are members of one another, who are co-present in each other, whose lives are joined and interdependent’ (2011: 11). This, he argues, applies to all kinship systems.

In this dissertation I draw on Sahlins’ suggestion that kinship is about ‘mutuality of being’ to understand the bonds among kinspeople, while also considering the disputes and conflicts that may arise in kin relationships. I also take up the point made by Schneider (1984), who has argued strongly that relatedness or kinship should be understood in terms of what the people under study conceive kinship to be in their context, which in turn influences how issues relating to property rights within marriage are handled and what guiding principles are

⁷ *The Penguin Dictionary of Sociology*.

followed (Schneider, 1984: 8). I find this to be consistent with feminist standpoint theory and important for understanding matrilineal social organisation in Muluwila on its own terms.

Some non-western scholars have argued that understanding matrilineal kinship systems has been problematic for western scholars because they have studied it through a eurocentric lens. Narayan (2014), for instance, in offering her view on the historical views of kinship and matrilineal societies, has argued that:

... the distinction between households and family is grounded in western conceptions. The household is regarded merely as a co-resident group whereas the family is made up of those household members who also share kinship. That normative distinction assumes that the family, including a heterosexual couple as parents, is a natural unit, a generalization that ignores differences of class and race. It also fails to account for the fact that household could refer to members outside the family, such as ... family retainers. Hence, only large property-owning households that include all these external family members can provide sufficient data to the complex relationships between class, caste, gender and kinship...the current definitions and paradigms of matrifocal domestic system... are also based on the classic kinship theory's focus on marriage (Narayan, 2014).

In my discussion, I first address a number of debating points around kinship and matrilineal social organisation and then discuss some examples of matrilineal social organisations globally, to give an indication of the variability within this broad category. The examples that I offer are the Mosou of China, the Iroquois of North America and, bringing the discussion back to the continent of Africa, the Bemba of Zambia. This is followed by a brief discussion of how matrilineal social organisation is practiced in Malawi at the level of norms and customs. A number of the issues discussed here are developed in more detail in ensuing chapters.

3.1. Debates on kinship and matrilineal social organisation

The study of kinship has provoked countless debates and controversies. Here I review three issues that I consider important for my study: matrilineality as a ‘primitive’ form of family organisation that is superseded by patrilineal forms as societies ‘evolve’; kinship as a social not a biological set of relationships; and kinship as an important component of the economic organisation of societies, including the inheritance and transmission of property.

3.1.1 Evolutionist theories concerning matrilineality

The term ‘matrilineal’ covers a complex terrain that scholars and others have grappled to describe and explain over the decades. Broadly, however, matrilineal societies are societies whose social organisations is based on a kinship system in which one’s descent is traced through the mother’s lineage, not the father’s, as is the case in patrilineal societies (Radcliffe-Brown, 1935; Peters, 1997: 189; Quisumbing, 2001: 2095; Strickland, 2004: 21; Peters and Kambewa, 2007:11; Takane, 2008: 24; and Kishindo, 2010: 90). Generally in matrilineal societies, property inheritance patterns operate through the maternal line, and this is widely regarded as significant for giving women relatively strong claims to land in their maternal home place.

The question of whether matrilineal kinship forms predate patrilineal kinship forms or not has been debated by anthropologists for a long time. In the 19th century there was a widespread belief among western scholars that early kinship systems were likely to have been matrilineal and later evolved into patrilineal forms (Knight 2008: 67). Matrilineality was thought of as a form of ‘group-marriage’ and ‘a primitive stage of evolution experienced in all societies on their route towards civilized monogamy’ (Mattison, 2011: 65). According to Knight, Lewis Morgan, who is widely considered the father of Social Anthropology, argued in the mid-nineteenth century that matrilineality predated patrilineality. According to Morgan, kinship systems have evolved over time from ‘archaic’ forms of matrilineality to what he considered ‘modern’ forms of kinship which are patrilineal. Morgan conceived of kinship as developing in ‘stages’ after investigating the system of kinship among the Iroquois, an Indian tribe in North America which was matrilineal in its social organisation. For Morgan, who himself hailed from a patrilineal society, matrilineal societies were characterised by families which were disorganised and unstable, contrary to the stable family situation that he believed to be the

prevailing one in the patrilineal societies that he knew best. To him, matrilineal kinship systems were backward compared to patrilineal forms of kinship.

According to Morgan, kinship concerns societies' views on the relatedness of individuals, based on folk knowledge of the biological bonds that emanate from procreation or what is also called biological consanguinity (Morgan, 1913:179; Buchler and Selby, 1968: 2). His evolutionary ideas led him to study a number of matrilineal societies and his influence spread. Taylor, Mc Lennan, Engels, Durkheim and Freud were among those who were influenced by his ideas (Knight, 2008; and Mattison, 2011). What puzzled the evolutionists was the position of the mother's brother in relation to the children of the father in matrilineal societies, which was seen to defy the normative principle of unilineal kinship of patrilineal societies. Male authority was seen to be undermined in matrilineal societies, despite the authority of the mother's brother, because the father was not the primary authority figure. Another important figure in the study of kinship systems was Bachofen who, in his 1866 book entitled *Mutterrecht*,⁸ also proposed that matriliney was the 'more archaic' social system and theorised the nature of 'mother-right'. According to Knight (2008: 67), Bachofen's analysis was based on the following propositions: (1) humanity once lived in a state of sexual promiscuity; (2) under this system there could be no certainty of paternity; (3) kinship was traced through females alone; (4) women's status was correspondingly high; (5) monogamy emerged relatively late in history. Both Morgan and Bachofen are said to have had reciprocal influences upon each other.

Although Morgan has been recognised as the father of the scholarly branch of kinship studies, he has been criticised not only for his evolutionist assumptions but also for having a narrow view of what kinship entails, since he only recognised kinship in terms of relationships that could be traced through biological bonds (Holy, 1996: 11). Boas, another significant anthropologist, supported the kinship theories of Morgan and Bachofen until he found that there were 'in the interior of British Columbia clanless tribes with a family organisation and a patrilineal trend adopted from coastal neighbours, a matrilineal clan organisation' (Lowie, 1960: 420). This opened up the case for the need for further investigation to support or to

⁸ *Mutterrecht* means mother right.

refute the view on whether matrilineal forms of kinship organisation preceded patrilineal kinship forms or not.

In contrast to the idea of only matrilineal societies evolving in the direction of patrilineal forms of social organisations, some twentieth-century anthropologists have dismissed as untenable the theory of matrilineal forms of kinship as prior forms of kinship that will inevitably give way to patrilineal forms (Harris, 1969: 305). Hart and Pilling (1960: 112) have argued for the possibility of patrilineal societies evolving in the opposite direction, into matrilineal societies. The authors give as an example of this the matrilineal Tiwi people who, they claim, were previously patrilineal. More recently, however, Quisumbing and Otsuka (2001: 2094) have reverted back to evolutionist ideas and supported the evolutionist arguments made by Morgan and Bachofen. They have advanced various arguments in support of the idea that social organisations do evolve and that matrilineality is historically an earlier form of kinship organisation than patrilineality. Based on their findings and observations, they have predicted that eventually matrilineal social organisation will come to an end (Quisumbing and Otsuka, 2001: 2095). As evidence for this they contend that in many areas where matrilineal customs used to be practiced, they have been replaced by patrilineal practices and eventually by patrilineal norms.

However, the evolutionists' claims about matrilineality as a kinship form that is bound to disappear have not gone unchallenged, including with regard to Malawi. According to Peters, in her 1997 publication entitled *Against the odds: matriliney, land and gender in the Shire Highlands of Malawi*, matriliney has proven to be remarkably resilient in Malawi in spite of the challenges it has faced. She argues that patterns of property inheritance, which is one of the main elements of matrilineal social organisation, are still traced through the maternal line. However, in my reading of Peter's later work in 2009, she appears to suggest, albeit unintentionally, that the grip or the resilience that matrilineal customs displayed in the 1990s was dissipating (Peters, 2009: 179). In this piece she argues that the approach of Malawi's land policy to grant ownership rights to land to both sons and daughters and, by extension, to enhance the position of traditional leaders in the administration of land would negatively affect matrilineal practice.

Here it is worth pointing out that the World Bank in the 1980s (1987: 11), as well as more contemporary analysts (Kishindo, 2011: 11; Chiwona-Karltun, Chinsinga, Hesselmark,

Mkwambisa and Gerremo, 2013: 2), have also noted a growing trend in Malawi of people buying land, with most of the buyers being male rather than female. This signals a significant shift away from matrilineal patterns of land ownership and puts increased pressure on the reduced amount of land still falling under matrilineal systems of ownership, with consequences for women's customary land rights. If this is indeed happening on a large scale, it raises questions about the resilience of matrilineal custom and women's property rights within it. Does it mean that Quisumbing and Otsuka were right to argue that social organisations evolve and that eventually matrilineal customs will give way to patrilineal practices? The critical point here is whether the adoption of patrilineal norms and practices should be understood in linear and evolutionary terms, in the sense of a move from a backward to a more advanced form of social behavior, or as a result of a combination of other factors. I argue that in Malawi the influence of patrilineal norms on matrilineal practices can be seen, but this should not be seen as either inevitable or a move to a necessarily superior form of organisation.

3.1.2 Kinship as a social not a biological set of relationships

Among the anthropologists of the early to mid 20th century who rejected the evolutionist stance were Malinowski (1913), Murdock (1949), Radcliffe-Brown (1950) and Schneider (1984). These scholars also argued for an understanding of kinship that goes beyond an analysis of the biological bonds which individuals share. Malinowski is said to be one of the first anthropologists to attempt to understand systematically the functions of features such as that of 'mother-right' in matrilineal social organisation, in an attempt to better understand how the society works and is maintained over time. After studying the aborigines of Australia, he argued for the need to differentiate between biological kinship and its social or cultural conceptualisations (Malinowski, 1913). For him, consanguinity (i.e. being related through membership of the same descent group) is a social concept that ought to be understood not simply in terms of the physiological bonds of common blood but, rather, in terms of the way this is acknowledged and interpreted in a given society. Thus, 'consanguinity portrays the collective ideas shaping the way in which the facts of procreation are viewed in a given society' (Malinowski, 1913: 179).

The structural-functionalist school of thought within anthropology that was advocated by theorists such as Radcliffe-Brown and Forde was also important for breaking from

evolutionist thinking and looking at the way institutions such as the family structure social relationships within a given society. Radcliffe-Brown and Forde undertook research on what they regarded as the 'elementary' kinship structures in society. They argued for the place of relatedness to be traced through the recognition of social relations that exist in a society which do not always necessarily emanate blood relation. The two authors argued that kinship is not necessarily derived through 'consanguinity' (Radcliffe-Brown and Forde, 1950: 4). Rather, they argued, kinship emanates from the recognition of a social relationship between parents and children which is different from the recognition of a biological relationship between the same. These authors proposed that the social relationship between parents and children may or may not coincide with the actual physical relationships between parents and their biological offspring (Radcliffe-Brown and Forde, 1950: 4). Kinship, the authors argue, also goes beyond the father and the mother and their children (Radcliff-Brown and Forde, 1950: 271). It extends to other important relationships such as those linking the brother and/or sister of the mother of the father's son and so on and so forth, to other people recognised as kin, forming a complex network of relationships across several generations.

Based on his studies of the Navajo people in North America, Cucchiari (1981) observed that the interpretation of 'relatedness' does not always revolve around ideas about the ties of 'blood', i.e physical procreation, either. Rather, how a society interprets what kinship is or what it means to be related to another person has to be understood in its particular context. The Tiwi of Australia can be seen as an extreme example of this as traditionally they have not recognised the male's role in procreation at all but have explained pregnancy as the consequence of the impregnation of a woman by a spirit; however, men are still recognised as the fathers of the children of the women who are married to them (Hart and Pilling, 1960). According to Cucchiari, the Najavo people consider the parents of a child to be the person who protects, feeds and raises that child (Cucchiari, 1981: 35). Thus the concept of motherhood, for instance, may not refer strictly to the fact that the woman in question bore the child of whom she is the mother. Motherhood for the Navajo connotes nurturing of the child, to the extent that an individual may say of someone, 'This is my mother', not because that woman bore him/ her but because she was the one who cared for and raised the individual to adulthood. Schieffelin (1976: 64) made a similar observation by arguing that in some cultures the nature of kinship ties appears most visible when a child who has been nurtured by a woman other than his/ her biological mother gets married. Schieffelin gives an

example of how, among the Kualuli people of New Guinea, a claim for a part of the bridewealth that is payable upon marriage can be made based on the contribution that the woman who actually nurtured the bride made. Cucchiari agrees with this point but also cautions that there is still a need to acknowledge the genealogical relationships deriving from procreation in the study of kinship, if we want to distinguish kinship relations analytically from other social relations (Cucchiari, 1981: 37).

Other studies of kinship have found societies in which kinship or relatedness is marked through the sharing of substances such as food. This school of thought suggests that tracing relatedness through the eating of food grown from the same piece of land mimics the process of lactation and the way in which the mother's sharing of her milk with her baby contributes to the child's growth (Strathern, 1972: 29). In this way, Strathern argues, food forms an excellent symbol of identity and of the values of nurturance, growth, comfort and solidarity which are associated primarily with motherhood (Strathern, 1973: 29).

Kinship is responsible for the creation of social ties not only through reproduction but also through marriage and succession. Expounding on this point, Holy has observed that in most 'primitive' societies, kinship organisation was based on descent from groups which practised exogamous marriage, i.e. chose marriage partners from outside the group, and were thus mutually related through a series of marriage exchanges (Holy, 1996: 2). However, Holy also observed that in some societies people would establish relationships of kinship by the mere fact that they lived together in the same place as a group. Supporting this view, Langeness argues that people do not necessarily reside together because they are kinsmen; rather, they become kinsmen because they reside together (Langeness, 1964: 174). This can be seen in Malawi – for instance, my field research in Muluwila village shows that an acknowledgement of relatedness can be established through the mere fact that people have lived together well as neighbours in the same area for a long period and relate closely to each other just as they would (or should) with their actual brothers or sisters. The term that is used in such a case is *m'nasi* (literally, very close person). In some instances, *m'nasi* may inherit property such as land as if they were a kin member.

At the same time, however, relatedness in Malawi does involve conceptions of 'blood' (*magazi*) that work with an assumption of biological relatedness. This can be seen in some popular sayings which are equivalent to the English saying, 'blood is thicker than water',

such as '*uyu ndi gazi langa*'. This means literally: 'this one is my own blood' which means that the people in question are related biologically. However here, too, supposedly biological relationships are given a social meaning, with the consequence that the roles and responsibilities that are associated with a particular kin identity may extend beyond those individuals implicated in a strictly biological relationship with each other. Thus Mair (1951), in her study of the matrilineal Chewa in Malawi in the mid-twentieth century, found that a man (an uncle) could say to his nieces or nephews who were his sister's children that 'I am your mother'. This is an example from matrilineal Malawi of how the ideas associated with motherhood may not refer only to the woman who bore the child but may also extend to another relative within the matrilineage (including a man), who may at times be called upon or expected to perform certain responsibilities associated with a mother. In a study that Radcliffe-Brown and Forde conducted in the mid-twentieth century among the Ashanti of Ghana (whose kinship system is matrilineal), they describe how a man's children would address their father's sister's son as *agya*, meaning father, as a way of showing respect. A nephew, furthermore, could address his uncle's wife (*wofa*) as his wife (*yere*) (Radcliffe-Brown and Forde, 1950: 271). This is because he has the right to marry her when the uncle dies.

3.1.3 Kinship, relations of production and property

Another major debate in kinship studies concerns the relationship between kinship and production, which has frequently also been interpreted in evolutionist terms. Thus matriliney has been closely associated historically with small-scale horticultural societies, rather than with pastoralist and agro-pastoralist societies (Aberle, 1961; Pachai, 1972 and Poewe, 1978). Aberle (1961) used this association to argue for the primitiveness of matriliney as a kinship system, compared to patriliney, submitting that it was rare to find plough agriculture or significant animal husbandry in matrilineal societies. For these reasons, a number of influential scholars of kinship have deemed matriliney not to be as functional for development as patrilineal systems of kinship (Murdock, 1949). Related to this, a number of scholars have concluded that because land is vested in women under the matrilineal kinship system, it is often not fully utilised economically as the men who marry into the matrilineal village do not make meaningful investments in the land (Kishindo, 2001; Kishindo; 2010). They argue that

this is linked to the instability of marriage in matrilineal communities, which finds its expression in high levels of divorce and remarriage (Poewe, 1978).

At the same time, kinship can also be understood as an important aspect of a broader system that influences gender inequality (Collier and Rosaldo, 1981; Ortner and Whitehead, 1981). In a similar vein, Bourdieu (1977) has illustrated how existing social systems of social inequality are reproduced by particular marriage strategies that are embedded in the existing relations of production. More generally, authors such as Terry (1972), Meillassoux (1981) and Poewe (1981) have argued that the kinship system that is in place informs the political economy of a given society and shapes power relations. Thus Poewe, who studied the matrilineal Luapula peoples of Zambia, concluded that kinship in this community had a significant influence on the political economy of the people, including through its role in determining how issues around the distribution of property would be decided upon (Poewe, 1976: 56; Poewe, 1981: 11). This was in terms of who was entitled to access and own what property and who had decision-making powers over property. It is noteworthy that in this study, Poewe found that in matrilineal Luapul, women could also hold positions of power as chiefs. Arguably, this entails that in part women in such positions had considerable powers over property ownership.

The understanding of kinship – of to whom and how one is related to others as kin and how one's descent group is constructed – has far-reaching implications for how the exercise of property rights is understood and practiced. Here too the social rather than biological dimensions of kinship are visible, as attested by the example of wife inheritance among the Ashanti mentioned above. According to Radcliffe-Brown and Forde (1950: 270), in the matrilineal Ashanti community the practice of wife inheritance by the nephew of the deceased man has to be approved by the nephew's head of lineage, who is generally male and from his mother's grandmother's lineage. The practice of wife inheritance is determined by how senior a nephew's mother is in his maternal lineage. With such an understanding, the nephew also inherits the deceased uncle's property, such as farms, houses, and other commodities but along with this he inherits responsibilities towards the wife as well as the expectation of taking care of the children, if any, of the deceased man. This can have the effect of leaving the widow destitute, if the nephew does not follow through on his responsibilities.

In Ghana national legislation has been enacted in an attempt to address this problem. According to the 1985 Intestate Succession Law 111, which was applied nationally, including to the Ashantis, the widow and her children were the primary beneficiaries of a deceased man's estate (where there was no formal will) (Kutsoati and Morck, 2012). Significantly, however, Kutsoati and Morck (2012) established that in many of the cases that they studied, the legal prescriptions were not adhered to and widows were often denied their legal rights to property by those inheriting the property under customary law, such as the nephew. This finding reaffirms an earlier finding by Radcliffe-Brown and Forde (1950: 272) about the deep-seated authority of customary practices around inheritance.

Quisumbing (2001: 2095) has reported on field work conducted among matrilineal communities in Sumatra in 2000 and 2001, where property could be divided into two categories – what was described as ancestral or lineage property, on the one hand, and what was termed private property on the other. According to Quisumbing, ancestral property is the property that is inherited from one's lineage, such as land, while private property is acquired by one's own effort such as through purchase (Quisumbing, 2001: 2095). This includes land but could also cover other items such as hoes. The distinction between ancestral property and private property seems to be implied in a number of anthropological studies on matrilineal land. For instance Peters and Kambewa (2007:11), Jul-Larsen and Mvula (2009:190) and Kishindo (2011: 11) point to these categories, although not explicitly, when they discuss how members of matrilineal societies acquire their land both through inheriting it from older generations and, in some cases, purchasing it from relatives and non-relatives. The mode of property acquisition is significant, as my subsequent discussion of property relations in Muluwila will show, and has a bearing on how family members identify in relation to it, as well as how decisions concerning the property (land and housing) are made and by whom. More importantly and in line with the subject matter of this study, acquisition of land as property has a bearing on how it is shared when a marriage dissolves, and illuminates the standing of women and their rights to own property in terms of matrilineal custom.

3.2 Examples of contemporary matrilineal social organisation

My reading of the literature on kinship has shown that whereas the early study of kinship systems proposed that universally people understood kinship to derive from a natural process, that of procreation, later analyses shifted away from this understanding of kinship and moved

towards the realisation that kinship is socially constructed and culturally specific. This move resulted in a realisation that what could be regarded as kin relations in one culture would not necessarily apply in another culture.

From the discussions above, it is clear that the study of matrilineal kinship systems has historically taken place through a eurocentric lens. Generally western scholars have seen matrilineal kinship as a puzzle which does not fit neatly within the terms of reference for kinship based on patrilineal descent within their own societies. Matrilineal kinship systems have thus been seen as backward, predating patrilineal forms of kinship; not functional for economic development, and unstable due to the high frequency of divorce. I have also reviewed arguments about the malleability of matrilineal family forms and the likelihood of them evolving towards patrilineal forms over time. This malleability has some echoes of the discussions on living customary law reviewed in Chapter 2, and the impact on matrilineal systems of the patrilineal norms and legal practices brought about by colonialists, which has had an effect on the operation of customary law in the present. Yet despite arguments about the vulnerability of matrilineal kinship practices, they do seem to be resilient. In fact, Mattison (2011:64) has recently noted that some evolutionary anthropologists have attempted to recast matrilineality as an 'adaptive solution to modern social and ecological environments'.

Despite debates around matrilineal social organisation as an archaic form of kinship, systems of matrilineal descent are still practiced in different regions of the world. According to Holden and Mace (2003: 2425), and Munthali *et al* (2011: 4), globally, some 17% of the world's cultures practice matrilineal forms of social organisations.⁹ In what follows I have selected examples of matrilineal social organisation from three continents through which to explore, although not in depth, various manifestations of matrilineality. Where appropriate I also refer in passing to some other examples of matrilineality. The examples discussed here cover Asia, North America and Africa.

⁹ I have not come across recent figures indicating the magnitude of matrilineal social organisations that are currently being practiced the world over. Available figures in recent publications seem to refer to past studies that were conducted by Murdock in 1969.

3.2.1 The Mosuo of China

The first example of a social group that practices matrilineal social organisation that I look at is the Mosuo of China. The Mosuo live in Southwest China (Shih, 2001: 381). In the Mosuo culture there are two kinds of conjugal relationships. According to Shih (2001: 386), in the first place there is what is commonly recognised as a marriage, in which a husband and a wife marry and have ‘affinal ties’ which in Mosuo is referred to as *Zhi-chi-ha-dzi*. *Zhi-chi-ha-dzi* is an institutionalised sexual union which is legally binding. The couple reside together at the maternal home of the wife. Upon the dissolution of the marriage, a man is simply told to take his blankets and go. The second type of conjugal relationships among the Mosuo is known as the *tisese*. According to Shih (2001: 383), *tisese* is ‘the most conspicuous feature’ of the Mosuo society. This is a system of a sexual relationship based on visiting, called *tisese* which literally means ‘walking back and forth’. In this system, people fulfil their needs for procreation and sexual gratification, but Shih is clear in articulating that this is not a marriage. Rather, *tisese* is an arrangement in which the parties concerned have a mutual agreement allowing sexual access to each other but there is no ceremony or social recognition of the arrangement, nor is there an exchange of gifts to initiate or end the relationship (Shih, 2001: 384). According to Shih, the parties do not cohabit either. The man visits the woman overnight and goes back to his household the following morning; the normal practice is that the concerned parties eat and work at their own matrilineal households. Children born from such a relationship generally belong to their mother’s lineage and are considered legitimate children (Shih, 2001: 384). When such a relationship ends, there is no question of sharing property as each party owns his or her own property (Shih, 2001: 384). This account of conjugal relationships in Mosuo society supports the point made earlier, that marriages in matrilineal communities appear to be unstable.

Like the matrilineal people of Malawi, farming forms the most important part of the Mosuo peoples’ livelihoods. The housing comprises rectangular structures with up to four structures on a compound. Due to the high population in China and shortage of land, most of the houses comprise several storeys, with different floors allocated to different household activities, such as cooking, storage and sleeping. The first floor consists of the cooking and eating area. It also houses livestock. Mosuo families sometimes take in children of their relatives as their

own family members Shih (2001: 385) This has been seen to promote stronger family bonds along the matriline.

Patterns of property inheritance follow the maternal lineage. Mattison (2011) has observed that land is inherited by the daughter(s) while financial resources are inherited mainly by the sons. Women are also often regarded as the head of the household (Luo, 2008), which is different from Malawi where men are commonly seen as the head. Political power, however, is in the hands of males (Lungu Lake Mosou Cultural Development Association 2006: 1) .

3.2.2 The Iroquois of North America

The second matrilineal society I discuss is the Iroquois of North America. Their social organisation reflects very strong powers for women, especially senior women. According to Kottack and Kozaitis (2002: 155) the Iroquois continue to practice uxorilocal forms of residence in which the husband relocates to stay at the wife's place. They have what Goldenweiser earlier termed 'maternal families', comprising a woman, her children, the woman's children's daughters and their daughters' daughters and so on (Goldenweiser, 1937: 361). This grouping would constitute a smaller unit in the larger clan. Historically the maternal family would live together with other maternal families from the same clan in a single structure called the 'long house' (Goldenweiser, 1937: 365). The head of the maternal family is the oldest woman in the group. Some authors have referred to this woman as the 'matron' (Brown, 1970: 153). Historically the powers and responsibilities that the matron holds have been substantial in both the political and religious spheres. According to Brown (1970: 164) matrons would had a say on the conduct of war and also in the establishment of treaties. At the family level, women organise the marriages of their daughters and are generally influential in the upbringing of their children (Brown, 1970: 153).

In respect of land ownership, Kottack and Kozaitis (2002: 155) note that rights to own land are vested in women. This being the case, it is the women who control the production and consequently the distribution of the food realised from the land. Men have access to the fields but they are often away from their homes for long periods working in salaried jobs. Brown (1970: 156) has noted that a man who failed to provide for the home could be ordered at any time to pack up his 'blanket and budge', i.e leave his house and family, regardless of how many years he might have been married to his wife, the number of children he might have or

whatever goods he might have in the house. The man in question would not have much choice in the matter unless some relatives of his wife intervened successfully to plead for him being allowed to stay. This is another example of the point that in matrilineal societies marriages appear to be unstable and divorce rates are high. In matters of divorce, Brown reported, Iroquois women as owners of the land would still retain their rights to own the land as well as the house while the man would carry his personal items symbolised as 'his blankets' and return to his natal home (Brown, 1970: 156).

When an Iroquois mother dies, it is her children or the daughters of her maternal kin that inherit the land. The husband goes back to his kin on his maternal side (Brown, 1970: 156). Regrettably, Brown and Kottack and Kozaitis are silent on what happens to land when a spouse abandons the other or the couple separate. Brown (1970: 155) mentions in passing that when a couple separates in this society, the children remain with the wife who retains the rights to the land at her natal home. The implication is that women's land rights are secure in this society regardless of the marital status of the woman while men's rights are not.

3.2.3 The Bemba of Zambia

I now turn to discuss my third example, which is from Zambia, a country on the north-western border of Malawi. A number of ethnic groups in Zambia follow the matrilineal social organisations, including the Bemba, Tonga and Goba. My focus is on the Bemba.

In Zambia, as elsewhere, matrilineal societies have high rates of divorce and re-marriage, making the institution of marriage an unstable one (Brown, 1970; Lancaster 1976; Poewe, 1978 and Mzinga, 2000). According to Brown (1970), Lancaster, (1978) and Mzinga (2000) most Bemba households follow the uxori-local pattern of residence but there are also cases where they practice virilocal and neolocal forms of residence, similar to the situation in Malawi. Lancaster also noted that women were the 'indisputable mainstay in agriculture' (Lancaster, 1978:117). However, Brown (1970) argues that although Bemba women do exercise some political and religious powers in their societies, they are generally subservient to men within their matrikin, which echoes the situation in the matrilineal communities of Malawi. Their being subservient to men could be seen through the way they relate to men at the household level, where women's authority in the home is overshadowed by the power of the man who is the brother of her mother (Brown, 1970: 157). However Lancaster made a

different observation with regard to the matrilineal Goba of Zambia. He observed that ‘women still held most influential positions of power, important dynastic titles and social positions were distributed among descent group members on sex-basis through a positional succession that followed matrilineal lines’ (Lancaster, 1978: 117). As will be seen in my discussion in Chapter 6, in Malawi women’s position in the home may be subservient to men in some respects, just as the case of the Bemba women, but they can also resemble the Goba women in terms of holding positions of power in the society.

Historians have highlighted the many developments that have affected the way of life of the people of Zambia, including matrilineal societies such as the Bemba. Lancaster (1978: 549) has noted the impact of slavery. Mzinga (2000) has pointed to the introduction of waged labour, Christianity, and formal education under colonialism as all having major impacts on the nature of customary law, and introducing changes which reflected western ideas around how a society should be organised. Customary law was changed as a result of the coming of the colonialists to Zambia and the impact of western policies on indigenous ways of living. Mzinga (2000: 69) also argues that since customary law was not codified in Zambia, its interpretation depended on the knowledge of the court official who was presiding over the particular case.

Another major dimension of western influence on local social relations and family organisation came about as a result of the incorporation of local communities into the larger mining economy of the region, with many men becoming migrant workers in mines within Zambia and the settler colonies to the south. This has some similarities with the situation in Malawi, even though in Malawi most migrant workers initially worked on agricultural estates; however, there were some who went to work in the mines in Northern and Southern Rhodesia (now known as Zambia and Zimbabwe). Poewe (1978) and Mzinga (2000) both noted how cattle herds expanded, marriage payment in the form of money and goods grew, bride service periods were shortened, mixed residence patterns increased and there was an increase in the influence of patrilineal norms on matrilineal societies.

According to Brown (1970), in the Bemba culture land belongs to the (male) chief but his subjects have user rights to land. The author noted the reciprocity that existed in land ownership and access and use in her study. According to her, the chief would be responsible for praying to tribal spirits in order for the land under his authority to be productive; he was

expected to initiate economic efforts and maintain his tribal councillors and the court (Brown, 1970: 160). The villagers on the other hand, had an obligation to give labour, respect and tribute to the chief. In this way, they were able to cultivate the land for as long as they wanted. Despite the claims that Brown makes concerning the chief owning the land, she also noted that household land was recognised as belonging to women, except for millet fields which she seems to suggest belonged to men; hence when a marriage dissolves, the man got the rights to the millet fields although the woman was able to take the proceeds from them (Brown, 1970: 160).

3.3 Matrilineal social organisation in Malawi

The history of land and property relations in Malawi is discussed in more detail in Chapter 5 where I consider the factors that have affected matrilineality in Malawi over time, by looking at the history of land use and political change in the country. Here I give a brief overview of the major features of matrilineal organisation in the contemporary period, in relation to the previous discussion, drawing on both the general literature and my field work in Muluwila village. What follows should be understood as reflecting contemporary norms but not necessarily actual social practice in all cases.

As already noted, the social organisation of Malawi is predominantly matrilineal, with descent traced through the mother's lineage. The Northern region and two districts in the Southern region of Malawi are, however, exceptions to this generalisation and practice predominantly patrilineal forms of descent. As in other societies that practice matrilineal social organisation, the matrilineal social system is complex and has local variations in the way it is practised. Nevertheless, in general matrilineal social organisation in Malawi shares a number of the characteristics of the matrilineal social systems found in other countries that have been described above. This is especially the case with regard to the Zambian example, which can be attributed to the geographical closeness between the two countries which has facilitated the diffusion of cultural norms and practices over time. Additional factors that have influenced the practice of matrilineality in Zambia, in particular the impact of British colonialism and the expansion of the male migrant labour system, have also impacted on Malawi and influenced matrilineal social organisation in this country. As Chapter 5 shows, there is

immense pressure on customary land in Malawi as a result of the dramatic social and economic changes brought by colonialism and the spread of the market economy, and this has undermined the extent and the security of women's land rights.

As in Zambia, in Malawi property under matrilineal customary law is passed predominantly through the matrilineage, and as such land rights are seen to be vested in the hands of women (Barber, 2004: 136; Kishindo, 2010: 89; Berge, Kambewa, Munthali and Wiig: 2014: 62). However, as already pointed out, customary law is no longer the only way through which people acquire and hold land. Peters and Kambewa (2007:14), Jul-Larsen and Mvula (2009:190) and Kishindo (2011: 11) have all noted a growing tendency of people, especially men, acquiring land through purchase. The reason why men are favoured over women in relation to the purchase of land relates to their better chances of finding waged employment and, if employed, earning higher wages than employed women, even when both are performing similar jobs. Land acquired in this way may not necessarily be passed on to members of the maternal line. In her 2007 study conducted in Zomba, Peters noted that in some cases land was being given to sons where there were no daughters in the family to inherit the land, or where the family considered that they had sufficient land to do so (Peters 2007: 165).

Strong family bonds among matrikin are a prominent feature of matrilineal social practices in Malawi, as is the case in the other matrilineal societies discussed. The bonds between a woman/ man and her/ his matrikin are much stronger than those with their patrikin. These family bonds are reciprocal, reflecting the 'mutuality of being' described by Sahlins (discussed in Chapter 2). One of the ways in which this is expressed is the practice of men providing protection for their sisters as *ankhoswe*. They make decisions that concern the maternal land and also their sisters' children, for instance where they should go to school, while women cook for their brothers or *nkhoswe*. Generally matrikin are expected to take care of the children of the lineage. The avunculate or *nkhoswe* is an important institution, with a significant role in deciding how property is shared when a marriage dissolves. An in-marriage man is expected to work at his parents-in-law's place. In the case of re-marriages, often it is the man who proposes to the wife-to-be. *Nkhoswe* from the man and the woman's side then meet and discuss marriage proceedings as in a first marriage.

In the matrilineal societies of Malawi the most important forms of property involve land and housing. When a man and a woman marry, the wife's mother is expected to give a piece of land to the woman. It is, however, the responsibility of the husband to cultivate the field. This role is seen as crucial because when the man cultivates the field, he is seen to be a responsible son-in-law who fends for his family. Traditionally, the man is also expected to cultivate in his mother-in-law's field. According to Phiri (1983: 270) the parents-in-law whose sons-in-law do not cultivate in their fields are ridiculed by fellow villagers. Women are also involved in cultivating the fields.

Peters (1997: 189), Strickland (2004: 21), Takane (2008: 24) and Kishindo (2010: 90) have all noted that the matrilineal social system is closely associated with marriage and the residence of the family in question. Patterns of residence in the matrilineal societies appear to take a number of forms. These include uxorilocal, virilocal and neolocal forms. Uxorilocal patterns of residence refer to residence in the wife's space, whereby, when a man and a woman marry, the husband is expected to relocate and reside at his wife's home village and cultivate there (Strickland, 2004: 21; Takane, 2008: 25 and Kishindo, 2010: 92). Importantly, uxorilocal marriages within matrilineal societies are thus also generally uxorilocal, inasmuch as the wife's residence is with her maternal kin. As the women and their families reside in the woman's natal village, the women are seen to maintain stronger ties with their natal (maternal) relatives than with their husbands' kin (Quisumbing, 2001: 2095; Kambewa, Peters and Berge, 2008: 3- 4).

Uxorilocal forms of residence are common in matrilineal societies, including in Malawi (Peters, 1997: 189; Strickland, 2004: 21 and Takane 2008: 25), although it is not the only residence option to be practised. Quisumbing (2001: 2095) argues that under such a system kinship ties are strong between maternal uncles and their sisters' children, their nieces and nephews, and between brothers and sisters but weak between fathers and their children. As women remain in their natal villages under uxorilocal residence, they are considered to be the reproducers of the progeny who belong to the maternal line. This role is reflected in Malawi in the local description of them as *omanga mudzi*, the builders of the village, or *osunga mudzi*, the keepers of the village (Kambewa *et al*, 2008: 4).

The brother or uncle of the wife acts as the guardian of the marriage (Quisumbing, 2001: 2095; Taken, 2008:25). The local term used for the guardian in Malawi and my study site,

Muluwila, is *nkhoswe* if there is only one, or, in the plural, *ankhoswe*, although the term *ankhoswe* can also be used to refer to just one person in order to denote respect. *Nkhoswe* may also be known as *abuya*. The husband also has his own *nkhoswe*, from his maternal relatives. In most cases, this would be the brother of his mother. In this dissertation I mainly use the term *nkhoswe* for consistency's sake. The roles of *nkhoswe* are mainly to negotiate marriage with potential suitors of the *mbumba* of the *nkhoswe*. (The *mbumba* are essentially the offspring of the *nkhoswe*'s sister(s).) *Nkhoswe* is also responsible for mediating between his/ her *mbumba* and their marriage partners in cases whereby the family is passing through challenges of various sorts including but not limited to divorce process, bereavement and property sharing. The *nkhoswe* plus *mbumba* thus constitute a significant social field in Bourdieu's sense, in which norms and practices to do with family constitution, the care of children and the management of property, including land and houses, are negotiated and within which individuals attempt to act upon their worlds.

While uxorilocal marriage may be considered the ideal, as already indicated above, virilocal residence is not unknown under the matrilineal social system. As my subsequent discussion makes clear, the choice of virilocal residence upon marriage may have significant consequences for women if their marriages dissolve. In Malawi a man may opt to ask the relatives of his future wife, (including the *nkhoswe*) if he could be allowed to take his new wife to his home village. Mair (1951) noted that in this kind of arrangement, a husband would first have to be observed by his wife's relatives while residing in his wife's village, to see if he behaved well and was capable of taking care of his wife, before he would be entrusted to take her away from her natal base. Here, 'behaving well' was dependent on how the *nkhoswe* and/or mother in-law perceived the man's behaviour. More recently Fisher and Kandiwa (2014: 103) have noted that in matrilineal communities of Malawi, men are increasingly taking their wives to reside at their natal homes due to increasing land shortage. The difference between patrilineal and matrilineal patterns of residence that are both virilocal is that in the latter kin relationships are still traced through the wife and her maternal kin., Even though the children may be living with their parents away from their matrikin, their descent is still traced through the maternal lineage. This is unlike in the patrilineal societies where when one resides virilocally, where kin relationships are traced through the father and his paternal kin.

A third form of marital residence already pointed out above, is the neolocal. This is where a couple decides to reside in a neutral place. Such places are often acquired through purchase. According to Peters and Kambewa (2007:14), Jul-Larsen and Mvula (2009:190) and Kishindo (2011: 11) selling and purchasing of land has become commonplace especially in the southern region of Malawi where my study is located. The aspect of selling and buying of land and its implications for the matrilineal custom is explored further in Chapter 5 but it may also have serious ramifications for women in cases of marital discord. Here too, despite the married couple residing in a neutral place, the *nkhoswe* is still concerned with their affairs, especially with issues relating to crucial decisions concerning maternal land. In most cases, the family still cultivates the woman's maternal land. The *nkhoswe* is also concerned with issues concerning the children as well as with festival organisations and occasions as will be seen in the subsequent sections. Furthermore, it is still expected that the husband should assist his mother-in-law to cultivate her field regardless of whether the couple are residing uxori-locally, viri-locally or neo-locally.

Here what is worth noting with regard to my study is that in Muluwila people identified only two forms of marital residence: *chikamwini*, which is essentially a uxori-local form of residence, and *chitengwa* in which the man takes his wife to another place of residence which can be either viri-local (to the husband's village) or neo-local (to a neutral place). In other words, no distinction is drawn in the local conceptualisation between these two forms of residence. This finding is in line with what Munthali, Berge, Khaila and Wiig (2011: 4) have discussed when they said that in matrilineal societies of Malawi there are two forms of residential arrangements, namely *chikamwini* and *chitengwa*. As my discussion in Chapters 6 and 7 make clear, the form of residence a couple adopt upon marriage has major consequences for women's subsequent claims to property.

General descriptions of how marriages are constituted in Muluwila and what responsibilities are associated with it accord with the general account offered above. According to my respondents in Muluwila, when a man finds a girlfriend, he informs his uncle or the older brother who is his *nkhoswe* to assist him in asking the *nkhoswe* of his girlfriend for her hand in marriage. This process is called *kupepa banja*. The *nkhoswe* tells the man's mother of her son's intention to marry while the bride-to-be tells her *nkhoswe*. The *nkhoswe* from the man's side then initiates marriage negotiations by visiting the bride-to-be's natal home with the

groom-to-be, to meet the *nkhoswe* on the woman's side. According to one of the women who I interviewed in depth, a typical conversation between the two *nkhoswe would go* goes like this:

Nkhoswe of the man's side: We have come to you [addressing the bride-to-be's *nkhoswe*]. Nowadays our cock [referring to the groom-to-be] usually misses from home. After searching, we noted that he comes around here. When we asked our cock, he said that he has found a here.

Nkhoswe of the bride-to-be: Ah! We have not seen your cock here. Let me enquire from the hens that I have here, if they know anything about your cock (Loveness, 24 May 2012).

The *nkhoswe* then consults with the bride-to-be and her other relatives. If they are agreeable and the bride-to-be is ready to get married, the two *nkhoswe* continue with the conversation:

Nkhoswe of the bride-to-be: We have [whatever number applies] hens here. Please let your cock show us which hen he comes to see.

Once the man has pointed to the woman he wants to marry, she is asked to confirm if she knows the man. If she says yes, the marriage arrangements begin, including negotiations, led by the respective *nkhoswe*, of the requirements around land and housing. The norm is that the groom should build a house for his bride before marrying her. Although there is this expectation, a groom may negotiate with the bride's *nkhoswe* to build the house later. According to Loveness:

Often the reason cited by men is that nowadays it is difficult to find resources for building a house quickly all at once and it will then take long to wed. So to avoid shaming the two families if the bride was to become pregnant during the waiting process, *nkhoswe* and parents just agree.

Following the *kupepa banja* process, *chinkhoswe* ensues. The *chinkhoswe* ceremony is recognised as marking a formal marriage not only by the traditional, but also the magistrate's courts. If there is no *chinkhoswe* then the couple's relationship is generally not considered as a marriage; rather, the couple are seen to be just living together. When people co-habit, they

are said to be *ongotolana*, meaning those who just pick each other. In my study, my definition of marriage thus covered *chinkhoswe* and not *ongotolana*.

On the day of *chinkhoswe*, *nkhoswe* from the man's side gives symbolic gifts that the groom has bought for the bride, along with a *chitenje* (cloth) for her mother. These gifts include a hoe, an axe, a panga, a mat for drying *mphale* (which can also be used for sleeping on), a wooden cooking stick and a wooden food-server called *chipande*. They symbolise that the man, who is expected to cultivate in his mother-in-law's field as well as his own (along with his future wife), will be productive in his new home. The *nkhoswe* also presents a small amount of money (approximately K200) to the *nkhoswe* of the bride-to-be and then exchanges a live cock from his side with a live hen from the bride's side, symbolising the exchange of the son and daughter between the two families. Another significant symbolic gesture that takes place during *chinkhoswe* is that the *nkhoswe* from both the groom's and the bride's side are presented with a cooked chicken which they share by tearing it with their hands and then eating the flesh in the presence of those who have come to witness and celebrate the *chinkhoswe*. The sharing and eating of the cooked chicken symbolises that *ankhoswe* of both parties will be there for the couple during happy times (such as when a baby is born), as well as in difficult times (for instance, death or sickness in the family, or even if the couple decides to dissolve their marriage). The people witnessing the *chinkhoswe* (who are generally relatives of the couple getting married) then shower the couple with money and gifts such as woven baskets and mats, to assist them as they start their married life.

For some couples, the *chinkhoswe* marks the beginning of their marriage while others combine it with further religious ceremonies, including getting a church minister or the sheikh in the mosque to bless the wedding. Of my 12 respondents in my in-depth interviews in Muluwila, three had proceeded to do this when getting married. One Moslem couple had gone to the sheik to bless their marriage while two Christian Presbyterians had had a church wedding after *chinkhoswe*.

CHAPTER 4: RESEARCH METHODOLOGY

In this chapter, I discuss the research methodology that I developed as part of my research design for my study, to answer the research questions given in Chapter 1. As already noted, this is an empirical case study exploring issues of access to and property rights ownership in the context of marriage dissolution in matrilineal households. In describing my study as a case study, I am following Yin (2003: 13) who describes a case study as ‘an empirical inquiry’ that Investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident. Further, it uses many different sources of evidence to compile a complex picture of the case under investigation, hence lending itself to a mixed-methods inquiry, and is compatible with ‘prior development of theoretical propositions’ (Yin, 2003: 14).

My main purpose in undertaking the study has been not only to establish but also to understand the experiences of women in Muluwila village from their point of view, here working within a conceptual framework rooted in feminist standpoint theory. In taking this forward I adopted a mixed-methods approach.

I begin the chapter with a general discussion of the value of a mixed-methods approach and its characteristics, and address some of the debates around this approach. Thereafter, in section 2, I expand on the data collection techniques that I used to generate data for my study. In this section I also discuss my experiences in the field, reflecting on what worked well, as well as on the challenges that I encountered and how I attempted to address them. In section 3 I tackle issues of data analysis and the analysis techniques I employed, and justify why I used them. Section 4 of the chapter outlines the ethical considerations in relation to my study and I finish this chapter with some reflections on the limitations of my study.

4.1 The mixed-methods approach to research

While my main forms of data collection have relied on qualitative methods as appropriate for gaining an in-depth picture of people's experiences and own understandings of that experience within my research site, I have also used quantitative methods of data collection. This took the form of a household survey at an early stage in my research, to find out more about socio-economic conditions in the village and to establish a general overview of the extent to which access and ownership rights to land and housing (among other issues) is an issue when marriages dissolve. I also used this survey to identify potential households for follow-up interviews of a qualitative nature.

Feminists such as Hesse-Biber (2010) have argued that a mixed-methods approach is particularly well-suited to the study of the experience of marginalised groups such as women. Spargues and Zimmerman (1993) and Bhavnani (2007) are also of the view that feminist standpoint theory lends itself to a mixed-methods approach that is likely to enhance the validity and reliability of the research findings. According to Greene, Kreider and Mayer (2011):

Mixed-methods approaches to social inquiry involve the use of two or more different kinds of data gathering and analysis technique (qualitative and quantitative), and more rarely different kinds of inquiry designs and different philosophical assumptions within the same study or project (Greene and Mayer, 2011: 259).

Somekh and Lewin (2011: 327) usefully summarise qualitative research as involving the collection and analysis of data through instruments such as field notes, interviews, documents and images which are well-suited to representing human phenomena by means of words. Quantitative research, on the other hand, involves the collection and analysis of various types of numerical data, often using statistical methods. Ian Greener adds that unlike quantitative research qualitative research is descriptive. As these and other authors point out, qualitative and quantitative methods of data collection provide different but, and this is the important point, overlapping and complementary data. The findings that these different methods produce can then be merged and interpreted together to provide a more holistic picture of the issue(s) under investigation. A mixed-methods approach is thus capable of yielding a rich and

extended understanding of the phenomena that are being studied. Other methodologists who endorse this point include Creswell (2009; Creswell and Clark, 2007) and Luyt (2011).

Greene, Caracelli and Graham (1989: 258) have identified three philosophical stances that a researcher can choose from to inform his or her mixed-methods research design. These are: the dialectical stance, the pragmatic stance and the paradigmatic stance. 'A dialectical stance argues in favour of intentionally mixing different philosophical assumptions and not only research methods, because implicitly if not always deliberately, the underlying philosophical assumptions informing a researcher's approach to his or her topic meaningfully influence the decisions that get made around research practice' (Greene, Kreider and Mayer 2011: 261). The different sets of philosophical assumptions and their related theories and how they are put to work within a particular research project can produce possible tensions and dissonance, but according to Green *et al*, these tensions are productive because they are capable of generating new insights and fresh perspectives on the research problem; they may, therefore, push the researcher towards new knowledge of complex issues, if the tensions are consciously worked with, rather than ignored or denied. A 'pragmatic stance', in contrast, assumes that there is an inclusive framework within which different philosophical assumptions and methods can co-exist (Greene, Kreider and Mayer, 2011: 261). According to these authors, this stance does not emphasise the different philosophical underpinnings informing the study because they are not considered the primary focus in mixed-methods work. For instance, a researcher could decide to use both a feminist standpoint and a deconstructionist approach in the same study but the underlying philosophical traditions informing these two approaches would not be given prominence because both approaches are seen to work in exploring the issue at hand, and this is what is important. Finally, a 'paradigmatic stance' according to the authors:

argues that philosophical assumptions are useful conceptual tools but they should not drive practical decisions. Rather, decisions about designs should be steered by the demands of the context or by their requirements of the substantive constructs being studied (Greene, Kreider and Mayer, 2011: 261).

In my study I have adopted a pragmatic stance in my development of my mixed-methods approach, thereby implicitly drawing on a variety of philosophical traditions in the conceptual

framework that I have developed in Chapters 2 and 3. Thus I have combined feminist standpoint theory with concepts drawn from the work of Connell and Bourdieu that I have considered valuable for analysing women's experiences in my study site. I have also linked these theoretical constructs to more applied understandings and insights concerning matrilineal social organisation and property rights in the context of Malawi. I do not consider this eclecticism to be problematic for my study, but, rather, helpful as a way of exploring very complex social phenomena. In addition to my combining of my theoretical approaches, I have also adopted a mixed-methods approach in terms of the research methods I have used, which have involved both qualitative and quantitative instruments for field work, supplemented by documentary analysis. This has required my also using mixed methods at the analytical level whereby I have used ATLAS Ti and narrative analysis to analyse my qualitative data and SPSS to analyse my quantitative data,

Drawing on their summary of the different approaches to mixed-methods research, Green *et al* (2011: 260) conclude that a (well-designed) mixed-methods research design can generate better understanding of the phenomena under study than a research design drawing on only qualitative or quantitative methods on their own. They suggest five advantages which they summarise as follows:

- (1) Triangulation: This means that the results from one research instrument, eg an in-depth interview with a respondent, can be verified against the results from a different tool, such as a household survey; triangulation, as these authors express it, aims at bringing 'convergence, corroboration or correspondence of results from different methods, thereby enhancing validity and credibility of inferences'.
- (2) Complementarity: This refers to the way in which the use of the 'different lenses of different methods' produces different types of data that can be fitted together to generate deeper understandings of 'complex social phenomena'.
- (3) Development: Using mixed methods can enhance the development of the research design, by making use of one set of results to determine the next step in the research process, for instance how to sample or what research instruments are likely to work best, or even to decide to implement an entirely different method from the one that was originally envisaged. For instance in my study, I used my

background survey of 100 respondents to inform my choice of the 12 participants for my in-depth interviews.

- (4) Initiation: This refers to the possibility that different methods can produce very different results which, rather than appearing to be complementary, result in an ‘apparent paradox’ that then needs to be further investigated; such as outcome can be very productive of ‘fresh insights from analytic engagement with this dissonance’ as the researcher is forced to address the apparent problem or problems.
- (5) Expansion: This refers to the way in which the ‘conceptual scope and reach of the study’ can be extended by the use of methods from more than one methodological tradition; this makes it possible to broaden the scope of the enquiry by choosing a range of methods to explore issues that would not be possible to investigate through using only one method.

In similar vein, in his discussion of the advantages of the mixed-methods approach to research design, Luyt (2011: 296) has argued that the advantages lie in the manner in which such an approach to research design ‘promotes opportunities for ... convergence, corroboration, and correspondence of the research results deriving from the different types of methods deployed; in this way a mixed-methods approach has the capacity to bring greater clarity to the process of understanding the phenomena that are being studied’. Greener (2010: 194) has observed that mixing methods brings the methods themselves into focus. According to Greener, a researcher may find that using different methods produces different results in the same research setting (the ‘initiation’ effect described above), which will push them to reconsider the utility of their methods and thereby generate more convincing results. In addition to endorsing the advantage that the results from one method can be used to help identify issues and questions to probe through the use of another method, Creswell (2009: 14) suggests that a mixed-methods approach can also assist in studies with a transformative purpose, for instance in relation to exploring the situation of marginalised groups such as women.

Although an increasing number of authors endorse the generative power of the mixed-methods approach as described above as being very valuable for leading to a deeper

understanding of complex phenomena, there are also critics of this approach who argue that the methodological pluralism that it represents is both incoherent and unworkable. Critics include Denzin (2008) and Lincoln (2005), who argue that incompatible philosophical paradigms cannot be made to work with each other. Thus Denzin opposes what he terms 'paradigm pluralism' (2008: 322), i.e., the use of more than one philosophical paradigm in tackling a research assignment by a researcher, claiming that this leads to conceptual incoherence. Shulha and Wilson (2003) further argue that students who employ mixed methods in their research projects run the risk of not mastering properly any of the different approaches that they adopt.

However, Jang, McDougall, Pollon, Herbert and Russell have produced evidence from a 2008 study that has challenged such claims. In this study they showed that postgraduate students who were using a mixed-methods approach to investigate a group of schools that were experiencing difficult circumstances demonstrated stronger, not weaker, mastery of the different research methods that they were using compared to those students who worked with a single approach to study the same set of issues. Teddlie and Tashakorri (2012: 5) have also argued that using a mixed-methods approach can be advantageous. These and other authors have thus called for more research that employs mixed-methods approaches because of the advantages that they see as inherent in this approach (Creswell, 2009: 14; and Luyt, 2011: 296; and Teddlie and Tashakorri, 2012: 5).

An important consideration here is that both qualitative and quantitative methods have strengths and weaknesses, which a mixed-methods approach may be able to address to its advantage. For instance, the strength of qualitative studies is widely seen to lie in its ability to take into account the point of view of social actors. In adopting a qualitative approach the researcher therefore accepts the possibility of multiple realities and worldviews and may be encouraged to search for them actively. In this way qualitative methodology has the capacity to provide what is widely termed a 'thick' description of the social setting and social reality that is being investigated (Blaikie, 2006: 234). Researchers using this method are concerned with describing what can be seen as the minute details of the social activities of their research subjects.

This, as Bryman (1988) among others has argued, makes an important contribution to the ability of the ethnographer to map out the context in which these activities take place and

understand the research subject's own interpretation of what is going on. However, while qualitative studies have these strengths they are generally weaker in establishing the reliability and/or generalisability of their findings to other groups of subjects, and to be confident about whether a variable that may emerge as significant in their study does operate consistently over time. These kinds of concerns are better addressed by the use of quantitative methods. Luyt (2011) thus concludes that a mixed-methods approach has the capacity to counter the weaknesses of both the qualitative and the quantitative methods and thereby enable researchers who make use of mixed-methods research designs to capture more than one aspect of the complex issues that they are studying.

In considering my research design I have found these perspectives extremely useful and relevant for my particular study, with its concern to understand women's experiences within their specific context. I thus regard the qualitative and quantitative methods that I have used as complementary to each other, with the latter informing the former. My quantitative research tool, the background household survey, aided me in formulating pertinent questions for my qualitative data collection techniques and also helped me identify suitable research subjects to interview in greater depth through individual follow-up interviews as well as to recruit as participants in a focus group discussion. This is in line with Bryman (2012) and Green *et al* (2011) who regard this ability as an important justification for using mixed methods.

From studies such as the ones discussed in this brief review of mixed-methods research design, I have drawn the lesson that quantitative data can play a crucial role in enriching the descriptive angle of a study. Hence my development of an embedded mixed-methods approach in which the qualitative aspects of my study have been more prominent than the quantitative aspects. My quantitative data has been used to inform my qualitative data.

4.2 Data collection methods

As already mentioned in Chapter 1, my primary sources of data came from the following methods of data collection:

- (i) Transect walks around Muluwila village at the start of my study. These were conducted to understand the geography of the area, establish rapport with community members and make initial observations critical to the study.
- (ii) Mapping the area in order to partition the study area into manageable research sections and to establish a general picture of the area in terms of its geography and resources.
- (iii) A background survey of 100 randomly sampled respondents in order to obtain a general understanding of such issues as household composition, marriage status, land ownership and use, the extent of marriages dissolution and how issues of property allocation are handled between estranged partners in the case of marriage dissolution. The survey was also used to identify households who have undergone or are in the process of marriage dissolution to serve as respondents for the in-depth interviews.
- (iv) In-depth interviews with 12 respondents selected through the background survey, to establish a deeper understanding of women's experiences pertaining to issues of access and rights to property in Muluwila.
- (v) Key informant interviews with the chiefs of Muluwila village (there is one main chief, a man, who works with an assistant chief, who is his sister),¹⁰ as well as with the magistrate of the Zomba court and 12 *nkhoswe*.
- (vi) One mixed-gender focus group discussion to probe further the issues that emerged through the background survey and the in-depth interviews.

I supplemented these methods with on-going observations of daily life in the village. In addition I undertook documentary analysis of various official documents and relevant

¹⁰ The chief explained to me that after realising that he was not managing to do all his administrative duties and mediate on issues of concern for the residents of the village, he decided to choose his sister to assist him. He then partitioned the village into two administrative sections, known as Muluwila 1 and Muluwila 2. He is responsible for Muluwila 1 and his sister is responsible for Muluwila 2, but accountable to him. She alerts her brother, the chief, to every decision that she makes. Issues that she feels that she may not be able to handle herself she refers to him.

legislation at the national level, and drew on other studies of matrilineality, gender relations, land issues and development in Malawi in my analysis of key issues to probe.

Before beginning my field work I obtained ethical clearance for my study from the University of Stellenbosch Humaniora Research Ethics Committee, and thereafter obtained permission to conduct my study in Muluwila from the Group Village Headman (VGH). In terms of Malawi's Chief Act of 1967 the VGH is the one in authority who has to issue permits allowing a researcher to undertake a study in his area; he thus functions as an important 'gatekeeper' through whom one has to go in order to pursue one's research (Cammack, Kanyongolo and O'Neil, 2009: 50). The ethical considerations informing my study are discussed further in section 4 below.

4.2.1 Initial fieldwork

I started my field visits to Muluwila village in July 2011 and ended the field work phase of my research in July 2012. I began by meeting with the village headman. He and his wife gave me a good reception. They gave me a wooden chair which was the one that the chief usually uses. They normally give this chair to a visitor, whether male or female, from outside the village. If the visitor is a person from the same village they usually only provide a bamboo mat for the visitor to sit on; sometimes the person might just be told to sit on the veranda or *patsinde pa ntengo* (under the tree). (There is a big tree at the chief's place which is sometimes used as a venue for meetings and traditional court gatherings.) Although I was not required to do so, I decided in my subsequent visits to the chief to opt to sit on a mat on the veranda, rather than on the chief's chair, so that I would minimise my status as an outsider. I also chose to wear a *chitenje* (wrapper) and a duku (a piece of cloth that is wrapped around the head) just as the women of the village do. (See Figure 3 below.)



Figure 3: The author (right) and her research assistant eating a traditional meal at the chief's residence.

Even though the majority of the population of the village is Yao in terms of their ethnic group, most people communicate in Chichewa. As I am conversant in Chichewa, I conducted my interviews in Chichewa. At the chief's place I explained the purpose of my visit which was essentially to conduct my study in this village. The chief was delighted with my project and told me to come again the following week so that he would have time to notify his subjects in the village. I went back to where I was residing which was 12 km away from the village, expecting that when I came back to Muluwila I would be able to reside in the village for the duration of my research. Unfortunately, a neighbouring village had just had a bad experience with a visitor who had come to the village and asked for a place of shelter (which is quiet common in Malawian villages). He was given a house, but later in the evening he was murdered. As a result, the police issued a warning against such practices at this village and the surrounding villages. What this meant in terms of my research was that I ended up commuting almost every day from where I was staying to the village, rather than being able to stay full-time in Muluwila. Since I had initially planned to conduct an ethnographic study, During my most intensive phases of field work I resorted to visiting the village early in the

morning and leaving it late in the evening so that I could still observe as much as possible of the people's way of life outside the formal data collection methods.

When I came back the following week, in the spirit of getting closer to my subjects and understanding the social geography of the area, I conducted a number of transect walks in the village. This was helpful in order to understand the spatial arrangement of the area but was also useful as it allowed me opportunities to establish rapport with community members through informal interactions as well as to make various observations about social conditions and interactions that were important for the study. These observations included taking note of the nature of the houses and land use in Muluwila village and to get an understanding of the social layout of buildings, including the way houses were clustered according to matrilineal kinship ties.

I also observed that when I was walking not only with the chief but also alone, the villagers would greet me from wherever they were, be it in their homes or their fields. This drove home to me how much the people in this village value showing their respect for each other. One of the norms in this village is that when you are going somewhere on the footpaths or tracks in the village and these happen to pass close to people's houses, you are expected to slow down a bit and shout out loudly, '*Zikomo!*' (In this case *zikomo* means excuse me. It may also mean 'thank you', depending on the context.) The expected response from the people whose place you are passing is '*Eeeh!*', meaning 'yes' or 'you are excused'. If you pass by without excusing yourself in this way, you are likely to be thought of as a rude person.

After my transect walks around the village, I mapped the area. In part this was to record the layout and facilities in the village but the map was also useful for planning my background survey. I used it to partition the study site into manageable research sections from which I could draw my household sample for the background survey. Based on the transect walk around the village, I calculated that there are some 300 households in the village, with an average population of five people per household. This is in line with the findings of the Government of Malawi's 2009 Population and Housing Census. According to this census report, the average Malawian household has 4.6 people per household (Housing and Population Census, 2011: 10). After this I divided the area into four geographically contiguous areas of approximately 75 households each, basing on geographical features, including a dusty road and a river, but also taking into consideration the layout and number of

mabanja (households) per section, so as to ensure that I ended up with four sections (A,B, C, D) with approximately the same number of houses as each other. This was in preparation for the background survey.

Here it is worth noting that there are various definitions of what a household means in Malawi. According to Takane (2008), a household is defined as a unit of co-residence and agricultural production which in most cases is also regarded as a unit of consumption. In this study, I use the local term for household given by respondents of my study, which is *banja* (plural: *mabanja*), a term which is used to refer to the people living together as a domestic unit. In this usage *banja* does not refer specifically to a clan or to the unit involved in agricultural production as Takane suggests; rather, it denotes the primary family group who eat together, generally comprising a parent or parents and their children, along with other children who have been taken into the domestic group. This is consistent with the meaning employed by the residents of Muluwila which I use because, given my concern with understanding local women's experiences, I need to work with their context as they describe it, and thus the meanings that they use for various concepts in their setting. These issues are explored further in Chapter 6.

4.2.2 Background survey

The general objective behind the background survey was to acquire sound demographic data on household composition and the marital status of people living in Muluwila village as well as more background information on socio-economic dynamics and current land use. I have used the data I collected through the background survey to establish histories of land in order to understand what changes have occurred in the past in terms of how people come to own land in the village; and how the land has been used over the years. Through the survey, as will be seen in Chapter 6 on findings, I was also able to establish the extent to which marriages dissolve and how issues of property allocation are handled between the partners who part ways. In addition, the survey was intended to identify households which have undergone or are in the process of marriage dissolution, in order to establish a pool from which I could recruit respondents for my in-depth interviews.

The questionnaire for the background survey is attached as Appendix 1.

Given that the target population was homogeneous in terms of the broad adherence of households in Muluwila village to a matrilineal social system, I decided on a sample size of 100 participants, thus approximately one third of the total number of households that I had estimated as constituting the village. I proceeded to construct my systematic random sample by interviewing a total of 25 households (*banja*) selected systematically from each of the four sections into which I had divided the village. The sample was constructed by interviewing one adult individual from every third household within each section. In cases where I did not find the appropriate person to interview at home when I visited the selected household, I would return on a subsequent day. Within each household I interviewed a senior adult, with a bias towards women respondents, resulting in a final population of 77 women and 23 men from my sample of 100 households. I achieved this by asking to interview the 'owner' or spouse of the owner of the house, but limiting the number of men I selected to interview to approximately 25% of the 25 households I selected for my survey from each of my four village sections. (In practice this worked out at between 6 and 7 men in each section). Generally the majority of those who were identified as the 'owner' of the house were women. For the background survey I had a 100% response rate in terms of the sampled respondents agreeing to be interviewed but there were a few individuals who did not answer a few of the questions.

My sampling was thus both systematically random (at the level of the household) and purposive (at the level of the individual respondent within each household). My decision to bias my sample of respondents towards women was because my study is mainly concerned with women's experiences around property rights issues and I thus wanted to weight the household data that I collected towards the views of women on general household matters. Thus, the unit of analysis for the survey component of the study is an individual within a household. Statistically, 100 individual respondents out of a total population of 300 households (approximately 1 500 people) could be described as a small sample but large enough to assume a 95% confidence level of plus/minus an 8% sampling error at the level of the household.¹¹ Given budgetary and time constraints this seemed an appropriate level of reliability for the purposes of my study.

¹¹ These calculations are based on a discussion with Jan Vorster, Stellenbosch University, 16 April 2012. Responsibility for my interpretation of these issues in the context of my study rests with me.

I started the background survey component of my field work by piloting 10 questionnaires. I would begin by obtaining informed consent from the respondents which would be indicated on the questionnaire. (See Appendix 2.) When I was piloting the survey, I noted that a number of the respondents would talk spontaneously about HIV/AIDS-related issues and were requesting help. I soon realised that they thought I was there to assist them with issues regarding HIV/AIDS as my arrival in the village came just after a group had asked the chief for land for a food project aimed at assisting those suffering as a result of HIV/AIDS. Some respondents even went so far as insisting on giving me their bank account numbers in case I could find people who would be interested in assisting them financially. I took pains to clarify the purpose of my visit and convey that I was unable to assist in the way that they hoped. I also referred them to the local HIV/AIDS forum which was planning the food production project

I also trained a research assistant on how to collect the data for my field study, to assist me with the survey and ensure I could conduct my background survey within a reasonable time period. She had extensive experience in research work as she had previously worked with the Government of Malawi as well as with other organisations as a research assistant. Her knowledge and experience served the research well in that she used her expertise to collect the data thereby ensuring quality data that was collected. She ended up administering 40 of the questionnaires and I administered the other 60 questionnaires. After we had conducted the day's interview programme, I would go through each of them and check that my research assistant was adhering to her training and the requirements of the research, as a form of quality control.

4.2.3 In-depth interviews

In-depth interviews were carried out with the intention of further understanding the experiences that women whose marriages have been dissolved or are in the process of being dissolved undergo with regard to property. As indicated earlier on, participants from the in-depth interviews were selected from the survey component of my study. From the survey, I identified and was able to recruit 12 people for follow-up interviews, nine of them women and three men. My decision to interview men as well as women was governed by a concern to hear from men about their experiences so as to sensitise me to issues from a male perspective, without presuming that these men were necessarily representative of the larger population of

men. The 12 respondents were selected based on the spread of issues relating to the type of marriage dissolution that was reported on and the land issues that were raised through the background survey. Thus I ended up with a set of respondents of whom at least four had undergone divorce, at least four abandonment and at least four had lost a spouse. (Note here that it was possible for one respondent to have undergone more than one form of marriage dissolution over a period of time.) Of these, at least one of the respondents in each of the three categories there had to be male. The interviews were recorded and were later translated from Chichewa, the mother tongue of the respondents, and then transcribed in preparation for analysis.

Interviews were done with the use of a semi-structured interview schedule. This schedule had both open and closed questions as can be seen from the copy appended in Appendix 3. This schedule was designed to elicit life narratives from the research participants in an effort to understand their lived experiences around marriage and issues of access to and property ownership after their marriages came to an end. These interviews were conducted only by myself in order to ensure control over the nature of the discussion and to deepen my understanding of my respondents' experiences through direct interaction.

The only challenge that I faced regarding the in-depth interviews was that I was unable to follow up with one of my targeted respondent who had been abandoned by three different husbands. I had interviewed her during the first round of my survey but she was not available when I went to follow up during the in-depth interview phase of my research. The interviewee had by then left Muluwila village to reconcile with her most recent husband who had abandoned her, who was living in another area away from Muluwila village. As a result I had to replace her with another respondent.

4.2.4 Focus group discussion

Initially I had planned to conduct two focus group discussions, the one comprising men only and the other comprising women only. However, on the day on which I set out to conduct the group discussions, both men and women participants insisted that they should be in one group as they saw no point in separating the two groups. They argued that they would all speak about what they know to be the case and that they would feel free to speak out their mind and not be intimidated by the presence of members of the opposite gender. Eventually, I ended up

combining the two groups. I asked for their informed consent before starting the focus group discussions. The discussion was lively and lasted for one hour and forty minutes. I used various scenarios as a way of eliciting responses to the issues and generating debate and discussion among the participants. The issues that were covered included what are some of the most frequently cited reasons why marriages dissolve in this community; how do people and households go about dealing with issues of property sharing when marriages dissolve and related topics. (For details, see Appendix 4.) The interviews were recorded and were later translated from Chichewa and then transcribed in preparation for analysis.

In contrast to what Chiweza (2005) and others have argued, that when men and women are put together in a single group to discuss gender issues the men are likely to dominate, I did not find this to be the case in my focus group. Both men and women participated actively and appeared to make their contributions freely.

4.2.5 Key informant interviews

There were three categories of key informants that I interviewed: *nkhoswe*, chiefs, and a magistrate. I interviewed a total of 12 *nkhoswe* as well as the two chiefs of the village (Muluwila I and Muluwila II, as explained above). At the family level, the *nkhoswe* mediate issues of property sharing when marriages dissolve but once they have decided on who should take what, they are expected to inform the chief. In cases whereby disputes arise around property sharing and the *nkhoswe* have failed to resolve the dispute among the couple, they will also ask the chief to assist them resolve the dispute. I thus also considered the chiefs to be key informants for my study. Apart from the *nkhoswe* and the chiefs, I also interviewed one Zomba Court Magistrate. This is because when the chief fails to resolve disputes concerning the couple whose marriage is dissolving, then the chief will refer the matter to the court.

These interviews were recorded and later translated from Chichewa into English, after which I transcribed them in preparation for analysis. Prior to the interviews I obtained informed consent from the individual informants. The key informant schedules used in these interviews are provided in Appendix 5 (*nkhoswe* and chiefs) and Appendix 6 (magistrate).

4.3 Data analysis

For the analysis process, I started by translating and transcribing my raw data from Chichewa, the language of the respondents, into English and typing it into computer-usable form. I then inspected the data and cleaned it, eliminating any obvious flaws in my data set.

For the analysis of the quantitative data, I relied on the data collected through the survey. This data was coded by assigning variable labels such as gender, level of education, source of income etc. The data from the survey was mainly used to extrapolate demographic information for my study and to establish the extent of marriage dissolution in Muluwila. The data was analysed using the SPSS package to generate frequencies and calculate the mean on some variables, as will be seen in Chapters 6 and 7 on my findings. According to Huizingh (2007: 25) a researcher can use SPSS to analyse both quantitative and qualitative data that is coded to be useable for the programme. I made use of this package to analyse both the strictly quantitative data that I generated and some of the qualitative data that I was able to code by assigning relevant codes to the responses.

As for the analysis of the bulk of the qualitative data collected through in-depth interviews, focus group discussion, key informant interviews and observations, I relied primarily on narrative analysis. Bryman (2012:582) points out that a researcher can apply narrative analysis to interview accounts or what are considered to be conventional interview scripts to uncover stories. According to Bryman, narrative analysis has the advantage that it can shift the focus from ‘what happened’ to ‘how do people make sense of what happened and what effect did this have’ (Bryman, 2012: 582). Hill and Irvine (1993:2) add that narrative analysis has the advantage of bringing in the subjective experiences of the interviewee, enabling the researcher to grasp and interpret the practices of every day’s life. Notably, Sozoo (1997:2) recommends the use of narrative analysis for studies concerning women, saying that narrative analysis has the ability to connect women’s webs of social relations to that of the wider community.

Apart from these advantages, my own experience with using it in my earlier MA thesis (in which I studied the relocation of street vendors in Blantyre, Malawi from vending along public roads to designated markets (Matinga-Katundu, 2008)), served as an example that narrative analysis can assist in reconstructing a meta-narrative by using respondents’ stories

to understand a phenomenon. In support of the practice of using various sources of data as I did for my MA degree, Bryman (2012: 584) also discusses how narrative analysis can be employed in relation to existing literature.

In this interpretive work I also made use of the theoretical framework informed by Bourdieu, Connell and feminist standpoint theory to make sense of my data. In conducting my narrative analysis, I extracted core themes which I sourced from between and within my transcripts and then used these themes to categorise my data. I then coded my data according to the following broad themes: matrilineal social organisation, how land was obtained, the meaning of land, land holdings and land use, marriage dissolution and property sharing. Each of these themes were further divided in terms of a number of subthemes. This narrative analysis, as with any story, made it possible for me to reconstruct the stories that women in rural matrilineal Muluwila have around their own experiences.

4.4 Ethical considerations and limitations of the study

4.4.1 Ethical considerations

This is considered a low-risk study in terms of the potential harm that could be foreseen as a result of my field work, inasmuch as the issues that I was exploring involve matters that are widely known and discussed in the village. Here it is also important to note the relative lack of stigma associated with marriage dissolution in the context of matrilineal Malawi, given its relative frequency and the lesser importance attached to the marital bond than to other familial relationships. Nevertheless, I recognised that the subject matter could potentially uncover painful issues inasmuch as I was asking some of my respondents, in the in-depth interviews in particular, to recall and reflect upon unpleasant or difficult episodes in their lives. I attempted to deal with this through the mechanism of informed consent in which respondents were told that they need not answer questions that they did not choose to answer and could stop the discussion should they wish. I also adopted a non-judgemental and empathetic style of conversation.

My study was approved in terms of the 'Framework Policy for the Assurance and Promotion of Ethically Accountable Research at Stellenbosch University' (as adopted in March 2009). As already noted, I also received permission from the local chief to conduct my study in

Muluwila. At the beginning of my field research, I disclosed the purpose of the study to all participants of the research in order for them to participate voluntarily in the research on the basis of informed consent. During the interviews, participants were not required to provide their names to maintain anonymity and the data collected was treated as confidential. In my discussion below, informants' names have been replaced with pseudonyms, where necessary, to avoid their identification. In the same spirit of anonymity, confidentiality, privacy, and freedom to participate, participants were allowed to refuse to participate or not to answer questions with which they felt uncomfortable.

As it turned out no one refused to participate in the interviews and the general response to my presence was welcoming and interested. Muluwila is not a village that has previously been the focus of research and people appreciated the opportunity to talk about their experiences. As already noted, initially a few of the villagers had mistakenly thought I was there to assist them with issues regarding HIV/AIDS. However, once I had explained the purpose of my visit, they were still interested in participating in my study. Even in these cases, people still felt that my research provided an opportunity for them to reflect on what was happening in their lives and that this was positive.

4.4.2 Limitations of the study

There are a number of challenges in terms of obtaining reliable data on Malawi. Official data sources differ, in some cases significantly, for instance on the precise size of the population of Malawi. Such discrepancies have the potential to affect the quality of one's findings negatively. However, I have attempted to address this by consulting a range of sources, both official and academic, before drawing conclusions. Where current data was not available, I made use of such older data as was available, while attempting to remain mindful of the time differences involved.

The design of the study also imposes some limits in terms of the generalisability of the findings. What is important to note there is that my survey was not designed to enable statistically reliable generalisations to be made about men and women in Muluwila, nor to compare these two groups, because of its weighting towards women respondents. However, as already noted, the data collected through the background survey is considered reliable in terms of the issues raised with regard to household composition and land holdings. The

reason for my bias towards women is because of the nature of my study, which is about women's experiences, within a conceptual framework shaped by feminist standpoint theory. Nevertheless, even though my study requires a focus on women and women's experience, I recognise the importance of men's views on the subject and have taken steps to draw on their views as far as possible within the scope of the study.

Financial factors have also affected the nature of my study, as I did not have sufficient funds to embark on a large-scale survey in which the number of men and women interviewed could have been balanced and the total number of households surveyed also increased. Financial constraints also meant that it was not possible for me to return to the field from Stellenbosch as I would have liked, once my primary field work phase was concluded in 2012, because of the cost and difficulty of travel between countries in Southern Africa. Financial pressures acted as a general constraint during my studies, despite my good fortune in securing a very welcome scholarship for the first three years of my study.

In any case, the logic of a case study is that of contextualisation as opposed to generalisation. This is in line with the purpose of my study, which seeks to understand the lived experiences of rural women living in a matrilineal community in Kuntumanje area in Zomba District, Malawi.

CHAPTER 5: LAND AND MATRILINEAL SOCIAL ORGANISATION IN MALAWI: HISTORICAL BACKGROUND

In this chapter I first provide an overview of historical developments in Malawi from the pre-colonial period to the present, as important background and context for my discussion of my research findings from Muluwila village in Chapters 6 and 7. This discussion is organised chronologically, covering developments that have influenced matrilineal social organisation as well as land-related issues and policies from the pre-colonial period to the present. In the final section of the chapter I provide a brief overview of national laws and policies relating to women's property rights in Malawi. This should be read in conjunction with the discussion on matrilineal social organisation in Chapter 3.

5.1 The pre-colonial era

While human settlement in Malawi dates back many thousands of years, the roots of contemporary Malawi can be traced back to the Maravi Empire which established its authority over much of present-day Malawi as well as parts of Zambia and Mozambique from the late 1400s.¹² This empire centred on a group of bantu-speaking people who were cultivators and are thought to be of matrilineal descent. Their ancestral roots lay among the Luba people of Lake Kisale, in present-day Democratic Republic of Congo. The first recognised leader of the Maravi Empire was Chief Mazizi Karonga (Pike, 1965: 32). When he passed away, he was succeeded by his younger brother, Undi, from his matrikin (Pike, 1965: 34). As this history makes clear, while the Maravi kinship system was matrilineal, political leadership in the form of the chieftaincy was historically exercised by a man and passed on to another man from his maternal kin. While there are exceptions, this pattern has persisted as a general feature to the present-day even though it is possible for women to be chiefs as well, under certain circumstances.

¹² This summary history draws largely on the account in the *Encyclopaedia Britannica* (www.britannica.com/EBchecked/topic/359644/history-of-malawi)

The growth of the slave trade, driven by Arab and Portuguese traders along the east coast of Africa, had a significant impact on the region, disturbing social organisation and shaping political and economic relations. One observer described seeing caravans of up to 5,000 slaves passing through Mataka, in Malawi, on their way to Kitwe, in Zambia, where they would be traded to the Portuguese (Pike, 1965; 53). Phiri claims that most slaves were women because they would fetch higher prices since they were seen as potential wives and child-bearers (Phiri, 1983: 263).

In the early 1830s to 1860s the Yao and the Ngoni people entered the region and settled in parts of present-day Malawi, their in-migration in part the consequence of major disturbances and conflicts to the south, in the wake of the rise of the Zulu kingdom in what was later to become South Africa. The Yao people were matrilineal and practiced uxori-local forms of residence while the Ngoni were patrilineal (Pike, 1965: 51, Pike and Rimmington, 1967: 165: 126-129). Both groups put pressure on the matrilineal groups that they encountered who were already living in the southern regions of Malawi, pushing them further south and disrupting their social organisation. The history of the Yaos is significant for my study as they are the predominant group in Muluwila and most of my research participants regard themselves as Yao.

The Yao were involved in the slave trade but according to Pike, they acted as clients of the Arab slave traders, rather than as direct competitors and rivals (Pike, 1965: 452). They would trade not only in slaves but also in ivory, tobacco, copper and iron for beads, clothes, guns and powder from the Arabs (Pike, 1965: 452). In addition to their involvement in the slave trade, the Yaos also appear to have encouraged the expansion of the Islamic religion in Malawi. Their exposure to Islam came about through their trading links with the Arab traders along the coast. According to Pachai (1972), Yao chiefs favoured Islam because they regarded it as the most effective way to modernisation, through the education that Islam offered. Thus Pachai notes that by the early 1900s every Muslim village had its koranic school (1972: 174). Father Russell of the Universities' Mission on Central Africa (U.M.C.A) is quoted in Pachai as saying in 1911 that 'the Mahammedans are both rich and flourishing and they have a boarding school for boys' (Pachai, 1972: 174). Pachai argues that the Yaos aspired to attend such schools and pursue Islamic education because 'Islam offered an alternative to those Africans who sought status and dignity like that of a European' (Pachai, 1972: 174). In this

way the Yao became a force to be reckoned with, as agents of social, political and economic change in Malawi. Most of them settled in the southern region of the country, including in Zomba district. Although the Yaos were influenced by Islam, they retained many non-Islamic practices, bringing about a syncretic form of Islam.

The second half of the nineteenth century heralded major changes for the region as a result of the spread of colonialism and capitalist relations of production throughout southern and central Africa. The Yaos and Ngonis were followed by the arrival of the British colonial forces (commonly referred to as whites or *anzungu* in Chichewa) from the 1860s. At this time Britain was expanding its commercial and strategic interests in the region and asserting itself as the dominant colonial power in southern and eastern Africa. The British brought Christianity to Malawi and inserted the people of the region into a new colonial and economic order in which a market economy and waged labour became increasingly dominant. Although Malawi did not become a full-blown settler colony large tracts of land were alienated to European estates, putting increased pressure on people's land holdings and local agricultural systems. One of the most influential of the early British missionaries was the explorer Dr. David Livingstone, who was followed by other Scottish missionaries. Livingstone and other explorers such as Sir Harry H. Johnston were appalled by what they thought to be the chaotic social and economic conditions under which the local people were living. These conditions were the consequence of multiple factors, including the impact of the slave trade and various epidemics, including rinderpest and small pox epidemic, and drought (Pike and Rimmington, 1967: 128; Phiri, 1983: 258; and Vail, 1984: 3). In an attempt to address these challenges, in the 1870s Dr. Livingstone encouraged fellow European missionaries to introduce Christianity and British systems of education and commerce to the region (Pike and Rimmington, 1967: 128; and Phiri, 1983: 258).

The introduction of these new ideological currents and social practices led to further changes in the life and settlement patterns of the local people, especially those who were matrilineal by descent. In this time new settlement patterns emerged. Finally, in 1891 the British government established the British Central African Protectorate over the region, with Johnston as the first Commissioner. Vail (1989: 158) sees this as a decisive moment in the history of the area:

From the turn of the century onwards, Nyasaland and Northern Rhodesia, as the new British colonies came to be known, were linked to the emergent capitalist economy of southern Africa and were especially oriented towards the gold mines of the Witwatersrand.

5.2 The colonial era 1891-1963

5.2.1 Developments to the 1940s

When the British claimed Malawi as their colony and declared it as a Protectorate, they introduced major changes in the way in which political organisation, social relations and land ownership would henceforth be distributed and administered. One of the first things they did was to demarcate new boundaries that brought formerly autonomous chieftaincies under one central British colonial governor (Kishindo *et al*, 2011: 5). The British governor instituted a system of District Administration Offices (DAO) which were to be responsible for local administration, including land affairs. The DAO linked chiefs and subjugated them and their subjects to the British rule. These events changed the way in which social relations would henceforth be practiced and impacted on the rules of land management, including property inheritance, among the native people.

The people who later came to be called Malawians were cultivators. They practised a form of shifting cultivation whereby they would cultivate a piece of land for some time and then leave it fallow and move on to cultivate another piece of land. When the British colonialists came to Malawi, they viewed African agricultural practices with contempt (Vail, 1984: 3). They argued that ‘the natives’ agricultural practices were not systematically organised and would not bring any economic gains to the colony any time in the foreseeable future. They introduced new cash crops such as cotton, coffee, tea and tobacco, which were to be grown for export purposes to boost Malawi’s economy (Vail, 1984: 3). They also introduced major changes to the way in which land was owned and distributed, with significant amounts of land being alienated in the form of ‘estates’ to European companies and settlers. According to Krishnamurthy (in Pachai 1972: 385) and Kishindo (2007: 49) in the late 19th century foreign settlers acquired about 1,400,000 hectares of prime agricultural land (representing some 15%

of the land area of the country) which was mostly turned into estates producing commercial crops such as tobacco, cotton and tea. Over a million hectares of this land was in the fertile Shire highlands, which includes my study area, Zomba. This had a devastating effect on local social and economic organisation.

In terms of an Order-in-Council of 1902 land was divided into two categories namely: freehold land and crown land. The latter was later further divided into state land and 'native' land, which was later categorised as customary land (with underlying ownership remaining vested in the state). The freehold land was divided between the European estates, mission stations, government land and the land of urban companies (Peters, 2002: 162). The first British Governor, Johnston, believed Europeans and Asians would promote the development of cash crops that would be exported such as coffee, tea, and tobacco. He did not envisage that Africans would be in a position to develop the economy along those lines but saw them as essentially subsistence farmers (Pachai, 1972: 312). Even though there was some leeway for Africans to own freehold land in the new dispensation, Johnston did not encourage this (Pachai, 1972: 312; Peters, 2002: 162 and Peters, 2007: 6). Thus the colonialists encouraged individualised tenure in sections of the country as a progressive form of land ownership that advantaged only a small number of new, predominantly white settlers, while rendering customary rights to land less secure for the local population.

These factors led to the new settlers acquiring vast tracts of land for agriculture, for which they required labour. Cash cropping was carried out on land that had formally belonged to Africans but had now become the settlers' estates. This pressured the people living on this alienated land to relocate to those areas that had not been converted to estates, which were often less favourable from an agricultural point of view and already settled. Thus the size of family land holdings declined. Pachai (1967: 386) has ascertained that the average size of a farm belonging to an African family declined to some 2 acres in this time (0,8 hectares). In places where the population pressure was particularly acute, such as in the West Shire districts, farms could be even smaller, at less than half an hectare. Having such small land holdings meant that Africans struggled to realise enough food for their immediate families, never mind for their extended families as was expected in matrilineal communities. In the eyes of the colonialists, agriculture became organised but for the African majority, their way

of life was deeply disturbed (Pike and Rimmington, 1967: 142; Vail, 1984: 4 and Kishindo, 2011: 9).

It was not long before the settlers and British colonial officers were at loggerheads, differing on how African people ought to be treated on the estates. The major debate was around the control of labour and land. Initially African men went in search of work in the Shire Highlands in places such as Zomba where there was now a possibility of finding employment in government departments as various government offices were opened in Zomba town. Furthermore, there were a number of large white-owned estates in Zomba district. Pachai and Peters both report that Alexander Low Bruce, David Livingstone's son-in-law, was a millionaire investor who had acquired an enormous block of land, amounting to some 169,000 acres, in the district (Pachai, 1972: 395; Peters, 2007: 452). African men also migrated to Thyolo and Mulanje districts to work in the estates there, which were growing tea, tobacco and coffee for export among other cash crops. During the colonial period, the British colonial government prioritised these crops for export, in part as a way of generating income with which to run the colony (Pike and Rimmington, 1967: 181-189). Other districts also experienced migration but Pike and Rimmington (1967: 142) and Kishindo (2011: 9) all agree that the Shire highlands, which includes Zomba district, were the worst affected areas in terms of the destructive colonial legacy with regard to land and labour.

Further aggravating the problem were some African chiefs who, according to Krishnamurthy in Pachai (1972: 392), would receive bribes from settlers to acquire workers for the estates. Their methods of recruitment included intimidation. Additionally, there was growing dissatisfaction over the treatment Africans were receiving, especially around wages. In the eyes of the European estate-owner the native tenant on the European estates was seen as nothing but a serf (Pachai, 1972: 314). According to Krishnamurthy in Pachai (1972: 394) some estate owners did not pay cash wages to their employees, while some only gave a leaf of tobacco to their workers and told them that they could choose whether to smoke it or sell it. In other cases workers would go for months before receiving any wages. According to Pachai (1972: 314) and Peters (2007: 5-6) the resentment which built up over labour conditions and shortage of land led to the 1915 Chilembwe uprising, in which an ordained Baptist Minister, John Chilembwe, led an attack on some estates that were regarded as particularly oppressive.

A number of white estate managers were killed. Although the uprising was quickly contained, discontent and social unrest continued to simmer through to the 1950s.

In the early years of the 20th century a number of ordinances were instituted by the colonial administration which further impacted on the local way of life. Twenty one years after the DAO was put in place, the District Administration Native Ordinance was passed in 1912. This Ordinance was intended to establish law and order in local administration. The 1912 Ordinance provided for the formation of ‘villages’ of not less than 20 huts, which resulted in the concentration in settlement clusters of the previously more dispersed population (Kishindo *et al*, 2011: 5). The ordinance also brought about a bureaucratic system of local administration, in which the line of authority passed from the District Resident Officer, through the Principle Headman to the Village Headman (Kishindo *et al*, 2011: 5). The District Resident Officer was a colonial officer responsible for ensuring that the offices of the Principle Headman and the Village Headman were functioning well. Each Principle Headman was responsible for an administrative section within the district which was further divided into several villages. The Village Headman was responsible for the distribution of land for cultivation at village level and for maintaining law and order (Mitchell, 1956: 42; and Kishindo, *et al*, 2011: 5).

It should be noted here that in most cases the people appointed to the position of Principle Headman or Village Headman would be those who had demonstrated loyalty to the colonial officials. They were not necessarily those who were recognised as their leaders among the local people (Mitchell, 1956: 42; White, 1987: 180; and Kishindo *et al*, 2011: 5). In 1916 the Land Registration Ordinance recognised African land as trust land, which was to be administered for the benefit of the local people. In 1933 the Ordinance was amended to provide for a system of indirect rule, in which the Principle Headmen, who were now known collectively as the Native Authorities (NAs), became the centre of the local government bureaucracy (Kishindo *et al*, 2011: 5). Concurring with arguments made by Peters (1994) and others, Kishindo has noted that when one considers the link thus created by the colonialists to traditional leaders, it is apparent that what is today described as customary law and tenure should be regarded as the joint creation of the colonial officials and these leaders (Kishindo *et al*, 2011: 6).

The Native Ordinances discussed above also legalised the alienation of land by the European settlers, which they claimed had been acquired from the chiefs by means of various agreements. A system of ‘certificates of claim’ in effect granted the settlers title over the land that had been taken from local people. According to Kinshindo, these certificates were vague as to tenure status but they were believed to be analogous to freehold rights (Kishindo, 2007: 49; and Kishindo, 2012: 97). In some instances, the new settlers had ‘bought’ the land that now belonged to them by paying individual chiefs with insignificant amounts of material goods – ‘a string of beads, a few meters of calico cloth, a bottle of brandy or whisky, a blanket, a gun or gun powder’ (Kishindo, 2007: 49). In this time the colonial administration also permitted the extension of European ownership over wetlands, known as *dambo*, as well as over fallow land, on the grounds that this was ‘waste and unoccupied land’ which was not owned by anybody and could therefore be alienated to the new settlers (Kishindo, 2007: 49). Yet African households relied heavily upon the *dambo*s for their livelihood since they were agriculturally valuable due to their fertile soils.

Linked to the issue of changes in land holdings, a number of policies that were adopted to favour of production on the European estates impacted negatively on family and household organisation. As already noted, changes in the landholding rules served to undermine matrilineal rights to land that previously had belonged to African families but had now been given to settlers. At the same time, those who were employed on the estates as migrants were obliged to embrace new forms of settlement on the estates where they were employed (Pike and Rimmington, 1967: 142 and Pachai, 1972:392). In order for these huge pieces of land to be farmed, a system of forced labour was introduced whereby African men were required to perform two months labour a year on the European estates as ‘rent’ for the land that was allocated per resident family on the estates (Pachai, 1972: 394). In other cases men were required to relocate as migrants to the plantations, leaving their wives and families behind (Pike and Rimmington, 1967: 134; and Pachai, 1972: 392). According to the authors these developments had adverse effects on the families as a whole as well as on the matrilineal social system. It exacerbated family instability and the rates of marital breakdown and remarriage.

Furthermore, unlike in the pre-colonial era when husbands would freely render their services in their parents-in-laws’ fields, as custom demanded, men now had to perform hard labour on

the estates of the Europeans, which took precedence over their domestic responsibilities. In addition, the decreased land holdings of African households meant that it became increasingly difficult to practice crop rotation or leave land fallow to improve soil fertility, as had previously been the practice. Households had to utilise the full amount of the small land holdings that they now had, in order to get the maximum produce for feeding their families. Such adjustments put pressure on local agricultural systems as well as on the division of labour in the household.

Another example of how policies introduced by European settlers affected agrarian life negatively was when hut taxes were imposed on African males. Taxes were introduced at the very beginning of the colonial period, beginning with a poll tax that was then converted into a hut tax in 1894 (Kalinga, 2012: 442). In terms of the hut tax every adult male was subject to paying the tax or risk being imprisoned (Phiri, 1983: 269). Phiri reports that the men who were seized by the authorities for failing to pay the taxes would be ridiculed in their villages. As a result men ended up leaving their residences (which at this time was their marital home) for long periods in search of employment to fulfil these demands, thereby undermining the matrilineal custom of uxorial residence (Phiri, 1983: 269). Increasingly, migration in search of work took men to the settler colonies to the south of Malawi, including to the gold mines of the Witwatersrand in South Africa. As already pointed out, men's leaving of their wives for a long period also meant straining the marital relationships and neglecting their responsibilities of cultivating their wives' fields as well as in the fields of their parents-in-laws, as custom demanded (Phiri, 1983: 270).

In some cases, more demands were made on local people to work in the farms that belonged to Europeans for free (Phiri, 1983: 269). This was presented as a goodwill gesture of assisting the Europeans, known as '*thangata*' (Pachai, 1972: 391; Peters, 2007: 5). In some cases people would work in estates that belonged to Europeans to get money to pay for their daily needs, now that participating in the money economy was no longer optional. The lucky men who were chosen to be *capitãos* (foremen) in the estates would be given bigger pieces of land.

5.2.2 Developments from the 1940s

In 1943 the Marketing of Native Produce Ordinance (MNO) was passed which permitted African producers to grow some cash crops on the estates, which the owner of the estate could buy and export. The 1943 Native Ordinance also licensed private buyers to buy rice, groundnut and maize from peasant producers (Phiri, 1983: 271). Phiri argues that this Ordinance encouraged men to engage in cash crop production instead of subsistence farming for the consumption of their immediate families and parents-in-law (Phiri, 1983: 271). Phiri sees this as a source of conflict between the husband's marital obligations as necessitated by matrilineal custom and his new needs as a result of his deeper incorporation into a money economy. Women were required to fill the void in household production left by the shift in men's priorities.

White (in Peters, 2002: 165) argues that the practice of giving land to the *capitãos* also led to shifts in practices around matrilineal inheritance in land. As time went by, the tendency of men to leave their wives' maternal homes for work purposes became a norm. Those men who desired to continue residing with their wives or women who wanted to reside with their husbands would relocate to where the husband would be working, thereby changing the established practices around rules of residence.

According to Pike and Rimmington (1967:134-142) adverse weather conditions in the 1940s put further pressure on African households. Droughts in 1943 and again in 1949-1950 led to famine, accompanied by forced sales of land and increased levels of migration which further contributed to agrarian change. When Malawi was hard hit with the famines, it forced the colonialist to come up with measures that facilitated being prepared for other seasons of famine (Vaughan, 1984: 46). One of the measures they embarked on was to institute marketing boards which would act as food reservoirs which would assist in coping with periods of grain shortage by storing maize that could later be sold as needed. The marketing boards were tasked to sale and regulate prices (Vaughan, 1984: 46). According to Vaughan (1984: 46-47) in times of food shortage women would spend long hours at designated centres waiting to buy maize. Most men, on the other hand, would spend long periods away from their marital homes in search of food. Over time, such absences became normalised, especially as Malawi became increasingly famine-prone.

Vaughan also notes that in the matrilineal areas the absence of men from their marital homes meant an absence from the domestic roles that custom demanded of them (Vaughan, 1984: 51). In cases where neither party (husband or wife) remarried, men were still not able to farm in the fields of their parents-in-law (Pike and Rimmington, 1967: 171; and Phiri, 1983: 270). The parents-in-law would be ridiculed by their neighbours for having a son-in-law who could not fulfil his marital obligation and relieve them from their agricultural tasks (Pike and Rimmington, 1967: 171). Underscoring this point is an observation made by Vaughan in her study published in 1984, where she describes how European officials were increasingly worried about the prevalence of women and absence of men in Malawi's rural areas, a situation which they thought was indicative of social breakdown.

In 1951 a land ordinance was passed which defined land in Malawi as either public, private or customary land. Thus the colonialists embraced a dualistic system of land holdings, in which private ownership of land sat alongside communal ownership of customary land, with the latter seen as an inferior form of tenure. Customary land was under the ultimate control of the Governor and was regarded as being held in common by the members of the local village. Successive governors continued to promote agriculture exports which favoured the settlers, although a few African men were able to engage in smallholder farming for the market (Kishindo, 2007: 50). Other changes to the agrarian order that were introduced at this time included measures to curb soil erosion. These measures included making box ridges; the introduction of inorganic fertilisers to increase yields for export markets; the introduction of hybrid seed to increase yields and to shorten the period in which crops would be in the field; and schemes in which peasants farmers would be organised into co-operative credit societies on 20 – 25 acres of land, in an attempt to increase yields and land size (Vaughan, 1984: 56-64). The latter innovation was at the expense of matrilineal inheritance systems. According to Pachai, matrilineal custom was viewed by the colonialists as detrimental to development due to its inherent backwardness (Pachai, 1984: 56).

In 1953 the colonialists established the Central Federation which consisted of Nyasaland (now known as Malawi), Southern Rhodesia (now known as Zimbabwe), and Northern Rhodesia (now known as Zambia). With this establishment, more Malawian men went in search of employment in mines in the neighbouring countries that were party to the

Federation (Pike and Rimmington, 1967: 142; Pachai, 1972: 396; and Phiri, 1983: 271). These developments further drove the pace of change in rural social organisation.

5.3 The post- independence era, 1964-1994

In 1964 Malawi attained its independence after a difficult anti-colonial struggle (Randall, 1971: 75). When Malawi got its independence from colonial rule, Dr. Hastings Kamuzu Banda became the first Prime Minister of the country. He inherited the colonial legacy of a dualistic tenure regime in which the system of individualised ownership of land existed alongside the system of customary land tenure, as re-shaped by the colonial period. Kishindo (2007: 50) contends that Banda made efforts to raise smallholder production, believing that this would assist rural households attain surplus incomes and improve their cash incomes. He instituted a land redistribution programme in which efforts were made to acquire back land which was underutilised or lying fallow from the estates (Kishindo, 2007: 50). However, this land redistribution programme to the poor did not last long. The Banda government soon halted it because of fears that this was undermining the economic contribution which the estate sector was bringing to the country at the national level.

Instead, in 1965 a new Land Act came into force which further undermined customary rights to land. Under this Act, the Land Minister was granted powers to dispose of customary land (Kishindo, 2007: 51). Using the Special Crops Act, he was reported to have granted a number of leases over customary land for the production of tobacco, since tobacco was and still is the major export-earner for Malawi (Agnew, 1972: 34; and Kishindo, 2007: 51). According to Peters (2007: 6) in Lilongwe the titling of land had unintended effects. Instead of boosting land markets and cash crop production, it brought disruptions. The problem of unequal distribution of land remained unsolved, leading Peters (2007: 6) to lament over Dr Banda's failure to uphold his initial promise to reverse the dualistic economy that advantaged estate owners over ordinary Malawians.

In the 1980s the Malawi government undertook a Structural Adjustment Programme (SAP), driven and funded by the World Bank and the International Monetary Fund (IMF). (Chilowa, 1997: 48). Under this programme several policies were introduced to bring about reforms in agriculture. These policies included among others: the liberalisation of producer prices; the

liberalisation of input marketing; the elimination of fertilizer subsidies; the deregulation of agricultural produce marketing activities; the deregulation of smallholder barley and tobacco production, and improved incentives for private investors (Trochim, Peters and Deolaliker, 1995: 3; Chilowa, 1997: 48; and Mvula and Kakhongwa, 1997: 18). These policy reforms appeared to benefit the estate sector during its first four years of inception, but over time even the estate owners came to regard this policy as a failure (Chilowa, 1997: 48). Mvula and Kakhongwa (1997: 18) have attributed this failure largely to the limited amount of land for smallholders, poor infrastructure, high population density and the low literacy levels of the people. According to these two authors, rural women were the most negatively affected by these policies, due to their lack of access to information concerning the legal issues at stake on the land as well as the process of privatisation. Women's limited access to land compounded the problem, with most women unable to engage in cash cropping in a significant way, due to the small size of their land holdings. According to Mvula and Kakhongwa (1997: 23) this prevented women from accessing credit facilities since credit institutions favoured individuals who had large land holdings. The credit institutions deemed individuals with small land holdings as 'high risk' and would not give them credit. Consequently, most women reverted to growing maize which is commonly seen as a 'women's crop', as opposed to cash crops such as tobacco, which are widely seen as 'men's crops' (Trochim, Peters and Deolaliker, 1995: 8).

Another initiative that Dr. Banda undertook during his rule was to recruit youth into a paramilitary group called the Malawi Young Pioneers (MYP). The MYP recruits were also trained to carry out modern agriculture practices from MYP base farms (University of Malawi Centre for Social Science Research and SADC WIDSAA, 1997: 16). Under this programme, young men and women were involved in farming on government-owned land and not on their customary land. This group was disbanded in the early 1990s but I argue that it also contributed to changes in how agriculture, land ownership and labour were practised. In matrilineal households, instead of young women being based on their own land and farming their fields with their husbands, they were required to cultivate on government-owned land at the MYP bases.

Another initiative that Dr. Banda took was to boost maize production through the introduction of hybrid varieties. Maize is Malawi's staple food and accounts for some 60% of the total

food that is produced in Malawi (Peters and Herrera, 1994: 309; Mazunda and Droppelmann, 2012: 1). In the 1990s Kaluwa (1992), Trochim *et al* (1995) and Peters and Herrera (1994) all noted a huge increase in the proportion of households growing hybrid maize, from some 2% of households in the 1986/ 87 growing season to 52% in the 1990/01 season. The authors attribute this increase in hybrid maize production to the SAP. While Kaluwa argues that the SAP had positive effects on the economy at the macroeconomic level, he laments that these positive effects did not translate into improved living standards for the poor, the bulk of whom were women (1992: 30). Concurring with Kaluwa on the stagnation of the living standards of the poor, Peters and Herrera (1994: 314) argued that in Malawi it had become common for households to go through ‘hunger months’. The main hunger months are December, January and February when food is most scarce. These months were associated with high rates of morbidity among household members, which also impacted negatively on household organisation. At the same time, according to Peters (2007: 7) much of the estate sector was also under pressure, due to the mismanagement of resources, over-extended capitalisation policies, and the effects of a rise in oil prices which triggered a rise in the prices of other commodities as well.

In 1994, the one-party regime headed by Dr. Banda failed and an era of multiparty democracy was ushered in. There were many factors that led to the downfall of Banda’s one-party government but a discussion of these issues goes beyond the scope of this dissertation. What is relevant for the purposes of this dissertation is that the institution of multi-party democracy was accompanied by the adoption of a new Constitution in 1994, which guaranteed regular elections, universal adult suffrage and equal rights for men and women, (although ‘gender equality’ as such is not specifically spelled out). This Constitution, which is discussed further in section 5.5 below, is still in force today, although various amendments have been passed from time to time.

5.4 The era of multi-party democracy after 1994

The advent of multi-party democratic rule was a much celebrated episode in Malawi’s history. It promised to bring significant changes to the country, including in terms of addressing the pressing land problems facing society. In 1996, noting the gravity of the land

problem, President Bakili Muluzi appointed a Commission of Inquiry into Land Policy Reform (Kishindo, 2007: 54). The main aim of the Commission was to make a thorough investigation of the challenges relating to land, in an attempt to come up with a new land policy that would provide for 'economically efficient, environmentally sustainable and socially equitable' land tenure systems (Kishindo, 2007: 54). According to Kishindo, the Commission submitted its findings and made recommendations to the President in October 1999. One of its findings was that an estimated 3,500 households in Malawi were landless and urgently needed land (Kishindo, 2007: 54). The government thereupon resolved to acquire land for the landless people by purchasing land from willing sellers, including both estate owners and ordinary people, to which land beneficiaries would be relocated upon meeting certain requirements.¹³ The government instituted a programme called the 'willing buyer/ willing seller' project, otherwise known as the *kudzigulira Malo project*, which was supported by the World Bank (Kishindo, 2007: 54; and Pemba, 2011:12).

One such project was implemented in Lilongwe, the Lilongwe Land Development Project (LLDPP) and Community Based Rural Land Development Project (CBRLDP). A major component of this project involved the registration and titling of the land, on the assumption that this would bring about secure property rights and thereby boost production. The programme was well supported by the international community. According to one Land, Housing and Urban Development (LHUD) official in Pemba (2011: 12), the Malawian government provided \$786, 000 for the first phase of the programme which started in 2004. The World Bank funded US \$37 million towards the same project. In the 2009/2010 National budget, Malawi's Parliament allocated MK110 million (approximately US \$260,000 in 2014 prices) to the project and in 2011 Parliament added another MK390 million approximately US \$920,000).

Despite its well-intended purpose and the generous funding of the project, both Kishindo (2010: 93) and Pemba (2011: 12) submit that the programme failed and brought with it a number of unintended consequences, including, most seriously, land sales to gain ready access to cash. Because in this area matrilineal forms of property ownership predominate, many of the land owners who sold land were women. These women thus ended up landless,

¹³ For the requirements of the programme, see Kishindo 2007: 56-59.

without land on which to grow food and without the means to buy alternative land. The intended beneficiaries of the scheme were thus disempowered by it, including women with rights to own land in matrilineal societies.

This experience runs counter to Argawal's claim (discussed in Chapter 3) that titling of land is necessarily beneficial for women, including because it will enable women to obtain credit from government institutions which will assist them in furthering their economic development. The project serves as a caution against a one-size-fits-all approach to poverty-alleviation interventions and a reminder that women do not all have the same needs, as has been discussed in previous chapters. Their contexts and situations differ and thus caution needs to be taken when implementing programmes, even those that seem to have worked well in other contexts. A failure to understand the needs of marginalised people such as women in relation to their actual situation regarding tenure security and rights to land has been cited as a major contributor to failure in land reform programmes and policies. This caution is particularly appropriate in the case of matrilineal societies where the roles and responsibilities of kin networks differ in many fundamental respects from the patrilineal practices with which many development practitioners are more familiar.

5.4.1 The administration of customary land

According to Part V of Malawi's Land Policy on customary land, customary land is vested in the President but ownership of the land is in the hands of Malawians (Government of Malawi, 2002: 19). This builds on the legal position that was adopted with regard to crown and state land in the colonial period and accords the Minister of Land and Housing considerable powers with regard to customary land. In the light of this provision, the Minister of Land and Housing (acting under the direction of the President) has the power to 'regulate, manage, administer and control customary land and mineral rights thereof' (Government of Malawi, 2002: V. 38). In this capacity the Minister may also grant leases or dispose of customary land on terms that he may think fit, as long as he does not grant leases whose lease period is greater than 99 years (Government of Malawi, 2002: 38. Section 5 (1). The legislation further states that a person who 'suffers any disturbance of, or loss or damage to any interest which he may have' as a result of such action must be compensated 'for such disturbance, or loss or damage as shall be reasonable'.

The Minister as part of central government retains the role of formulating policies and delegates responsibilities to local government. According to the Electoral Institute for Sustainable Democracy in Africa (EISA) (2010: 72), local government in Malawi has two components: the political and the administrative. The political component is headed by an elected councillor. The administrative arm is headed by a District Commissioner who falls under the Local Authority Service Commission of Malawi (LASCOM) (EISA, 2010: 72). The District Commissioner (DC) heads the District Assembly (DA) below which fall a hierarchy of participatory structures that extend to the grassroots level. These structures include Area Development Committees (ADC), then Village Development Committees (VDC) and below that Ward Development Committees (WDC) (EISA, 2010: 73). Local chiefs fall under the ADCs and VDCs but their main role is to act as advisors for these development committees (EISA, 2010: 74). According to EISA (2010: 74) in addition to the chiefs serving as advisors to the ADC and VDC committees, they are also tasked to act as custodians of cultural and traditional values through ensuring that the resolutions, by-laws and policies passed by councillors are in line with the basic principles of the customs practised by the communities which they represent.

In relation to land issues, chiefs have an oversight role over public land that falls in the area under their jurisdiction – for instance, in my study site, over part of the forest that falls within the area of Muluwila village, from which households gather firewood. Chiefs are also entrusted with an oversight role over household land. Their role in the event of divorce has already been described in Chapter 3. A chief would also be called upon to witness land gifts among kin when a woman gets to an age where she wants to marry, which is the main juncture at which major gifts of land occur in terms of matrilineal custom. As Malawi's land policy provides for the sale of 'customary estates', it has also placed responsibility on chiefs as independent members of the Customary Land Committee (CLC) to satisfy themselves that 'any such sale would not affect the livelihoods of the land-owning group negatively' (Malawi Government, 2002: 19; and Kishindo, 2011: 12). The chief is supposed to verify this before the sale of the land in question takes place. According to Kishindo (2011: 12) this verification process was put in place to avoid the reckless sale of their land by poor families. Yet despite the existence of such measures, land sales by poor households have become rampant as they turn to the sale of their land to address immediate needs where cash is urgently wanted. According to Kishindo (2011: 13) village heads are increasingly being called upon to witness

land transactions for which they receive tokens of appreciation in cash or kind. Kishindo argues that over the years these tokens of appreciation have become institutionalised as a fee. Some chiefs demand MK3,000 to MK 6,000 per transaction.

5.4.2 Agriculture

When Muluzi became the first president in the democratic dispensation, he inherited a state with many serious agricultural challenges. One of the biggest challenges facing rural households was and still is declining soil fertility due to the intensive use of land as a result of the acute problem of land shortage among smallholder farmers that has already been described. One of the coping mechanisms rural households have devised is the practice of intercropping, whereby various crops are planted in the same field. Peters and Herrera (1994: 314) have noted that most households in Malawi have gardens around their houses in which they intercrop maize with pumpkins and leguminous crops such as beans, groundnuts, pigeon peas, and cowpeas. This increases the yield from the one piece of land while leguminous crops are also beneficial because they assist in fixing nitrogen in the soil, thereby increasing soil fertility and in turn boosting crop yields. Intercropping of non-nitrogen-fixing crops with nitrogen-fixing crops is thus one of the practices that agriculturalist encourage.

One such initiative, called the Fertilizer Tree System (FTS), was conducted under the auspices of the World Agroforestry Centre (ICRAF) (Ajayi, Place, Akinifesi and Sileshi, and 2011: 130). Under this initiative, research was conducted in a number of Sub-Saharan African countries including Malawi, Tanzania, Zimbabwe and Zambia in partnership with their respective governments. The trial required intercropping maize with *Gliricidia*, a nitrogen-fixing tree, to increase soil. In some of the participating countries farmers were organised into groups for management purposes and practiced both intercropping and cultivation that allowed for leaving land fallow. In Malawi, however, the experiments under this project were unable to promote fallow land as part of the system of cultivation due to the shortage of land (Ajayi *et al*, 2011: 132). According to the authors, however, the programme was successful in that maize yields were increased without the use of inorganic fertilisers which most poor households could not afford to buy in Malawi. The authors are silent on the gender composition of participating farmers but the fact that farmers were put into groups to cultivate represents a departure from customary practice in matrilineal societies where land rights are vested in individuals.

Another significant change around agricultural practice in Malawi is the recent Fertilizer Input Subsidy Programme (FISP) that has put Malawi on the world map as a successful example of a programme to reduce hunger. This programme, which started in 2005, was geared towards reducing food insecurity while maximising the use of small land holdings in Malawi (Curtis, Marcatto and Narayan, 2011: 17). During the first phase of the programme, farmers were each given two coupons which allowed them to buy two bags of fertiliser - one bag of basal fertiliser and one bag of top dressing fertiliser. In addition to this, the farmer would also buy a small bag of high hybrid maize. All these inputs were sold at subsidised prices. In 2011, under the same programme, the government pegged the subsidised price for fertiliser at MK500 per 50kg bag.¹⁴ The coupons were distributed to District Officers who were required to give them to the Traditional Authorities. These Traditional Authorities would then distribute them to the Village Heads, otherwise known as chiefs. The chiefs were tasked with identifying recipients in their jurisdiction and distributing the coupons to them. According to Curtis *et al* (2011: 17), the programme was a success in terms of the boost to maize production. National maize production was raised to such an extent that since the programme started, the country has been registering a surplus maize crop. Some of this maize has even been exported to neighbouring countries such as Zimbabwe.

However, the authors lament that as much as there has been an increase in national maize production, rural households are still food-insecure with women being the most marginalised recipients (Curtis *et al*, 2011: 20). They argue that the programme did not specifically target women, even though women comprise the majority of farmers. According to the authors, the decision of who would receive coupons was left in the hands of chiefs, who are generally men and have tended to favour other men and the better-off households of friends. This has marginalised poorer households which are often headed by divorced, abandoned or widowed women. The authors add that there was also a lack of clarity about the criteria for identifying recipients of the coupons and the process was characterised by corruption (Curtis *et al*, 2011: 22). According to ActionAid staff cited in this study, corruption was at its highest during the distribution of the coupons.

¹⁴ Foreign exchange rate of Malawi Kwacha to Rand was MK1: R25 at the time.

In concluding this overview of developments around land access and land policy, what stands out is the extent of the changes in the agrarian landscape that have affected matrilineal social organisation over the past century and more. In this process women's land rights in matrilineal communities have come under extreme pressure, as indigenous production systems generally have been undermined and radically restructured.

5.5 Legal provisions relating to women's property rights

In this section, I discuss various policy initiatives and legal provisions that pertain to marriage and women's property rights in Malawi, as well as the status of women with a particular focus on gender-based violence.

5.5.1 Marriage

According to Malawi's Constitution, marriage is a right but it has to be entered into freely by both partners. Chapter 22 on Family and Marriage states, *inter alia*, that:

- (3) All men and women have the right to enter into marriage.
- (4) No person shall be forced to enter into marriage
- (7) For person between the ages of 15 to 18 years, a marriage can only be entered into upon their parent's or guardian's consent.

Concerning the rights of children, the Constitution defines a child as a person under the age of 16 years of age. In essence, then, Malawi's Constitution allows children under the age of 16 to marry, provided the consent of their parents or guardians is obtained. This contravenes various international legal instruments to which Malawi is party. For instance, the African Union Protocol on Women's Rights stipulates in article 6 (b) on marriage that the minimum age for marriage for women is 18. In practice many women in Malawi marry under the age of 18. As my field work in Muluwila has established, in a number of cases they are forced into early marriage by their parents or guardians, a practice that is contrary to international conventions and the country's own Constitution.

5.5.2 Property

Malawi's Constitution, Chapter IV, section 28 makes provision for various items in relation to property. It states, *inter alia*:

- (i) Every person shall be able to acquire property alone or in association with others.
- (ii) No person(s) shall be arbitrarily deprived of property.

With particular reference to women, section 24.1.a.ii stipulates that 'Women have rights to acquire and maintain rights in property, independently and in association with others regardless of their marital status'. On matters concerning the dissolution of marriage, section 24.1.b stipulates:

- (i) Women have the right to a fair disposition of property that is held jointly with a husband
- (ii) Women have rights to fair maintenance, taking into consideration all circumstances and, in particular, the means of the former husbands and the needs of any children.

The Constitution is clear that any law that discriminates against women on the basis of gender or marital status is invalid and legislation should be passed to eliminate cultural practices that discriminate against women, particularly in relation to sexual harassment and abuse, gender-based violence and the deprivation of property, including property obtained through inheritance.

White (2010: 14). argues that women's status as property owners in Malawi is less secure than the status accorded men. Confirming this argument is a stalled Land Bill from 2002 which, had it been passed, would have strengthened women's customary rights to land; further evidence for this claim can be seen in the delays around the passage of a Gender Bill in Parliament, which was only finally passed as policy in Malawi in 2013. The Land Bill was stalled due to opposition from traditional leaders to sections which appeared to be undermining their powers over customary land (Kishindo, 2007: 54; and EISA, 2010: 74). White (2010: 14) has argued in relation to the Gender Bill that the Malawian government does not prioritise gender issues and does not take the actual experiences of women into consideration, when dealing with matters relating to gender legislation. The author attributes

the low social status of women to the way in which society constructs gender. Consistent with the feminist critiques discussed in Chapter 2, she argues that women's work is given a lower value than that of men, even if the work is similar in nature. This results in women having weak economic muscle, which restricts them in the nature of the work and the investments that they can undertake. In most cases women tend to spend their limited earnings on essential household expenditures such as food and other items that do not require large sums of money but are recurring costs, while their husbands are more likely to spend their money in tangible and long-term investments. These investments include buying land and houses.

5.5.3 Marriage dissolution and property sharing

The following discussion deals firstly with women's rights in terms of customary law, followed by a discussion of the situation in the magistrates' courts. Customary law regulates relationships within and between families and village members, with the *nkhoswe* and traditional courts primary institutions for enforcement.

Nkhoswe and traditional courts

A key institution within the matrilineal family is that of the *nkhoswe*, a senior figure who presides over the affairs of the *mbumba*, particularly around the regulation of marriage and land, and is responsible for protecting the interests of the members of the clan. The *nkhoswe* is generally male but in the absence of a senior man the position can be assumed by a woman.

As already noted, marriage bonds between a husband and a wife in Malawi's matrilineal societies are commonly said to be weak, leading to the relative ease of marriage dissolution through divorce or abandonment (Mair, 1951: 112; Phiri, 1983: 260; University of Malawi (UNIMA) Centre for Social Research *et al*, 1997: 23; Mwambene, 2005: 14; Kambewa, Peters and Berge, 2008: 5; Manyozo, 2012: 2; Mponda, 2012: 2 and Lovo, 2013: 7). As previously indicated, separation is not recognised as a form of marriage dissolution in Malawi's traditional matrilineal marriage system (Mwambene, 2008) because the prevailing view is that one cannot be partially married. Reasons for divorce or abandonment can vary but tend to reflect the weakness of the marital bond. According to Mair (1951) in the matrilineal societies of Malawi a marriage can dissolve over seemingly small matters, for instance because the wife did not cook for the husband, or the husband was not buying necessities such as soap for his wife. Marriage can even dissolve if one party indicates that

he/ she is simply not satisfied with his/ her partner any longer. When this happens, the man is told to *tengani blangete lanu muwone nsana wanjira* (literally: take your blanket and see the back of the road', i.e. take your belongings and go).

When a marriage dissolves in matrilineal communities of Malawi as a result of divorce the general procedure is that the couple consult the *nkhoswe* of the wife and the *nkhoswe* on the husband's sides. It is the duty of the *nkhoswe* to take the matter to the chief. When they divorce, the *nkhoswe* assists the parties in sharing property. In cases where disputes arise, they take the matter to the court to determine how the property is to be shared. In cases where a marriage has dissolved because of abandonment, the abandoned party consults his or her *nkhoswe* who may approach the *nkhoswe* of the absconded spouse. The *nkhoswe* from both parties may decide to share the property in the absence of the partner who is not around any longer. In the case of a marriage coming to an end because of the death of one of the parties, the *nkhoswe* of both sides will meet to discuss how the property is to be shared.

If any disputes arise in any of the three scenarios described (dissolution by divorce, abandonment or the death of a spouse) the matter is referred to the chief. If the chief fails to resolve the matter it is then referred to the magistrates' courts. The literature on issues relating to how property is shared when marriages dissolve in matrilineal communities of Malawi is sparse. I therefore do not discuss it in detail here, but provide a detailed account of my findings from Muluwila village in Chapter 7. However, the research that has been undertaken on the topic to date presents two contrasting perspectives on the extent to which women in matrilineal societies experience strong rights around property in the context of marriage dissolution. On the one hand there are those who argue that women in Malawi's matrilineal societies enjoy their property rights simply because it is commonly expected that property such as land will be inherited by the daughters from the maternal lineage (Kerr, 2005). This school of thought argues that these rights yield secure livelihoods and make women less prone to domestic abuse, including through the deprivation of the property. On the other hand there is another school of thought which holds that women have 'dummy' property rights that do not translate into meaningful decision-making powers (Mbaya, 2002 and Chiweza, 2005). This is in accordance with Phiri (1983) who submitted that decision-making powers are usually vested in a brother or uncle of the woman in question, as *mwini mbumba* (owner of the clan), otherwise known as the *nkhoswe* (avunculate). This, according

to the author, replicates patriarchal norms because the women in question do not have a say about the property if there are disputes (Phiri 1983).

Available studies do not give a clear picture of how to reconcile these two perspectives. In fact, both Chanock (1991) and Deere and Ross (2006) suggest that there is a lack of data on women's property and inheritance rights that can assist by making well-informed recommendations to policy makers. However, the results of my study lend support to those who argue that women's property rights are vulnerable if the marriage comes under strain.

Statutory law

Women's property rights are also vulnerable in terms of the statutory law that gets applied in the magistrates' courts. In the case of divorce, the Malawi Law Commission (2005:5) recommended in 2005 that matters relating to maintenance and distribution of property between divorced spouses should be dealt with under the terms of divorce as determined by a court of law. It is worth noting that in Malawi there is the constitutional court system, which comprises the high courts and magistrate courts, and there is the traditional court system, which is administered by the chiefs in the villages. When disputes relating to marriage dissolution arise in the villages, the matter is first taken to the chief. It is only when the chief fails to resolve the matter that he refers it to the magistrate's court.

White (2010: 18) and Mtonga (2013) have noted that there are variations in the way the constitutional courts rule on such matters and that women are not served well in some courts. According to her this is because in ruling on these matters, the courts in Malawi are still bound by an English Act dating from the colonial period, the Married Women's Property Act of 1882, which is discriminatory in relation to married women and property. Thus section 17 of the Act requires that ownership of property has to be established by the provision of proof of the financial contributions made by a spouse to the acquisition of the property. This is extremely problematic for women, given that most rural women are illiterate and are not aware of the legislation (Chiweza, 2005: 85). In the few cases that do go to the magistrates' courts, women are generally unable to prove that they contributed directly towards the acquisition of the property (Chiweza, 2005: 85; White, 2010: 18; and Manyozo, 2012: 2). In most cases, as already noted, women's contribution towards household expenditure is directed towards the smaller but crucial daily necessities such as food and children's school

fees among other things, rather than the acquisition of property; the contributions made by women to the total household budget and well-being are then not considered by the court when it comes to sharing the property between the divorced couples. An attempt to challenge this legislation, which was brought by WLSA, was rejected by the Constitutional Court in early 2014 on the grounds that the advocacy group did not have standing in the matter.

The Deceased Estates (Will, Inheritance and Protection Act) 2011 provides for the distribution of property under a will (testate), whereby the deceased is free to distribute property according to his will before his death. The Act stipulates that if an individual remarries after the death of her spouse, any will made before the new marriage is automatically cancelled. According to White (in a series of weekly newspaper articles on women's property rights in 2012), before the Act was amended in 2011, it encouraged the assumption that once a husband died, all the matrimonial property transformed into the property of the deceased estate (which explains why Ngwira (2005: 8) argued that immediately a husband died, the wife lost her rights to property). According to this interpretation, the law held that a widow could hold her share of the deceased estate only on condition that if she were to remarry her property would be given to the deceased husband's children. In this way she was inhibited from re-marrying for fear of suffering serious loss of property.

According to Mtonga (2012: 17), some customary practices also contribute towards depriving women of property. According to her, these customary practices include *mwambo wa kusudzula*, a ceremony whereby a widow is set free to get married to another person. During this ceremony, relatives from both the widow's side and the deceased man's side gather and decide which property should be taken by the widow and which should be taken by the deceased man's relatives. Such property ranges from household items to land and houses. This practice is found among both matrilineal and patrilineal communities. This implies that customarily, when the husband dies, the widow has limited decision-making powers over the property of her own marital home.

According to White (2012: 17), at the micro level some forms of dispossession of women's property may happen when the husband is critically sick, with cases of relatives of the sick husband accusing the wife of being rude and undeserving of any support from her husband's estate. When the husband dies, such accusations serve as the basis under which the widow is

stripped of the property that she owned with her husband before his death. A number of studies suggest that property grabbing from women whose marriages dissolve is also on the increase, especially in the case of widows (Ligomeka, 2003b; White 2010; and Kabwila, 2013). The authors argue that measures that have been put in place by the government to curb the challenges that women face are ineffective and inefficient.

The courts in Malawi are mandated to assist in property sharing to ensure the fair disposition of property. According to Malawi's Constitution, the lower courts and Resident Magistrates have jurisdiction to distribute small estates, defined as estates valued up to MK1,000,000 (approximately R24, 000). These provisions apply to divorce cases as well. The Deceased Acts (Wills and Inheritance) of 2011 stipulates that cases involving property that is above this amount fall under the jurisdiction of the higher courts to determine. However a study conducted by WSLA found that the lower courts were ruling on and distributing property valued at more than MK 1,000,000. Chiweza 2005; Ngwira (2005:7) and White (2010) all argue that the government machinery is inefficient and ineffective, which can be attributed to the fact that many officials are ignorant of the provisions of the law.

5.5.4 Gender-based violence

Defining gender-based violence, in the late 1980s Strauss (1988: 240) defined it is a pattern of coercive control that could take four forms. These four forms include physical, economic, sexual and emotional violence directed against women on the grounds of their gender. The physical forms include hitting, burning and mutilation of the victim as well as destroying a precious object (this could be a house or a part of the house). The economic form may include withholding money, lying about assets, stealing money etc. The sexual form is manifested through rape or unwanted sexual practices; and the emotional form manifests itself by the perpetrator inflicting humiliation on the victim, through such practices as name calling, harassment, and refusing to speak to her (Strauss, 1988: 241). Often, perpetrators are not reported to the authorities by the victim for fear of further victimisation. In cases where the perpetrators are reported, in many instances the victims go on to withdraw their cases (Strauss: 1988: 24).

In Malawi, gender-based violence appears to take all four forms discussed above. Women are abused, discriminated against, and marginalised in various ways (Ngwira, 2005: 8; Kabwila,

2013; Jonson, 2014: 31). According to Ngwira women in Malawi are vulnerable regardless of whether they hail from matrilineal or patrilineal communities (Ngwira, 2005: 8). The Minister of Gender, Children and Social Welfare has noted growing incidences of gender-based violence in Malawi, citing an instance in which a husband repeatedly hacked the head and arms of his wife for having attended a funeral (MANA, 2013). ActionAid (2010) found that some husbands would remove windows from the former marital house after a divorce. Mtika (2013) reported that in Mzuzu, a woman had both hands fractured after her husband had accused her of stealing MK2000 from his pocket. Mtika adds that after the police caught the husband, the woman was pleading for the release of the husband. This confirms Strauss' observation that often the victims of gender-based violence do not want action taken against the perpetrators for fear of losing them as the primary breadwinner (Staruss, 1988: 241).

As discussed further below, I found gender-based violence to be an issue facing women in Muluwila and a contributing factor to the high rates of marriage dissolution. It also appears that gender-based violence is socially accepted and over time has been normalised in people's understanding of it – part of the *habitus* shaping people's attitudes and behaviour. Violence against women is a reflection of women's lack of power in relation to men, which, I argue, contributes to their vulnerability around property such as land and housing if their marriages dissolve.

CHAPTER 6: SOCIO-ECONOMIC CONDITIONS IN MULUWILA

In this and the following chapter I present the results from the field work that I conducted in Muluwila over a period of approximately one year, from July 2011 to July 2012. This chapter provides a general overview of socio-economic conditions in the village, based primarily on the background survey I did plus my additional field work in the village. In Chapter 7 I explore women's experiences around land in more depth in the context of marital instability, marriage dissolution and pressure on livelihoods. A fuller discussion of my findings in relation to my primary research questions and conceptual framework follows in my concluding chapter, Chapter 8.

The discussion in this chapter is structured as follows. I begin with a general profile of the village in terms of layout and facilities and then provide an overview of my respondents's demographic profile. In section 3 I look at household composition, followed, in section 4 by a discussion of livelihood strategies and respondent's perceptions about their relative wealth ranking. In section 5 I pull together the issues to do with property ownership, acquisition and control, with regard to both land and housing. I also give a general picture of my findings relating to disputes over land and housing. The issues covered in each section are interrelated so the sections need to be read as building a cumulative picture. This portrays the habitus in which the respondents of my study are informing their experiences.

As already discussed, my data collection methods centred on a background household survey, in-depth interviews, key informant interviews and a focus group discussion, along with initial scoping activities, supplemented by constant observations and informal interactions with local people during my field visits.¹⁵ Much of the material presented here is drawn from the household survey, supplemented with extracts from my in-depth interviews where applicable.

¹⁵ Where names are given for respondents they are pseudonyms. This is consistent with respecting the privacy of my respondents, as I undertook to do in the agreement around informed consent that I entered into with those who agreed to participate in my study. The photographs of individual respondents used in this dissertation have been used with the express permission of the respondents concerned.

6.1 General profile of Muluwila village

Muluwila is located 12 kilometres from Zomba town, off the main Zomba – Lilongwe M1 road, as one travels north-east towards Lilongwe, the capital city of Malawi. (See figure 2 in Chapter 1). The village lies a few kilometres from the main road. The entrance to the village is via a big dusty road that proceeds in a semi-circle around Muluwila, thereby serving as a boundary marker between it and neighbouring villages to the south east. To reach the village one first passes through Mpatsa Farm, a privately owned commercial farm which lies at the entrance to the village. (See figure 4 below). This farm (which is identified as Rathdrum Farm on official maps) is known locally after its current owner, a Mr Mpatsa. It is a large mixed-use farm producing both staple crops and dairy and meat products that was originally carved out for European settlers in the colonial period (when it belonged to a prominent British settler by the name of Bruce). Today it acts as an important source of local employment for people from Muluwila village, albeit at very low wages.



Figure 4: The entrance to Muluwila village through Mpatsa Farm (Photograph: B Matinga)

Immediately after this farm, there is a natural forest which forms part of the Muluwila village lands and falls under the jurisdiction of the local chief (with the underlying ownership rights vested in the state). The forest stretches for about two and a half kilometres on either side of the road. It is an important source of fuel for the village. Subject to the oversight of the local chief, villagers are allowed to collect dead wood on the ground for use as firewood but are discouraged from cutting down live trees so that the forest can be preserved for future use.

6.1.1 Social organisation, residential layout and housing in the village

After the forest one comes to the residential area of the village. In many respects Muluwila is a typical village for southern Malawi in terms of its layout and the level of its public amenities, which is poor. The layout of the residential area does not follow an official plan imposed by external bureaucrats but reflects both organic growth over time, as families have grown and contracted, and a broadly matrilineal pattern of settlement (although, as will be seen later, there are variations in terms of whether uxorilocal, virilocal or neolocal residence is practised on the part of married couples). The village is thus structured in terms of clusters of homesteads belonging to households within the same matrilineal descent group, with each cluster (known as *limana*) scattered among gardens and fields and linked by footpaths and a few narrow tracks. Each homestead within each of the residential clusters belongs to a single *banja* (nuclear family / household), which forms the basic domestic unit in which daily arrangements around the preparation and eating of food and the immediate care of children and other dependants are organised.

The typical *banja* in Muluwila consists of a wife, husband and their unmarried children, along with other dependants, including, in many cases, children of the siblings of the wife. There can be cases whereby the children are the offspring of the siblings of the father as well, but this is less common. Some *banja* are also organised around a single adult woman or, more rarely, a single adult man. Adult children who are married generally set themselves up within a separate *banja*, which can be located close to or next to their parents' place, or further afield. However, there are expectations as discussed further below. Each *banja* occupies a homestead or residential complex that typically consists of several separate buildings/houses (generally comprising no more than two rooms each) which are built close together around a common space or yard. Several such homesteads clustered together form a *limana*.

Within the individual homestead each of the buildings is allocated for a different function – sleeping, kitchen, washroom, toilet etc. One of the main buildings is the house for the married couple or single parent, if the father / mother of the children is absent. This house is also where the family’s young children under the age of puberty (approximately 12 years) sleep. Older children sleep in adjacent but separate buildings, with the boys sleeping in one house, called *mphala*, and the older girls sleeping in another house called *gowelo*. The children who sleep in the *mphala* or *gowelo* are considered members of the *banja* and have their main meals cooked in the parent’s kitchen and eat together with the other household members. These meals are generally cooked by the mother or daughters of the homestead. This pattern is consistent with what a 1997 study by the UNIMA Centre for Social Research and SARDC-WIDSAA has described as the general practice in the rural areas in Malawi (1997: 33).

The cluster of *banja* making up the *limana* could include houses of older daughters or, in a few cases, of the sons belonging to the main family who have married and started their own home. The daughters’ husbands are sometimes referred to as *obwera* which literally means ‘he who just came’ or ‘stranger’ or *ntengwa* (‘one who was taken from’). I also found some cases of divorced or abandoned women whose husbands had been long gone, who had remarried and were staying in their maternal *limana*. Divorced, abandoned or widowed women could opt to live in their parent’s or mother’s *banja* but more commonly could set up themselves up in their own *banja*, especially if they have children. Married women from outside the matrilineal clan, i.e. who had married into it and were residing at their spouses’ natal homes (thus practising virilocal residence), were referred to as *mkamwini* (literally translated as ‘somebody else’s). I discuss issues concerning relationships among the households in a *limana* in section 6.5 below.

As discussed further in section 6.5 below, the main form of acquiring the land on which residents are able to build their houses is through inheritance from the maternal lineage, although this is not exclusively the case. Generally the cluster of homesteads making up the *limana* belong to members of a single matrilineal clan or *fuko*. In Muluwila, a *fuko* is made up of people of *bele limodzi*, meaning people from the same family tree. The literal translation of this term is ‘one breast’, meaning that the members of the *fuko* (clan) are all perceived to descend from one mother or ancestor from the maternal side and figuratively suckled from one and the same *bele* (‘breast’). Within a *fuko* this *bele* could be the ‘big breast’ (*bele*

lalikulu), referring to the older sister of the ancestral mother in question, or the ‘small breast’ (*bele laling’ono*), referring to the younger sister of the mother. In addition to the *banja* of the different *beles*, a cluster of linked households could also include the households of *mnansi*. These are not strictly blood relatives but they are regarded as related to the *banja* because they have lived as neighbours among them and have got on well for a long time.

In Muluwila houses are generally built by the residents themselves, mostly from *zidinazo sawotcha* (mud bricks) which people also mould for themselves. Some of the better-off households are able to use fired bricks to build their houses, or a combination of bricks, sand and cement for construction. There is one brickmaker in the village who is able to supply these bricks locally. Only a few people can afford to roof their houses with iron sheeting and most buildings are roofed with thatching grass. Some structures are built with window frames and a few have glass windows, but most have only open vents (which may be closed with cloth, plastic or wooden covers) as can be seen in figure 5.

Issues relating to household composition, housing and property inheritance are discussed further in sections 6.3 and 6.5 below.



Figure 5: A typical banja with houses made of mud bricks (Photograph: B Matinga)



Figure 6: A brick house belonging to a better-off household (Photograph: B Matinga)

6.1.2 Water, energy and sanitation

The village is characterised by an undulating landscape, cut through by a seasonal stream that runs through it and into the Naisi River. The Naisi River, a major river in the district and an important source of water for the village, serves as a boundary that marks Muluwila off from the neighbouring villages to the north-west. These include the villages of Fikila, Mkwezaziya, Roben to the north. Chikabwereza and Ngomano lie to the east; Mbuka and Nambabada to the south, and Nazinomwe and Namaona to the west. The Naisi River usually has enough water to serve the community throughout the year, reaching its lowest levels in the hot and dry season which falls around September or October, just ahead of the rainy season (in November / December). Water from the river is used for irrigating gardens and for washing clothes; residents also draw on it to mould bricks for building their houses. There is no piped water in the village and drinking water comes from two boreholes which serve the entire community.

There are times when the stream dries up when there is drought. In such cases people have to rely on the River Naisi which is likely to have very little water flow during droughts and

villagers have to use its resources sparingly. Water-related chores are gendered. Thus the drawing of water from the boreholes is considered a female chore while taking livestock to the river to drink water is considered a male chore. The respondents told me that nowadays not many people take their livestock to the river as they have been advised by agricultural extension workers that it is better to draw water for their livestock and give it to them while in the kraal.

The village has no electricity supply, and most people use candles or paraffin lanterns for lighting. As for cooking, residents in this village rely on fire, using firewood gathered from the forest. Sanitation is poor, with most households relying on self-built latrines.

6.1.3 Educational, health and recreational facilities

There are few social amenities serving Muluwila residents. There is a crèche for pre-schoolers, which is run by a group of volunteer women from within the village who have not undergone formal early childhood training but have an interest in looking after the children. Any child from the village may enrol in the school. There are no primary or secondary schools in the village and local children have to go to schools in the neighbouring villages. The nearest primary school is about three kilometres from Muluwila village. The secondary school is approximately seven kilometres from the village and goes up to form four (an equivalent of South Africa's grade 12). Few children from Muluwila go on to this level of schooling.

Health services in Muliwila are extremely poor. When there is sickness, some visit traditional healers while some go to the hospital. The nearest clinic is a private clinic which is generally inaccessible to the villagers due to the costs associated with treatment there. As a result the residents of Muluwila who need to consult with a doctor have to travel about 16 kilometres to Zomba General Hospital, which is a government hospital. As there are no public transports from the village, resident walk about 4 kilometres to Matawale trading centre where they catch public transport to Zomba town and the hospital.

The only recreational facility in the village is a soccer pitch which is mainly used by boys. The girls in the village play their own games such as *phada* (hopscotch) and *ndado*, a game which involves two people who are opponents playing with stones and a circle drawn on the ground. However, girls have less leisure time than boys as they are more likely to be involved

in helping with household chores, beginning from a young age when they turn 7 or 8 years old. The household chores which they are involved in include cleaning the house, washing dishes, drawing water from the borehole and cooking.

Women's main social activities involve visiting each other in their homes, while men often play *bawo*, a board game involving a carved wooden board and stones and/or fruit pips, which is played outside and may last for hours. There are no television sets in the village but both men and women sometimes listen to the radio, which is the main source of news from beyond the village. From time to time there are special events when people gather together, such as rites of passage, weddings and *sadaka*, a ceremony whereby people commemorate the day on which one of their relatives passed on. This involves the preparation of a feast, usually one year after the death of the person being commemorated in this way.

There are also rites of passage ceremonies for girls at the onset of puberty (*chinamwali*) and for boys at the age of approximately 12 (*jando*). The former involves older women, otherwise known as *anakungwi*, who counsel the girls on how to take care of themselves during menstruation. As for the boys, it is the male counsellors who counsel them on how to take care of a pregnant woman when they marry, how to go about bathing and what the proper procedure is for handling a dead body, among other things. In 2011/ 2012, the period in which I was conducting my research, no initiation ceremonies were conducted. At the start of my research, the chief had told me that there would be initiation ceremonies around June/July 2012 but these did not take place. The reason given was that the Malawi government had changed the dates of the school terms, which meant that the initiation ceremonies would henceforth fall during the school term, which was problematic for school-going youth. Participating in the ritual would negatively affect the school performance of initiates as they are expected to stay in *ndaga* (a special place of seclusion in which initiates reside during the initiation). As a result, these ceremonies did not take place.

6.1.4 Religion

In terms of religious life, Muluwila is served by one Mosque and one Christian Presbyterian church. Religion is presented as an important part of the social life of the village, with Islam the faith of approximately three quarters of the community: of the 96 respondents in my background survey who reported being affiliated to a religion, 76 were Muslims. Twenty of

the respondents described themselves as Christians and belonged to a number of different denominations, with some going outside the village to attend church. The remaining four respondents in my sample did not report any affiliation to organised religion. Of note is that none of my respondents reported practising traditional religions although I observed that people do believe in and participate in traditional healthcare practices associated with social and psychological (as well as physical) well-being. Traditional medicine is locally referred to as *kwa sing'anga*. The practitioner is called *ng'anga* or *sing'anga*. People go to *sing'anga* for healing when they are physically sick but also if they have marital and other relationship problems, including disputes around land issues.

Of note is that despite its reported prominence as a source of identity for respondents, Islam did not emerge as a major influence on family structure and gender relations with regard to property in my study. These issues were presented to me and discussed by my respondents in relation to local matrilineal norms, customs and practices rather than Islamic (or Christian) precepts. According to my respondents the Islamic faith is associated with the practice of serial marriage as well as with the practice of polygamy. However, it should be noted that during my field work, I did not encounter any cases involving polygamous relationships. The role of Islam in matrilineal communities such as Muliwila and its influence on changing social values are issues that warrant further, focused research.

6.1.5 Shops and transport

There are only two small tuckshops stocking a very limited array of basic necessities such as soap, cooking and lamp oil, which are generally bought by local people in small quantities. For clothes and household supplies such as candles for lighting or cooking pots, residents have to travel to the trading centre of Matawale, where there are bigger shops and supermarkets, or catch a public minibus to Zomba town; in some cases residents, including the owners of the tuckshops, may buy goods from Blantyre. Public transport is extremely limited. There are no taxi ranks in the village but people are able to access buses on the main Zomba-Lilongwe road.

There are also a number of small informal seasonal markets that operate just outside Muluwila and serve the local residents. These informal markets are situated along the road as you enter the village; here people sell sugarcane, (which is eaten raw as a snack) as well as

fruit that is in season (such as avocado pears, mangoes, naartjies), and cassava, potatoes and vegetables such as *mpiru* (mustard leaves), *nkhwani* (pumpkin leaves) and chinese cabbage. These markets tend to be very small and do not feature livestock and poultry nor durable goods such as clothes. The traders at these markets are usually women or girls from the village, although men and boys also sell surplus produce from time to time. Some men also cycle around the village selling vegetables, green maize and fresh or dried fish. The field produce is grown locally but the fish is bought from Lake Chirwa which is located about 50 kilometres from the village. These income-generating ventures form part of household livelihoods and are discussed further below.

6.1.6 Local government

The chief is responsible for handling administrative duties. As already noted, at some point the current chief decided to divide the village into two sections and place his sister in charge of one of the sections. She is, however, accountable to him and any issues which she cannot handle, such as disputes over land, are referred to him.

The chief is responsible for apportioning village land but since there is a shortage of land in the village his role in this regard has diminished. His primary responsibilities around land involve being a witness to individual transactions around land within families, assisting the parties who have undergone marriage dissolution to share the land fairly, and resolving disputes over land as they arise. Other responsibilities involve ensuring that there is order in the village, assisting with marriage issues and funerals, and acting as a link between government and non-governmental organisations wanting to conduct research or carry out development programmes in the village. Village meetings and sessions of the traditional court are carried out under a big tree at the chief's homestead. This place is known as *pa bwalo kwa a mfumu* (literally 'at the chief's ground'). At these gatherings the chief and a few older men who are close to him usually sit on chairs while women and younger men sit on mats or directly on the ground.

There are no government offices in this village. The nearest government offices are approximately 8 kilometre away as one approaches Zomba Town,. The local magistrate's court is located here. It handles issues that the chief or sub- chief or the T/A refers to it, included disputes related to land and marriage dissolution. There is no police station in

Muluwila; the nearest one is located about 7 kilometres from the village, on the way to Zomba Town.

6.2. Profile of respondents in the background survey

6.2.1 Marital status

The following account draws primarily on my background household survey to provide a profile of my respondents in terms of their marital status, age and education. There were 100 respondents in my survey, all from separate *banja* (households), with each individual thus reporting not only on her/his personal characteristics but also on the socio-economic make-up of the household of which she/he was a member. As already noted in chapter 4, 77 of my respondents were women and 23 men. Given the nature of my sample, and its purposive weighting towards women (for reasons discussed in chapter 4), it is not possible to interpret my findings on the gendered differences between my respondents in terms of education, marital status etc as strictly representative of the population of Muluwila more generally, and this caveat needs to be kept in mind in the following discussion. However, the findings may be seen as illustrative or indicative of certain trends, depending on the topic. The sample is, considered representative of Muluwila in terms of general household structure, livelihoods and relationships to land.

Table 6.1 below shows the marital status of my respondents at the time of my interviews.

	Married	Divorced	Abandoned	Widowed	Single	Total
Female	48	1	12	12	4	77
Male	19	0	1	1	2	23
Total	67	1	13	13	6	100

Table 6. 1: Marital status of respondents at the time of the interview

What this table shows is that some two thirds of my households were organised around a married couple. All but six of the remaining third were organised around an adult who had previously been married but was not married at the time of my interview. Formal divorce was very rare, applying to only 1 female respondent; in the other 26 cases of respondents who had

previously been married but were not at the time of my interview, the causes were evenly split between the death of a spouse and the breakdown of the marriage through abandonment. Divorce requires the couple to undergo a formal process of ending their marriage, which involves the *nkhoswe* of both parties (described in chapter 3), whereas abandonment is an informal process involving one of the parties to the marriage moving away without notifying the other marriage partner that he or, much less commonly, she, was leaving the marriage.

Here, it is important to note that many of the respondents who reported being married at the time of the survey were not in their first marriage but had remarried and had thus undergone marriage dissolution at some point in the past. The instability of marriage and high rates of remarriage have already been noted as features of marriage in matrilineal societies in Malawi and this is clearly the case in Muluwila as well. Women's experiences in this regard are explored in more depth in chapter 7.

6.2.2 Age

In terms of age, my respondents were spread across the age spectrum, with just over a half under the age of 40, as shown in Table 6.2 below.

	15-19	20 – 29	30-39	40-49	50-59	60 +	No data	Total
Female	3	19	22	11	11	7	4	77
Male	0	5	3	5	4	6	0	23
Total	3	24	25	16	15	13	4	100

Table 6. 2: Age of respondents

The oldest of my respondents was 82 years old, a man who had remarried after the death of his first wife and was staying with the children of his second wife, from her first marriage. The youngest respondent was a young woman of 16 years old who was, however, married and thus in law an adult in Malawi.¹⁶ As already noted in chapter five, this provision in Malawian law is inconsistent with international commitments around the legal age of consent

¹⁶ According to Malawian law, marriage between the ages of 15 and 18 is possible with the consent of the person's parents/guardians. I included her as a respondent in my study because she was married and under Malawian law considered an adult.

as spelled out by AU to which Malawi is a signatory; as will be seen in my later discussion, the young age at which girls get married is a factor that contributes to marital instability.

6.2.3 Education

My background survey found very low levels of basic literacy among the respondents, with only eight of my 100 respondents having progressed to the Malawi Junior Certificate (grade 10) and only one, a woman who was a primary school teacher, having achieved a Malawi Senior Certificate (Form 4). (This is the equivalent of a South African grade 12 certificate). Three quarters of my sample (74) had only attended primary school, and of those who had attended primary school, most had only progressed as far as standard 3 (the third year of schooling in Malawi). 18 of my respondents had never attended school. Of note is that the non-school group was not confined to older respondents but included people from across the age spectrum.

Age of respondent	Level of education				Total
	Never went to school	Primary school	Malawi Junior Certificate	Malawi Senior Certificate	
15 – 19	0	3	0	0	3
20 – 29	2	19	2	1	24
30 – 39	2	20	3	0	25
40 – 49	3	13	0	0	16
50 – 59	3	11	1	0	15
60 and above	6	6	1	0	13
Age not given	2	2	0	0	4
Total	18	74	7	1	100

Table 6. 3: Level of education by age of respondents

There was also no discernible difference in levels of education between men and women in the survey, as shown in table 6.4 below.

	Never went to school	Primary school	Malawi Junior Certificate	Malawi Senior Certificate	Total
Females	11	61	4	1	77
Males	7	13	3	0	23
Total	18	74	7	1	100

Table 6. 4: Level of education by gender of respondents

When I asked those in the age range of 20-29 and 30-39 why they had never gone to school, they blamed this on the fact that they came from poor families; a number of owmen also noted that of educaiton opportunities had also led them into marrying at a young age. When I asked the same question of those who were in the age category of 50-59 and 60 and above, they attributed their lack of schooling to the fact that when they were of school-going age there had not been any schools in their area. Early marriage, including coerced marriages, was also identified as a factor. For instance, a 60-year-old woman said:

I was only 13 years old when my parents forced me to get married to my cousin. There were no schools here, so what could I do? I just accepted and we got married (Kettie, 30, March 2012).

6.3 Household composition

As the discussion of kinship and matgrilneal custom has already made clear, the definition and conceptualisation of the primary domestic unit or household is a complex issue. Consistent with feminist standpoint theory, I have worked with the definition furnished by the respondents of my survey, who regard the *banja*, consisting typically of a mother, father (when present) and their biological and other children, as comprising the basic household unit). The children of the *banja* may include children from previous relationships of one or both of the parents, as well as children born to other relatives, including the children of adult daughters whose marriages have dissolved and the children of sisters. In a few cases, a brother might raise his relatives' children. While these relatives are generally on the maternal

side this is not always the case. In my study I found three male respondents who were caring for the daughters of their sisters on their paternal side.

Table 6.5 below provides a breakdown of *banja* membership in Muluwila according to the respondents in my background survey. It shows the preponderance of two-generational households centred on a married couple.

Membership of the <i>banja</i>	Households N = 100
Married couple, their biological and other dependent children	57
Married couple and their biological children	8
Married couple, their children and grand parents	2
Woman, her biological & other dependent children, plus children of one or more of her daughters	11
Woman with a sibling and/or siblings of her husband	14
Man and his mother and sisters	3
Man and his grandparents [man's grandparents] and his children	4
Man and his biological children	1

Table 6. 5: Household (*banja*) composition in Muluwila

While the *banja* is recognised as the primary domestic unit, it is located within a larger kin network which can be summarised in its ideal form as follows. At the apex is the multi-generational (and matrilineal) *fuko* (clan) which is headed by *ankhoswe a kulu*; this individual, the senior *nkhoswe*, is generally male but in the absence of an older male to fulfil this role, could be female. The *fuko* is comprised of *mbumba* which is the collective term refers to all the members of the matriclan. In Muluwila, consistent with what was reported in my literature review, the senior *nkhoswe* is *mwini mbumba* (the owner of the all matrilineage with the exception of the parents). The *mbumba* are distributed across different *banja*, which are generally located next or near to each other within a cluster called *limana*. The *nkhoswe* is expected to act as the head of all *mbumba* in matters pertaining to major clan events, such as marriages, marriage dissolution, children's welfare, disputes among relatives as well as between clan members and other people, and the death of clan members. The authority of the *nkhoswe* is such that when a family member dies, the immediate family of the deceased

cannot start funeral proceedings before notifying *nkhoswe*, who is required to give permission for the deceased to be laid to rest and may withhold this permission if not properly consulted.

The extent of the powers given to the *ankhoswe* in Muluwila provides strong evidence in support of the claim that it is men rather than women who are the major decision-makers in relation to matters of great importance for the wellbeing of *mbumba* members. No wonder Ngwira (2008) has argued that women in the matrilineal communities of Malawi do not exercise real decision-making powers in their homes, despite what a superficial reading of customary practice may suggest. This point is developed further in Chapter 7.

The patterns in terms of household composition that I found in Muluwila are broadly consistent with the literature on matrilineal communities of Malawi, which shows that a woman's maternal relatives are an integral part of her lineage and that there is generally a stronger bond between brothers and sisters than between husbands and wives. (See for instance, Kaler 2001: 531 and Lovo, 2013: 7). My findings also confirm the underlying norms of mutual reciprocity among matrikin that shapes everyday living arrangements and forms part of the *habitus* that villagers inhabit. At the same time, the relative fluidity of marriage means that children from different relationships may also be brought together within the *banja* at different times.

In my interviews respondents were much more likely to refer to kin on the maternal side as their relatives than kin on the paternal side. Thus Lucy, speaking more generally as to how people in the village perceive themselves in terms of descent, told me:

Your relatives are the ones from your mother's side since your father is *obwera*... when a marriage dissolves he has to go to his natal home and you as a daughter or a son in the family, you stay with your mother (Lucy, 17 April, 2012).

A case in point is Mtengo, who was divorced by his wife and had relocated to his maternal home. Even though he lamented about how badly he had been treated by his wife who had divorced him, he was comfortable with the fact that he had come back to his mother's land:

It is our custom that when a man who was residing at the wife's village divorces, he is supposed to come back to his mother's land. The challenge

that I have though is that I was used to my wife giving me hot water to bath and cooking meals for me, now I have to do it by myself or wait for my sisters to do it for me if they are around. When people see me cooking by myself, I feel that I would not be respected as much as I would have been if I was with my wife (Mtengo, 10 July 2012).

This quotation also illustrates both the gendered division of labour that operates in households, whereby women are responsible for cooking and other domestic tasks such as preparing the water for bathing, and the emphasis on respect that is attached to the status of marriage. Although there was no shame in Mtengo being back in his maternal home, his single status was a source of discomfort. This attitude is consistent with what Phiri (1983) found thirty years previously, when he reported that in matrilineal communities a man is well respected when he is married.

My study also confirmed the social rather than strictly biological understandings of kin relationships within Muluwila. Although none of my respondents presented themselves as *mnansi*, one of them, the 82-year-old man living with his second wife's children, had inherited the land on which he was living from his *mnansi*. This man explained this to me thus:

I was given land by our *mnansi*, a certain man whom we lived together very well. He used to live nearby my *banja* for a long time ... When he passed on, his relatives came to claim the land saying that because they were related by blood, they had ownership rights to this land. I took the matter to the chief and the chief said that the land is mine because the deceased had given it to me. So the relatives of the deceased man left it to me (Phiri, 24 May 2012).

In this case the relationship with the man's neighbours was accepted by the local authority as operating akin to that of a familial relationship, which extended to my informant being able to enjoy benefits such as the right to inherit land as if familial relationships were involved.

6.3.1 Eating together

People of one *banja* eat their main meals together. This is an important component of their shared identity as a domestic unit and also provides a time and space for general communication. The main meal usually comprises *nsima ya ufa woyera*, which is a starch dish made by grinding maize into samp (known locally as *mphale*) which is often eaten with *ndiwo* (a relish made from from villagers' gardens). The *mphale* is prepared by first being dried on a mat and later ground into a flour which is then used for preparing the cooked *nsima yoyela*. (See figures 7 and 8 below.) This dish is usually accompanied by vegetables grown locally and sometimes by a protein dish such as pulses, eggs or fish.



Figure 7: Mother and daughter, with mphale drying on mats in the background (Photograph: B Matinga)

Generally the people of Muluwila have their main meal in the evening. It is commonly eaten off shared plates, with the *nsima* put in one plate and the relish in another, with everybody eating from these plates. Water for washing hands is put in one basin for all to use, and drinking water is put in one big mug for all to drink from. Other meals involve a wholegrain porridge known as *mgaiwa* in the morning, and some fruit in the afternoon during the fruit season. Those who can afford it may have two meals of *nsima* a day, for both lunch and supper.



Figure 8: Grinding maize into maize meal with a traditional wooden pestle and mortar (Photograph: B Matinga)

6.3.2 Reciprocity

There are expectations of reciprocity within the *limana* in the everyday life of this village. The members of one *limana* share resources with each other and also assist each other with labour if required. For instance, if a woman from one *banja* does not have salt, she may ask a woman from another *banja* in the same *limana* for some. If the members of a *banja* do not have enough money to take their maize to the maize mill (which is about 3 kilometres outside the village itself), the woman may request assistance from another *banja* in the same *limana* to pound the maize in a wooden mortar at home. Members of a *limana* may also assist each other in tilling their land without expecting any payment in return, although it is customary

for the one who received the assistance to send the one who rendered the assistance a small gift such as a bowl of fruit, to show appreciation.

These interactions are governed by norms about responding reciprocally to day-to-day needs, in a context of general poverty. For instance, Chipirilo, a participant in my background survey, told me:

In this village we assist each other. If you do not have salt or sugar, you can go to your neighbour and ask for some. One day she might also be in need. Whether she might need you to assist her pounding maize if on that day she does not have enough money to take her maize to the mill meal, or she wants you to assist her with unshealing her maize, you go and assist. You will just see her sending her child with a plate of mangoes in appreciation for what you helped her with...no man is an island (Chipirilo, 14 July 2011).

Similarly Mai Banda told me about the assistance she sometimes gets from fellow villagers when shelling her maize after harvesting:

Sometimes people from this village help me shell the maize. I just sit here on the veranda with my maize. As people see me shelling it, especially the people I chat with, they just come and join in... That is how we live in this village (Mai Banda, 12 February 2012).

There are particularly strong expectations of reciprocity between brothers and sisters, and between uncles (even *ankhoswe*) and their sisters' children (both male or female). For instance, Macheso told me:

A brother or a person's uncle can come to you, his sister, and ask you to cook *nsima* for him. You cannot say no because tomorrow he will be the one helping you as your *nkhoswe* and vice versa (Macheso, 4 April 2012).

However, as in any social environment, there are also tensions among members of *mabanja*. For instance Mercy told me of tensions between her *banja* and that of her cousins. The cousins were the children of Mercy's uncle and were living close to where Mercy lives, just across the road. The tensions between the families started when they had a land dispute (see

below) which was resolved by the District Commissioner. Despite this, at the time of my survey the two households were still not on good terms. Mercy commented to me:

It is like we still have grudges against each other. It is difficult for us to cross this road you see in front to go and chat there (Mercy, 28 March 2012).

6.3.3 Gender-based violence

The issue of gender-based violence emerged as a concern during the course of my field work. Seven out of the nine respondents of the in-depth interviews said they had experienced some form of gender-based violence; the issue was also raised in relation to the background survey. The main forms it took included being beaten by their husbands during the duration of their marriage, and/or being deprived of basic necessities such as food and clothing and/or being chased away from their matrimonial homes. Although this was not a specific concern of mine initially, because of the way it emerged during my field work I deemed it important to consider it as an issue in the environment in which the women of Muluwila live. It is discussed further in chapter 7.

6.3.4 Patterns of residence upon marriage

When I asked the respondents of the background survey about the form social organisation in Muluwila takes, 98 out of the 100 respondents confirmed that the people of Muluwila village observe matrilineal norms in determining kinship and descent and regard uxorilocal patterns of residential organisation as the norm. (The remaining two respondents in the survey answered that they did not know how to describe the social organisation.) The members of Muluwila village understand matrilineality primarily in terms of patterns of property inheritance that are traced through the mother's lineage. This then reflects the norms – the *habitus* – within which people are negotiating their lives. However, when I probed actual practice on the ground, I found a much greater variety of responses as I discuss further in section 6.5 below. Here I focus on norms in relation to changing marriage practices.

Patterns of land inheritance in Muluwila village are closely associated with marriage and children. In terms of the dominant norms, land and housing are expected to be passed from

mothers to their daughters mainly when the daughters get married. According to my informants, this is the time when daughters want to become independent, in anticipation of having their own children to look after as a result of getting married. However, as already noted in chapter 3, marital residence in Muluwila is perceived as having two forms: *chikamwini* and *chitengwa*. *Chikamwini* refers to the practice whereby the husband relocates to reside with his wife in her natal village (uxorilocal residence), while in the case of *chitengwa*, the husband asks the parents or the *nkhoswe* of his bride if he can take her to live with him at his home village (virilocal residence) or another location (neolocal residence). However, according to my respondents in both cases inheritance of land is still expected to pass through the maternal lineage. Said Zione, one of my in-depth interviewees:

Even in the event where a woman is residing at her husband's place, or another place, ideally she is entitled to inherit land from her maternal side... the husband is supposed to build a house for her at her maternal land that she inherits (Zione, 28 March, 2012).

Table 6.6 below indicates patterns of residence among respondents. This shows that the residence pattern in a little over two thirds of households in the survey was uxorilocal at the time of the survey.

	Uxorilocal	Virilocal	Neolocal	Total
Female	60	3	14	77
Male	9	11	3	23
TOTAL	69	14	17	100

Table 6. 6: Respondent's place of residence

In the background survey 88 respondents said that in the case of *chitengwa*, the practice should be for the couple to be given a waiting period at the bride's home, in which the parents and *nkhoswe* from the woman's side would be able to observe the behaviour of the man, to see if he was a man of good behaviour who would take good care of their daughter. To this end, the husband is shown a piece of land on which to build the newly married couple's matrimonial house and land to cultivate. 'Good behaviour' and capacity to take care of the woman are judged in terms of the son-in-law's ability to farm and provide food for his family

on this land as well as in his parents-in-law's garden. Once this has been established, then the son-in-law is allowed to take his wife to his own home.

To some extent my findings corroborate other studies concerning uxori-local forms of marriage in the matrilineal communities of Malawi (Peters, Kambewa and Walker, 2008; Mwmbene, 2005). However, I also found adaptations that are happening to the custom with regard to *chitengwa*. Almost all my survey respondents (98 out of the 100) said that in the contemporary period there is a growing tendency of in-marriage men to request the *nkhoswe* of the bride-to-be to be allowed to take her to the man's home before they build a house. Frequently they say that they will build the matrimonial house later but end up not doing so. As will be seen in Chapter 7, this was the experience of six of the nine women with whom I conducted in-depth interviews. Men also do not observe the waiting period as required by custom. As for the three men with whom I conducted in-depth interviews, two had not built houses for their wives before their marriages dissolved. The third man had built a house at his wife's natal home. When his marriage dissolved, he relocated to his natal home.

Seven of my 12 in-depth interviewees said that nowadays parents are afraid to insist on the waiting period for the newlyweds. This is because of the increased rate at which marriages are being dissolved through divorce and abandonment, which leads them to fear that if they were to go against what the new groom wanted, their daughters might fall pregnant but be abandoned by her husband because she was not coming to stay with him at his home. In such cases, parents are letting their daughters move to the husband's place without the husband having first being 'observed' to establish his suitability as a husband. .

Kettie, a woman in her 60s who was abandoned and left to care for six children, was one of the women in my in-depth interviews who spoke of this shift:

Nowadays parents easily allow their daughters to go and reside at their husband's place. If they don't and the daughter gets pregnant, what are you going to do? Because chances are that if you do not allow your daughter to go and reside at her husband, they just agree to fall pregnant and if you refuse and the husband dumps her, what will you do? (Kettie, 28 March 2012).

Another in-depth interviewee, Loveness, reflected on her own experience in this regard thus:

For me, my parents just let me go and stay with that second husband because they new that the first marriage with my cousin, which they had forced on me, did not work out. So keeping me from the man of my choice would have caused us to elope or get pregnant. That is the way people do it in this village (Loveness, 30 March 2012).

Caroline, another in-depth interviewee, had at some point been married to a man who later abandoned her. While courting they had agreed to go and stay at the husband's home. The husband negotiated with Caroline's *nkhoswe* that he would build a house for Caroline at her mother's place after marrying her. Caroline's parents then allowed her to go and reside at the husband's place before observing if he displayed 'good behaviour'. Caroline had this to say about her experience:

I just rushed into marriage. You know when people love each other... My mother allowed us to get married because we insisted. My husband had said that he would build me a house later - as you know here if a man is marrying you he has to build a house for you as a wife-to-be. So my mother did not want to be ashamed if I would be pregnant so she accepted... we went to live at his place. But his mother did not like me. So she influenced my husband to leave me... When he abandoned me, he refused to build a house for me at my mother's place (Caroline, 28 July 2012).

These stories illustrates the changes taking place in how matrilineal customs regarding women's access to land and housing and their negative impact on women's customary rights.

6.3.5 Decision-making powers in the *banja*

As already noted, roles and responsibilities in the *banja* are strongly gendered. Thus during my field work I observed that women were the ones who were cooking the meals and assisting school-going children get ready for school. Women were also the ones responsible for heating up water for the members of the family to bathe. Men, on the other hand, were involved in craft work such as weaving mats and winnowing baskets. They were also the ones building houses, bathrooms and toilets (which are separate from the main house in Muluwila). Some domestic tasks were, however, shared. Where households had livestock, I observed that

both men and women would feed and take care of the animals. Both men and women would also fetch firewood.

What is of particular significance for understanding women's status in matrilineal societies is that headship in Muluwila is also commonly considered to be exercised by men, even though women can serve in this role, especially in cases of marriage dissolution. The distribution of decision-making powers within the household is significant for determining how much control an individual may wield over household property. Each *banja* is controlled by *mutu wa banja*, which means, literally, the head of the household. According to the respondents in my study, being the *mutu wa banja* means that you are responsible for making decisions concerning everyday life within the household, such as how money should be used, what should be bought in the home, and where children should go to school. You are also responsible for providing members of the family with food, shelter and clothing. Other members of the household are expected to assist you in carrying out the decisions that are made, and, depending on household dynamics, may also be consulted and influence decisions.

In most of the households in my background survey the *mutu wa banja* was reported to be a man. Thus 65 out of my 100 respondents said that the head of their households was a man while 32 said that women headed their households. In most cases this was a *banja* in which where there was no man present, although in seven of the 67 married households, women were identified as the head. The remaining three respondents were either not sure who was the head of the family or felt that headship was held jointly by both the man and the woman.

	Marital status	Male Head	Female Head	Both man and woman	Not sure
Married	67	59	7	1	0
Divorced	1	0	1	0	0
Abandoned	13	2	10	1	0
Widowed	13	2	11	0	0
Single	6	2	3	0	1
TOTAL	100	65	32	2	1

Table 6. 7: Household headship by marital status of respondent

A gender breakdown of the responses, shown in Table 6.8 below, revealed that only one of the 23 male respondents in the sample identified a woman as the *mutu wa banja*. More than half the women in my survey reported that the head of their household was male, thereby confirming the extent to which men are accorded authority within the *banja*. Joint headship was mentioned by just 2 respondents. Female headship was generally associated with women who were not in a marriage relationship at the time of the interview.

	Female head	Male head	Both man and woman	Not sure	Total
Female respondent	31	44	1	1	77
Male respondent	1	21	1		23
Total	32	65	2	1	100

Table 6. 8: *Reported household headship, by gender of respondent*

6.4 Livelihoods

6.4.1 Primary sources of livelihoods

As already suggested, most people in Muluwila are poor in terms of income and resources. While smallscale farming is the main source of livelihoods, households rely on multiple livelihood strategies to generate food and other resources to sustain their members. My background survey found that farming was reported as the primary sources of livelihoods for the majority (56 out of 100). It was followed by small scale businesses. Small numbers of respondents reported seasonal work and full-time waged jobs as their main source of livelihoods, while six of the 100 households relied primarily on assistance from relatives, including children who are working elsewhere, to survive. Table 6.9 sets out these results.

Primary source of livelihoods for households	Number
Small-scale farming	56
Small-scale business (including crop sales, tuckshop, brickmaking)	23
Seasonal and/or part-time work (farm- or housework)	8
Full-time, non-professional employment (maid, security guard, farm worker)	6
Assistance from relatives	3
Assistance from children / grandchildren specifically	3
Salaried employment (teacher)	1
Total	100

Table 6. 9: Primary source of household livelihoods

The residents of Muluwila are generally cash-poor as they do not have regular sources of monetary income. As noted above, only a few have full-time jobs, but these are almost all poorly paid jobs in positions such as maids and security guards in Zomba town. The only exception reported through my survey was from the woman who had a Senior Certificate and was working as a teacher at a primary school just outside Muluwila village. Low levels of education limit the kind of jobs for which most people are qualified. Thus Loveness lamented that:

I take myself to be poor. I barely find money for buying things. It is difficult for me... maybe if I had been educated, I would have had better opportunities to get a job in town but as it is, I cannot. So what I do now is just to work hard and cultivate the field (Loveness, 28 March, 2012).

There is no system of regular social grants in Malawi on which people in rural areas can fall back on in times of hardship. At the time I was conducting my study, there was no one who was receiving a state pension..

In Muluwila, both men and women are involved in farming. During the time I was in the field, I was able to observe both men and women cultivating their gardens, with some gendered division of labour around specific tasks. Thus women were mainly involved in

planting seeds, applying fertiliser, tiling the fields and weeding. Men, on the other hand, were involved in these activities but were also the ones responsible for the heavy labour of clearing the land and cutting down trees when needed. This is in line with what Peters, Kabewa and Walker (2008) have reported for Malawi more generally.. As the respondents in my study do not have salaried jobs, they submitted that they largely depend on the food that they produce from their pieces land.

While farming is regarded as the primary source of income in over half the households, it is combined with other sources of generating an income. Very small field sizes limit the amount of crops the average household can produce. The total size of household agricultural land ranges from approximately half a hectare to just over one hectare, with most households averaging no more than 0.5 ha of land on which to farm. This is insufficient for growing crops for both feeding their families and producing a surplus for selling. However, some families indicated that they would try to sell a small portion of their harvest, such as one bag of maize, just to assist them have money with which to buy basic household items such as food relish. Some villagers grow and sell vegetables to fellow villagers at the local market. Some households who reported running small businesses are able to produce enough to sell some produce, especially maize, vegetables and groundnuts, in the Zomba market which is 12 kilometres away from Muluwila village. It should be noted that another potential market is the Blantyre City market, which is about 54 kilometres away from Muluwila village. A couple of households reported selling in Blantyre occasionally, but not as a regular activity.

Among those involved in small-scale businesses, there was one woman seamstress (married) who sewed clothes for people in the village. Another was a married man who ran a small brick-making business. Brick-making in this village is done manually and as such it takes a considerable long time, while the returns are not high. Bricks cost an equivalent of R1 for 10 bricks, and from this income the maker also has to pay the people who assisted him during the brick-making process. Those involved in the brick-making venture complained that business seemed to be low during 2012, the year in which I was conducting my field work, because they relied largely on customers from Zomba Town. In 2012 there were not many customers because of a country-wide shortage of fuel, which meant that transporters were struggling to get the bricks from Muluwila village to wherever they would be needed. This

resulted in the brick-maker not being able to sell as many bricks as he would normally expect to do.

Of the eight household respondents indicating that they were involved in seasonal work, five were women. Of these, four worked on Mpatsa Farm, collecting eggs and harvesting crops in season, among other duties. Three out of the eight respondents who were males worked as part-time house cleaners in town. At the farm, collecting eggs is done by women while clearing (with slashers) and tilling and the land is done by men. Only seven respondents said that they worked full time in town. Three of these were women who were working in people's homes as maids, earning extremely low wages in the region of MK 7000 per month (equivalent to R175 in 2012). There were four men among the seven respondents in full-time employment. Three of them were working as security guards in Zomba town, one was working at a nearby motel outside Muluwila as a cleaner and the other one was working at Mpatsa Farm cultivating the field. These were all very low-paying jobs as well. The remaining person in fulltime employment was the woman teacher mentioned above.

There were also six respondents across all age groups who indicated that as they do not work or run small businesses, they rely on assistance sent to them from their relatives, including from children who are working in three cases. One of these was Kettie, a 60-year old informant who told me in her in-depth interview:

I rely on assistance from my daughter who is married and lives in South Africa. I am not sure what she does there but she sends us money and other things for the home. She is the one who helped me finish building this house when my husband abandoned me. Of course, I also cultivate my field but last year we only managed to get 6 bags of maize for the whole year (Kettie, March 2012).

Wealth ranking

While Muluwila is a poor community, there are differences in levels of actual household resources as well as in perceptions related to the relative standing of households within the village. Table 6.9 sets out the results of a wealth ranking exercise that I conducted. On a scale ranging from 1 to 4 where 1 meant that a respondent is 'somewhat better off' in comparison to others in the village and 5 meant that a respondent is 'very badly off' in terms of relative

wealth ranking, the great majority of respondents – 81 out of the 100 – regarded themselves as more deprived than their neighbours. 22 of the 100 respondents said they considered themselves very badly off, when they compared themselves with others in the village. This is because they feel that they are not managing to get most of their daily necessities, including food, on their own. They often have to rely on help from somebody who might be ‘merciful’ to give them *ya sopo*, translated literally as ‘something for soap’, but meaning some kind of help (not soap as such). 59 of the 100 respondents categorised themselves as somewhat worse off than others in the village. Most respondents in this category explained that they were generally able to find food for themselves and their families, but there were times when this was not enough. For them it is a constant struggle to find money to meet their daily needs since most of them are not employed in the formal sector but rather have to depend on small scale subsistence farming to get food. It is noteworthy that wealth ranking was not confined to any one category of household in terms of marital status, although the one divorced woman considered herself very badly off, and six of the 13 households that were widowed/widowered placed themselves in the ‘average’ or ‘somewhat better off’ category. Table 6.10 indicates respondents’ self assessment of their wealth ranking below.

	1 Somewhat better off	2 Average	3 Somewhat worse off	4 Very badly off	TOTAL
Married	3	9	44	11	67
Divorced	0	0	0	1	1
Abandoned	0	1	6	6	13
Widowed	0	6	5	2	13
Single	0	0	4	2	6
TOTAL	3	16	59	22	100

Table 6. 10: Wealth ranking by respondents

6.4.2 Agriculture and food security

In addition to the land on which the *banja*’s houses are established, households also have access to land of varying sizes for cultivation. Owning such land in Muluwila is crucial because residents are so dependent on farming for their livelihood strategies, even though

returns are very low and farming has generally to be combined with other sources of livelihood for households to get by. As already indicated, households rely on the crops that they grow to produce food for subsistence and, to a lesser extent, as a source of income through sales, in order to buy other necessities.

Apart from the land on which the banja's homestead is located, there are three main types of land for cultivation in Muluwila. These are: 1) gardens that are next to their houses, which are called *munda wa pa khomo*, meaning, literally, a garden or a field at the home; 2) *Madimba* (vegetable gardens), which are generally located in wetlands within and around the village; and 3) *munda wolimako* which literally means a field for cultivating crops. Table 6.11 below indicates the distribution of these gardens among survey households. Details about how these lands were acquired and are currently owned are discussed in section 6.16 and 6.17 further below.

Type of land	Number of households having this land (n = 100)	Comment
<i>Munda wa pa khomo</i>	87	All 87 used to produce food crops, mainly green maize which is eaten as a snack and also milled for flour for normal everyday meals.
<i>Madimba</i>	44	4 used for growing vegetables for sale 12 used for growing vegetables for home consumption 28 used for growing vegetables for both home consumption and sale
<i>Munda wolimako</i>	38 households owning 57 fields	All 57 fields used to produce food crops, some of which may be sold to supplement other necessities in the home, but not on a commercial scale.

Table 6. 11: Distribution of land for cultivation in Muluwila

In Muluwila almost every house has a small garden just outside their house and some have other pieces of land apart from the small gardens just outside their houses where they cultivate to the extent that most of respondents get their food from these pieces of land. Thus 87 of the 100 respondents had *munda wa pa khomo* around their houses. I estimated that the

average size of these gardens is about 60 metres in length by 40 metres wide although some could be as small as 10 metres by 10 metres.

Apart from the *munda wa pakhomo*, a little under half of the households, 44 out of the 100 in my background survey also have *madimba* vegetable gardens. The ones that were owned by the villagers are located away from the houses but within the same village, along the river bank. As noted in table 6.10, respondents with *madimba* grow vegetables for home consumption and for sale, with over half this group (28 out of 44) using these fertile fields to do both. Of note is that very few of the male respondents reported having *madimba* and using this land to produce for the market, as shown in Table 6.12 below.

	For sale	For home consumption	For sale and home consumption	Total
Female	4	7	24	35
Male	0	5	4	9
TOTAL	4	12	28	44

Table 6. 12: Distribution of *madimba* by gender and use of produce

A slightly higher number have *munda wolimako* fields, 57 which are used for growing maize which is the staple food and for growing other crops such as pulses. All these are generally grown for home consumption even though some produce could be sold to supplement some necessities in the home. These fields are generally located within the village except for 5 fields which are located outside the village but within a walking distance of it. A tiny number (4 out of the 100 households) had 3 fields each. One of these was the chief. Two were women. 11 had 2 fields and 22 had one. This means that 38 households had fields.

Table 6.13 below indicates ownership of *munda wolimako* fields for cultivation.

	3 Fields	2 Fields	1 Field	Total
Female	2	9	14	
Male	2	2	9	
Total fields	12	22	23	57

Table 6. 13: Number of fields owned by respondents having *munda wolimako*

Agriculture is a mainstay of local livelihoods as already discussed. Although most households have some land, be it *munda wa pakhomo*, *madimba* or *munda wolimako*, access to land is very constrained, even for the tiny minority of households with up to three fields. Respondents, both male and female, cited land shortage as the number one challenge relating to land ownership. Given pressure on local cash incomes, renting land also comes at a price. For those who would want to rent additional land, a small garden would cost MK 1500 to MK 2500 per year.

On average most respondents reported that their households only manage to harvest 5 bags of maize which have to last the whole year. In most cases the food that they are able to produce only lasts half the year. In order to establish the adequacy of the food that is produced from their fields, respondents were asked to rate the adequacy of the food that they harvest from their field, in terms of whether it is enough to last them for the whole year or not. On a scale of 1 to 5, where 1 indicates that the food that they get is more than adequate and 5 that it is completely inadequate, less than a quarter responded that their harvest was adequate or better.

	1 More than adequate	2 Somewhat adequate	3 Adequate	4 Somewhat inadequate	5 Completely inadequate	Total
Married	1	10	5	30	21	67
Divorced	0	0	0	1	0	1
Abandoned	0	0	0	9	4	13
Widowed	0	1	3	6	3	13
Single	0	1	1	2	2	6
TOTAL	1	12	9	48	30	100

Table 6. 14: Adequacy of food harvest

The respondents are generally food insecure. Table 6.14 indicates that only one respondent, a woman in the married category, felt that the harvest that she gets from her land is more than adequate. Of interest is that none of the respondents who were divorced or abandoned felt that their harvests were adequate or better, but some of the widowed/widowed category did (4 out of 13). Almost half of all respondents, across all marital categories, felt that the food that they were able to harvest from their fields is somewhat inadequate, while nearly a third of the sample (30) felt that the food they were able to harvest was completely inadequate to last for

the whole year. Of course these results reflect respondents' estimates and it is possible that they exaggerate the extent of the problem in surveys such as mine, in anticipation or hope that this could lead to external interventions in the form of food and/or other development aid. However, these findings are consistent with other findings on the extent of food insecurity in rural Malawi, notwithstanding increases in agricultural yields nationally.

When I conducted my field work in 2011/12 most respondents expressed fears that the situation with regard to food security would worsen in 2013, because of the poor harvests in 2012 compared to the previous year as a result of poor rainfall in the 2012 growing season. In addition, most of them complained of not being able to get enough of the fertiliser subsidies that the government had introduced, in order to boost their yields. They blamed what they regarded as growing levels of corruption involving officials who were responsible for distributing the fertiliser subsidies. In informal discussion with me, respondents argued that they are not employed and thus not in a position to find money to bribe the officials as the more well-to-do people can do. On one occasion while I was conducting my interviews, some women came back from the Naisi fertiliser subsidy-issuing centre where they had failed to obtain fertiliser. They alleged that the official who was responsible for issuing the subsidy at the centre was severely beaten after some potential subsidy receivers had noted that he had received bribes. The bribery process was preventing those who were queuing for their subsidies from moving; after a while people got tired of waiting and some of those in the queue decided to beat up the official who had then to be taken to hospital.

From the findings outlined above, it is clear that there are high levels of poverty in this village. Most households are food-insecure and struggle to survive with the food that they grow on their pieces of land. From the data presented above, it appears that the drivers of this situation include low levels of education, land shortage and lack of local markets. Poor education prevents Muliwla residents from getting formal employment (in Zomba or beyond, since there are no formal jobs in the village) at rates of pay that are sufficient to meet the needs of a family. This means that the question of who keeps the money in the family does not arise because there are no savings that are made, with earnings generally being used up on a hand-to-mouth basis. The situation is aggravated by the land shortage in the village, which prevents people from expanding their farming and increasing both their household food security through food production for home consumption and, potentially, sources of income

through the sale of any surplus they might produce. Lack of access to wider and well-functioning markets in the district and beyond also acts as a constraint on agricultural production.

6.5 Land and housing

6.5.1 Acquisition and ownership of land

Residence and agriculture in Muliwla take place primarily on land acquired in terms of customary law which for the most part follows principles and practices associated with matrilineal tenure. However, the practice is much more varied than the ideal type in which land passes through the matriline to women's daughters and their families. Furthermore, alongside family land there is also land acquired through purchase, which tends to be treated differently from family land. When I asked respondents about the customary practices that are followed in Muluwila, they reported a range of ways to acquire land. Obtaining it through the mother's lineage was the main method, but for under half the respondents (43 out of 100). Table 6.15 presents the respondent's perceptions on how land is acquired.

	How is land customarily obtained here? Land is obtained through:						
	Mother's lineage	Father's lineage	Buying	The chief	Other	Do not know	Marriage
Female	35	5	19	11	1	6	0
Male	8	1	8	2	1	1	2
Total	43	6	27	13	2	7	2

Table 6. 15: Respondents' perceptions of how land is obtained customarily

Land is perceived to be passed on through the maternal lineage, with 43 out of the 100 respondents in my background surveys submitting that they believed that the customary practice in Muluwila village is that land is passed on from mothers to their daughters. The second most important avenue that was identified was purchase from fellow residents who have some land that they wish to sale, with over a quarter (27) of the 100 respondents in the background survey mentioning this. However, when asked how they themselves had acquired

the land on which they were living, it emerged that only four out of the 100 had actually bought their piece of land. Three were men who had handed their pieces of land to their daughters and sons, and one was a woman who used to have a shop before her husband abandoned her and, together with her former husband, had managed to purchase the land on which she now resides. There is thus a discrepancy between people's attitude and the reality on the ground, which underlines the importance of verifying perceptions against actual practice. Nevertheless, the discrepancy can also be seen as indicative of local concerns that the market is becoming more dominant in land transactions.

The third way in which respondents in the background survey thought that land is acquired is from the chief, with 13 out of the 100 respondents listing this. However, in practice only one of the 100 respondents in the background survey reported that they had acquired their land in this way.

Table 6.16, on ownership of household land, should be read with table 6.6, which indicated that just over two thirds of households were uxori-local. Just under half of households were living on land that belonged to the woman or her family

	My land	My and my spouse's land	My wife's or my maternal relatives' land	My husband's or his relatives' land	Rented land	My/our children's land	Chief's land
Female	21	2	38	13	1	1	1
Male	9	2	9	2	1	0	0
Total	30	4	47	15	2	1	1

Table 6. 16: Current owner of the household's land

When I probed more to understand how the land on which they were living had been obtained, and where current ownership of the land was located, what emerged was that even though some residents do not necessarily obtain their land through the maternal line, this still remains the most common way in which residents of Muluwila own their residential land. This indicates the resilience of the the matrilineal social organisation. After the maternal

lineage, the second most common method for acquiring land reported by my respondents was through purchase. Given that relatively little land in Muluwila has actually been bought, this is indicative of local perceptions of the influence of the market, even though most residents of Muluwila live lives that appear to operate only on the edge of the market economy. The chief of the village is also seen as a source through which land can be acquired, which can be consistent with matrilineal practice.

Table 6.17 below sets out respondents' responses to a question on how their land was initially obtained. While the periodisation may not be fully reliable, it does suggest that much of the land has been in the respective families for a long period.

	More than 100 years ago	During the colonial period	Pres. Banda's rule	Pres. Muluzi's rule	Pres. Munthali's rule	I do not know	Total
Female	5	22	23	2	0	25	77
Male	2	8	8	1	1	3	23
Total	7	30	31	3	1	28	100

Table 6. 17: Period for which land was obtained

Inheritance

Much as one would expect that, given its matrilineal social organisation, inheritance patterns in Muluwila village would lean towards women or daughters inheriting land, the results of my survey revealed a significantly more fluid situation, as table 6.18 reveals. While 62 of my respondents felt that if they were to give their land to anyone, it would most likely be to their children, the number saying they would give land only to their daughters was just 18, with another 15 indicating that they would give their land to their sisters or, in the case of men, their wives' relatives, or, in the case of women, their relatives (on the maternal side). Most of the 62 (40) indicated they would give it to their sons as well as to their daughters. This represents a major shift away from the traditional norm of daughter inheritance. Respondents explained the shift in terms of the pressure on available land, which makes it very difficult for sons to find a place elsewhere due to the shortage of land. The main reason for this, they feel, is that the population is growing while available land is not expanding.

Over the years they keep partitioning the land into smaller parcels, dividing it up further for the next generation. As a result, the main avenue for accessing and owning land still remains through inheriting it from one's parents. Four, furthermore, said they would give it to their sons, giving as their reasons the view that sons can work the land and produce food from it.

This indicates that although residents of Muluwila may generally say that land is inherited by daughters or women in the village, patterns of inheritance of land are changing, with sons also being the recipients of inherited land.

	Female	Male	Total
My children (boys / girls equally)	34	6	40
My daughters	15	3	18
My sons	1	3	4
My relatives	9	2	11
I do not know	8	3	11
I cannot give it to anyone	5	1	6
My sisters	2	2	4
Other	3	1	4
My wife's relatives	0	2	2

Table 6. 18: The person to inherit the respondent's land

The issue of children's inheritance rights is further complicated by the complex web of relationships between adults and children created by the phenomenon of multiple marriages. According to all the 12 in-depth respondents and all key informants, when a marriage dissolves in this matrilineal community, children are supposed to reside with their mother as the mother is considered the one who is the homebuilder who takes care of the children in the home. However, over half (54) of the respondents in the background survey noted a growing trend of men in neolocal marriages opting for custody of their children if their marriage breaks down, saying that they would be in a better position to support the children than the children's mother. When this happens, the marital property, which has often been acquired through purchase, reverts to the father because the children are residing with him. As the previous discussion has shown, women in neolocal marriages are vulnerable to losing out on inheriting land in their maternal home as well.

The instability of marriage and the extent of re-marriage raise additional questions about the status of young children who move in and out of different marriages with a parent (generally the mother). What sort of relationships develop with the men who are not their fathers but are the partners of their mothers, and/or with the children from other relationships living in the house with them? Consider a case where a divorced woman with children gets married to a man who also has children from a previous marriage. If this couple have children together and then, in the course of the marriage, the woman dies, should her maternal land be shared among all the children? Who is the rightful heir of the property of the house? According to the legal provisions of Malawi the children of both the woman's and the man's previous marriages become children of the family that is constituted when the woman and the man marry. However, according to matrilineal custom in Muluwila, the children from the husband's previous marriage(s) will be considered *obwera* (those who just came/strangers), without rights to own the property.

6.5.2 Acquisition and ownership of houses

In this study a distinction needs to be drawn between land and houses. While in many cases the house and the domestic yard with its *munda wa pa khomo* (house garden) are understood to go together, ownership of the house may also be regarded as distinct from that of the land on which it is built. This could happen when a woman has returned to her maternal home after the dissolution of her marriage, without having land of her own in the village, and is allowed to build a house on her mother's land. Thus the background survey identified more women owning houses than owned land, with the weighting of ownership towards women's families rather than men's where it was not owned directly by the respondent.

	Mine	Wife	Husband	Relatives from my wife's side	Relatives from my husband's side	Land lord's	My children	My spouse and me
Female	50	0	6	15	1	1	2	2
Male	14	6	0	0	1	1	0	1
	64	6	6	15	2	2	2	3

Table 6. 19: Ownership of the house in which a respondent is currently living in

As already noted, marriage is an important opportunity at which a new *banja*, hence house, is established. Here matrilineal principles of social organisation can clearly be seen at work, but with some adaptations towards a greater variety of practices. In many instances couples start out by living in a house that the parents of the woman in question or, in some cases, her siblings give them, but thereafter the couple is expected to build their own house near to the parents' house. This is the marital house that the husband is responsible for building for his wife. Over half (56) of the respondents in the background survey reported that they had built their own houses after they got married in this way. In a few cases (13), they were given a house by their parents. Another 13 respondents said that they had built the houses themselves, without the help of their spouses, while seven of the 100 respondents said they were given a house by relatives on their father's side. These were mainly households in which the wife had relocated to stay with her husband at his family's place upon marriage.

6.5.3 Decision-making around housing and land

Land and houses, however, are not managed at the level of the *banja* alone. Although the land and house may belong to the woman in question, it is her *nkhoswe* who makes significant decisions on how the land should be used and inherited. Thus 78 of the 100 respondents in the survey said that decisions such as whether to rent out or sell land lies in the hands of *nkhoswe yakuchikazi* (the avunculate from the wife's side, who, as mentioned earlier, are usually but not always male). Thus, the overall control of the family's land lies in the hands of the *nkhoswe* from the woman's side. This is consistent with other studies, for instance that of Mwambene (2005) who argued that even though women are said to be the owners of land in the matrilineal communities of Malawi, they are not necessarily the ones who have the powers to make decisions concerning the land they are said to own. The *nkhoswe* are also significant when a marriage dissolves, as is explored further in chapter 7.

However, women are also not without some capacity to be involved in decision-making regarding land use and sale, as suggested by Table 6.19 below, reporting on respondents' responses to the question about the extent of their involvement in such decision-making. While approximately 60% (46/77) of the women respondents reported that they were never involved in decision-making, over a quarter (22) reported that they were always involved, with the remainder involved to some extent. Almost half of the 23 men in the survey also

reported that they were never involved in such decisions, here reflecting their lack of power with regard to the land belonging to their wife and/or her kin.

	Are you involved in decision-making about this land, for instance on how to use it or sell it?					Total
	Yes, always	No, never	Often	Sometimes	Not often	
Female	22	46	2	5	2	77
Male	10	10	2	1	0	23
Total	32	56	4	6	2	100

Table 6. 20: Respondent's involvement in decision-making concerning land

Daily decisions around the cultivation of the household's land are taken at the level of the *banja*. Regarding decisions relating when to plant and what to plant, all the married respondents said that they discuss and agree with their spouses about what to plant and when to plant, which in most cases involves maize as the staple food, along with pulses and some vegetables.

It is worth noting that the men that I interviewed during the background survey, in-depth interviews and focus group discussion said that the practice of their not being in control over issues of property vis-à-vis land and housing in their marital home was not an issue, 'because it is their custom'. Thus Robert, one of the male respondents, said:

Here, as a husband, we do not worry about owning land or house. These are for a wife because according to our custom, a man is supposed to go and live at a woman's home, and build a house there. Of course, it is not always that a man builds the house, but it's our custom (Robert, 27 April 2012).

Men argued that they have authority over their sisters, as brothers or as *nkhoswe* in their maternal land. They regarded the relationship between men and women within the matrilineal family as essentially symbiotic. This is because, as *ankhoswe*, men act as guardians of their sisters, while women take on the role of providers to men, whether this is to men as their husbands or to men as their brothers. They cook for them when there is such a need, or even take care of their brother's children on their maternal land. The ties between a woman and

her maternal kin ensure that even after they are married women remain united with their kin. This is in line with what Mwambene (2005: 9) and Phiri (1996: 6) have argued, namely, that women are protected by *nkhoswe* and have the advantage of being close to their matrikin. However, these two scholars both argued that this disadvantages the husbands, whereas the men who were interviewed in my study claimed that they did not feel disadvantaged, but, rather, were comfortable with their relative powerlessness in relation to their wives, since they are able to exercise decision-making powers over their sisters and their maternal land.

6.6 Land disputes

According to my respondents, there are several challenges relating to land which drive land disputes. The challenges are listed in Table 6.21 below, which indicates that the main challenge that respondents face regarding land is the shortage of land. Two thirds of respondents identified this as the main challenge. This problem percolates into all areas of their lives, because of the importance of agriculture as the main source of livelihoods for most residents. It is a primary source of the conflicts that erupt over land

Land challenge	Number of respondents
Shortage of land (due to population pressure)	66
Land grabbing	10
I do not know	11
There are no problems that I see concerning land here	7
Land being sold	4
Being chased away from the land by relatives	1
Land is passed on through paternal lines in this matrilineal community	1
Total	100

Table 6.21: The challenges relating to land in this village

Overall, my findings suggest that due to the shortage of land, the residents of Muluwila, both men and women, are experiencing pressure on their livelihoods. The dissolution of a marriage

or the death of a landowner represent moments of crisis where conflicts in relation to land and housing are likely to be precipitated. At the same time, maternal land offers a very important safety net for respondents. In the previous section, it has been seen that most respondents reside on maternal land. When marriages break down, both men and women are expected to fall back on their maternal land, generally by re-joining their mother's household, if they are not already resident on maternal land, until such time as their circumstances may change, for instance by getting involved in another relationship.

When respondents in the background survey were asked whether they had experienced any disputes concerning their land, just under a quarter (23) acknowledged that they had. Table 6.23 below indicates the results in relation to the gender of the respondents, suggesting no marked gender differences in relation to the distribution of land disputes.

	Yes	No
Female	19	58
Male	4	19
Total	23	77

Table 6.22: Experience of land disputes according to gender

Most disputes were seen as emanating from disagreements within the maternal lineage about ownership of land which used to belong to their grandparents. In most of these cases, the grandparents had passed on and, in the absence of a written will, older relatives attempt to have leverage over the land in question. For instance, Themuthemu, acquired one of his two fields (*munda wolimako*) from his *mnansi*. After the *mnansi* died, relatives of the deceased queried his right to the land which they claimed should have gone to them. The matter went to the chief who resolved it in favour of Themuthemu. According to him, the chief argued that the disputants should have acted far earlier if they had wanted to assert their claim to the land:

This piece of land belongs to this man [Themuthemu]. He has been cultivating this land for 20 years. Why is it that you as the deceased relative did not claim ownership of the land when the deceased was still alive ... let this man continue cultivating the land (Themuthemu, 27 April, 2012).

This issue took seven months to be resolved. According to this man at the heart of the problem lies the acute shortage of land:

Land disputes in this village occur due to shortage of land. The population is growing while the land is not expanding. Instead, it is partitioned to accommodate the the younger generation (Themuthemu, 27 April 2012).

Another dispute was experienced by an elderly woman, Harriet. Harriet narrated how her relatives from her late father's side disputed her ownership of a piece of land which her father had purchased. In this case the disputants were the children of her father's sister (her nieces). They claimed that the land ought to have been theirs' because it had previously belonged to their great-great-grandfather. The respondent and her other siblings counter-argued that the land belonged to them because their parents had left it to them. Harriet described the issues in this way:

My parents were poor. There was nothing that they could leave for us, so they decided to give us this land when they were still alive. When they passed away, the great-great-granddaughters of my dad's sister started claiming ownership of this land seeing that my parents were no more. They were saying that this land used to belong to their grandfather and therefore the land is theirs. So I told them that my parents did not show us any other place which is ours, apart from this one until they passed away. If you know any other place that they showed, please take us there. But if they did not show you another place for us either, then there is no way you can show us another place now since they are no more. If such is the case we take it that the piece of land that they showed us belongs to us. (Harriet, 28 March 2012).

This issue took about three months to be resolved. The respondent took the issue to the chief who, after two attempts to resolve the issue, referred them to the sub-Traditional Authority. When this failed to resolve the dispute he referred them to the District Commissioner (DC). The respondent said:

The District Commissioner resolved the dispute and said that this land belongs to us. The ... ones who wanted to grab the land from us ... took the powers from their mother who happens to be my dad's sister. The DC said

we can't go to another place. This land belongs to us. He told them that if they want to continue chasing us away, then he would make them pay a lot of money so that the chief can buy us another piece of land. So my relatives ended up withdrawing (Harriet, 28 March 2012).

Elina, a respondent who had undergone all the the forms of marriage dissolution with different marriage partners, experienced a land dispute that concerned her and her brother. According to Elina, her first marriage ended when her husband got sick and passed on, leaving her without a house at her maternal home. Her husband had told her that he would build a house for her at her mother's place after they got married but instead took her to Lilongwe, to live in a neutral place. Before her husband could build the promised house for her, he passed away. She then remarried but her second husband divorced her and left her also without having built a house for her. The third husband took her to a neutral place and later abandoned her and left her without a house. When she came back to her natal home in Muluwila, she found that her mother had already partitioned the land but, to her surprise, had done so contrary to matrilineal custom: the land that should have been inherited by her daughters alone had been allocated to her brother as well, without her being given any. When she asked for her share, she was told that there was no land for her, as it had been given to her brother. Elina narrated her story in this way:

I was heartbroken when I found out that my mother had given the land that should have been given to me, to my brother ... My mother said you were away with your husband so I gave away your land to those who were here [meaning her four sisters and one brother]. If you want your land you can go and negotiate with your brother. When I went to talk with my brother, he threatened to fight me saying it is his land. I went back to my mother so my mother talked with him and he gave me this little portion, just enough on which to build my house (Elina, 13 June, 2012).

Mercy, a respondent in the background survey, also experienced a dispute relating to issues of ownership of the land on which she stays. She narrated her story to me in this way:

My uncle's children were claiming that this land we are living on belongs to them because it belongs to their grandmother. But we said, no! It is ours

because it belongs to our mother. They should go and get the land that is from their mother, not this one. Our grandmother was just merciful to allow their father to stay on this piece of land, but that does not mean all this land is theirs... So we went to the District Commissioner who said the land belongs to us, we should not be chased away... This issue took about 6 months to be resolved (Mercy, 04 March, 2012).

The time taken for disputes to be resolved is important for the general wellbeing of any community member. As Table 6.23 reveals, generally disputes in Muluwila are settled relatively quickly, in most cases in under a year.

	Less than 1 year	1-4 years	Still in process, not yet resolved	Total
Female	16	1	1	18
Male	2	3	0	5
Total	18	4	1	23

Table 6.23: The time for land disputes to be resolved

The disputes were mediated by various people, almost always men. According to my informants land disputes are firstly mediated by the *nkhoswe*. If the *nkhoswe* fails to resolve the dispute, it is referred to the chief, and then the sub-chief. Although the magistrate's courts are an option, few people refer their land-related disputes to the magistrate's courts, as indicated by Table 6.24. As will be seen in Chapter 7, some *nkhoswe* tell their *mbumba* just to accept the verdict and not to challenge it for fear of jeopardizing relations.

	Relative of wife	Relative of husband	Chief & sub-chief	Magistrate	Still in process (<i>nkhoswe</i>)	DC	No data
Female	4	3	6	2	1	2	1
Male	0	0	2	0	0	2	0
Total	4	3	8	2	1	4	1

Table 6. 24: The person who presided over the land dispute

In the course of my field work I observed that those disputes that were referred to the Magistrate's Courts took the longest to be resolved, partly because they went through a number of mediators first, such as the chief and the sub-chief, before the matter was referred to the magistrate's court. At the magistrate's court, further delays were likely to arise because of the caseload. According to the magistrate whom I interviewed as a key informant, there are many cases needing his attention and a shortage of staff.

CHAPTER 7: MARRIAGE DISSOLUTION AND WOMEN'S PROPERTY RIGHTS IN MULUWILA

This chapter focuses more directly on women's experiences of property rights in the context of dissolved marriages in Muluwila, drawing largely but not exclusively on the narratives of the 12 residents – nine women and three men - with whom I conducted in-depth interviews. I also draw on the background survey and my focus group discussion where appropriate. I begin with a profile of the 12 interviewees, before recapping briefly the institutional arrangements for dealing with the dissolution of marriage and property in terms of customary law. Thereafter, in section 2, I present narrative accounts from five of my female informants about their experiences of marriage, marriage dissolution and land. What this shows is that women whose marriages dissolve often struggle to claim their rights but are not without agency. In section 3, I probe my informants' knowledge of the law and their experiences of the same. I end this chapter with a brief summary of key findings.

7.1 Profile of interviewees

As briefly discussed in Chapter 4, the 12 residents with whom I conducted my in-depth interviews were selected from the respondents of my background survey because they had experienced marriage dissolution and agreed to participate in follow-up interviews. My selection was also weighted towards women because of my specific interest in both their position and their views on their experiences; however, I also included three men in my selection, in order to hear more about their views on marriage dissolution and property dynamics. Thus my selection cannot be read as representative of dynamics around marriage in Muluwila, but the stories of my interviewees can be seen as illustrative of the complex ways in which social norms and customary practices with regard to marriage, gender and property are playing out in the village, in a context of acute land shortage, pressure on household livelihoods and shifting norms.

In describing residence options and practices, the terminology is tricky because of the complexity and fluidity of household composition over time. To recap on my usage of terms,

in what follows I use ‘uxorilocal’ to describe residence on the land that belongs to one’s maternal kin (usually the mother), ‘virilocal’ to refer to residence on land belonging to the husband’s kin (rather than the husband himself) and ‘neolocal’ to refer to residence on land that belongs to neither the wife’s nor the husband’s kin, commonly land that is bought or rented. I also use ‘patrilineal’ to refer to residence on land that is seen to belong to one’s father (even though this may be at the maternal home of the father).

Table 7.1 summarises information on the nine women interviewees. Six described themselves as abandoned, one as divorced and two as widowed. However, over half the women had been married more than once, with two of the five having been married four times before the most recent marriage (which is reflected in the ‘marital status’ column). Most were living at their maternal homes.

	Age at first marriage	Current marital status	Previous marriages	Current residence	Wealth ranking
Loveness	17	Abandoned	1	Uxorilocal	Worse off
Caroline	18	Abandoned	-	Uxorilocal	Worse off
Elina	n/a	Divorced	4	Uxorilocal	Worse off
Zione	16	Abandoned (but living with boyfriend)	-	Uxorilocal	Worse off
Jane	17	Abandoned (she left husband)	-	Uxorilocal	Worse off
Maria	17	Widowed	1	Father’s land	Average
Kettie	13	Abandoned	1	Neolocal (marital house)	Average
Martha	n/a	Widowed	-	Neolocal (marital house)	Better off
Harriet	15	Abandoned	4	virilocal	Worse off

Table 7. 1: Profile of women with whom in-depth interviews were conducted

Table 7.2 summarises information on the three men interviewees. Of course, one cannot generalise from just three cases, but it is of interest that two of the men were also living at their maternal homes, while one had been able to continue living at his wife's place after she had died. What this points to is the resilience of matrilineal norms in terms of one's maternal kin providing a safety net for one at times of crisis. At the same time, two of the three men with whom I conducted in-depth interviews, (Mtengo and Banda) had both inherited land at their natal homes, the one (Mtengo) when his marriage dissolved and the other (Banda) when he got married. They are thus representative of the shift towards letting sons and not only daughters inherit maternal land.

	Age at first marriage	Current marital status	Previous marriages	Current residence	Wealth ranking
Mtengo	33	Divorced after being abandoned	1	Uxorilocal	Worse off
Banda	30	Widowed	1	Uxorilocal	Worse off
Kabbage	27	Abandoned	1	Second wife's	Average

Table 7. 2: Profile of men with whom in-depth interviews were conducted

Table 7.3 summarises the women's experiences of property ownership in relation to marriage dissolution and property ownership while Table 7.4 summarises this information for the three male informants. What is striking from these tables is the preponderance of virilocal residence upon marriage in these nine cases, which emerges as a major consideration in the extent to which they lost ground. Women who had resided either virilocally or neolocally when they got married were likely to find that they were unable to negotiate access to their own piece of land in their maternal home when they returned after their marriages had ended, because the land had already been given to their siblings, including their brothers. As already described in the case of Elina, in Chapter 6, when they tried to claim their share of the land, they were told that 'since you were residing away from here, the land was only shared to those who were residing here'.

Not only did these women lose ground in terms of accessing and owning land that customarily should have been theirs. There is also evidence that they lost ground in terms of the marital houses that their husbands were expected to build for them upon marriage, according to matrilineal norms. Most of the women did not have houses built for them. Kettie's husband started building a house for her but never finished it. When their marriage dissolved she was left with an unfinished house. Maria had a house built for her but it was not well-built and collapsed, so was of no value to her.

Name	Ownership of current land where residing	Former marital residence	Owens non-residential land in maternal home?	Did husband(s) build her a house?
Loveness	Mother	1 virilocal 2 virilocal	No; shared among siblings	No
Caroline	Mother	Virilocal	No; shared among siblings	No: he promised but did not
Elina	Self, but mother has authority	All 5 were virilocal	No; shared among siblings.	No
Zione	Mother	Neolocal	No; shared among siblings	No (but current boyfriend has)
Jane	Self - inherited from mother.	Neolocal	Yes; shared with brother	No, though he promised
Maria	Self and sister (who live in Lilongwe)	1 virilocal 2 on land her father bought	Not on maternal but on paternal land left to her & siblings	Yes, but it 'fell down'
Kettie	Children	1 virilocal 2 neolocal (bought)	No; when married lost to siblings	No, he began but did not finish it. Her children finished it.
Martha	Self – her husband willed it to her	Neolocal – bought when married	Not on maternal land but on marital land	Yes.
Harriet	Self - inherited it from her father	virilocal	Not on maternal but on paternal land left to her & siblings	No, though they promised

Table 7. 3: Women informants' experiences of property ownership in relation to marriage dissolution

Two of the three male interviewees also acknowledged that they had not build a house for their wife as custom dictates while the one who did, Mtengo, went back to live with his mother at his natal home. Banda got his house from his deceased sister.

Name	Former marital residence	Owens non-residential land in maternal home?	Ownership of current land where residing	Did he build his wife a house?
Mtengo	At wife's place	Yes.	Mother	Yes
Banda	His natal home	Yes.	Self - inherited from sister	No
Kabbage	At wife's place	No.	Not owning the land	No

Table 7. 4: Men informants' experiences of property ownership in relation to marriage dissolution and property ownership

Also of interest, however, is the evidence of parallel practices emerging alongside those sanctioned in terms of customary law. Thus both Maria and Harriet accessed land through their fathers, rather than their mothers, while Martha, who was widowed, secured her land from her deceased husband through a will. She also considers herself better off when compared to other households in Muluwila (as established through the backgrounds survey).

7.1.1 Land as a source of both economic and social meaning

Not only is land crucial for their livelihoods, but as as will be seen in Table 7.5 below, land is also very important in relational terms. While a number of the women I interviewed in-depth focused on the material benefits of land, as a place to stay and/or to produce food (Loveness, Elina, Zione), for many this was bound up with the welfare of their children and their own freedom to act in the world. At the same time, several spoke of their ties to their land in terms of relationships with other kin, that gave them a sense of identity and belonging in the world. Maternal kin was central here, but relationships to one's father also emerged as important in two of the cases (Maria and Harriet).

Table 7.5 below tabulates the responses the women gave in the course of their interviews that highlight the social meaning of land.

Name	What does the land mean to you?
Kettie	<ul style="list-style-type: none"> • It means an inheritance for my children, a place to stay. • It reminds me of my relationships with other people, like my mother and my grandparents who gave the land to my mother. • It means freedom for me and my children. I am able to make decisions concerning the land.
Maria	<ul style="list-style-type: none"> • It reminds me of my father, who left the land for his children. • It means a home to stay at. • Land is for children. It's their inheritance.
Loveness	<ul style="list-style-type: none"> • I don't know but it provides food and vegetables which we can sell.
Caroline	<ul style="list-style-type: none"> • A place to stay. • It is a place which gives me food. • It reminds me of relationships that I have like my mother who has taken me back after my marriage failed.
Martha	<ul style="list-style-type: none"> • This place reminds me of my late husband. It is like he left a solid foundation for me to stay on and do my own things.
Elina	<ul style="list-style-type: none"> • A place to stay.
Zione	<ul style="list-style-type: none"> • It means a place to stay. • It reminds me of my relatives like my mother - it conveys a sense of unity with my relatives but if I had a chance to buy my own land, I would prefer that because the land is not enough. • Land is for children.
Harriet	<ul style="list-style-type: none"> • The land means wealth to me because my father was poor so at least he left the land as wealth for us to inherit. • It also means freedom for me to make decisions concerning the land. • It is a home or a place to stay at. • It is a place to produce food for ourselves. • This place gives a sense of security. No-one can give us problems. • The land is for children.

Table 7. 5: Informants' views on what their land means to them

7.2 Narratives

In Muluwila, marriage is acknowledged as an important institution. All 100 respondents in my survey agreed that marriage is a crucial social institution, citing in particular its importance for procreation, for the provision of mutual support within the household and for building social networks across *banja*. Yet even though the institution is widely accepted as

important, the marital bond in Muluwila is an unstable one, with many instances of both marriage dissolution and remarriage emerging through my fieldwork. This is consistent with what has already been reported in my literature review on matrilineal communities in Malawi.

In what follows, I present excerpts from my interviews with five of my informants, in which they reflect on their experiences around property rights in the context of marital instability. The five are chosen because their stories illustrate key themes. All had lost ground with regard to both matrilineal land and their rights to a marital house. A major consideration in explaining the loss of matrilineal land was their choice of place of residence when they got married, specifically the decision to move to their husbands' places or to a neutral property. Other issues to emerge from their stories were the relative weakness of the *nkhoswe* as an institution in enforcing women's claims, both at the outset of their marriages as well as when their marriages came under pressure, and the issue of gender-based violence. At the same time, most of the women were able to exercise a degree of agency in responding to the challenges of their marriages, in which matrilineal norms and the capacity to return to their maternal homes played an important part.

As discussed in Chapter 2, Connell highlighted gendered power relations, the gendered divisions of labour and cathexis as crucial for analysing gender relations in a given society. Elements of all three can be seen at work in the narratives. With regard to cathexis in particular, all 12 of my in-depth informants identified sexual infidelity within marriage as the main cause of spousal abandonment and divorce in Muluwila. For instance, Kettie said:

Both men and women easily get involved in extramarital affairs. When the other spouse finds out that their spouse has been involved in an extramarital affair, the likely step that they take is to divorce their unfaithful spouse or to abandon them (29 March 2012).

Infidelity has to be seen in the context of considerable sexual independence for both men and women. Both men and women have multiple relationships but if this is discovered by their partners, then the marriage is likely to dissolve.

7.2.1 Loveness's story¹⁷

The first narrative I have selected comes from Loveness. She is a 30-year-old woman who has been married twice and has 4 children. Currently she lives on her mother's land, in a small house that she has in her mother's *banja*; she depends on one of her brother's for support.

Her story illustrates a number of the constraining factors that women in matrilineal Muluwila face with regard to property rights. In her case significant factors included being pressured into marriage by her parents at a young age; the fact that it was a cousin-to-cousin marriage which led to her *nkhoswe* failing to secure her a marital house from her first husband as part of the marriage settlement, and the fact that she went to live with her husband at his place upon marriage, thereby forfeiting claims to land in her maternal home. It is also possible to see larger social forces at work. Both her husbands were migrant workers in South Africa, and this appears to have been particularly significant in the break-up of her first marriage.

Loveness's first marriage was with a paternal cousin who insisted on marrying her when she was 17. She did not want to marry him but her parents insisted; according to her, she was also not given land when she got married because her parents reasoned that since she was marrying her cousin in the same village, there was no need to do so. Loveness then moved to her husband's place but the marriage did not last. She was not happy with the man – 'he was not taking care of me' - and as a result the marriage ended in divorce, which she initiated. The fact that her husband was a migrant worker in South Africa also put pressure on the marriage:

He had gone to Johnnie [South Africa]. ... He stayed there for five years ... he found another woman there for a wife, so he was not sending me any help for the home, so then I decided to end our marriage. I divorced him after five years of marriage. We were married for five years but we were not staying together. Here people go to Joburg. Some go to do piece work; some go to buy items to sell here. I do not know what he was doing there. When I saw that he was taking a long time there and not even sending any help to me as his wife, I consulted *ankhoswe* who discussed with his *nkhoswe*. Then we divorced.

¹⁷ Interviewed 28 March, 2012

Her husband had not built a house for her when they got married, despite her efforts to get her *nkhoswe* to help her persuade the man to do so.

He [her *nkhoswe*] said he did not want to strain relations between the man's family and our family as we were related. I was heartbroken and I felt helpless. Sometimes I think my *nkhoswe* did not push the man to build the house for me because the man has money, maybe he bribed him.

I was not given anything in terms of property because I initiated the divorce... He was not even told by my *nkhoswe* to build me a house since we were staying at his place despite me asking my *nkhoswe* to tell him. ... In our culture, when a marriage ends and if the man has not yet built you a house, he is told by the *ankhoswe* or the chief to build you a house... They decided that he should not build a house for me because they did not want to sour our relationship as we were cousins. I accepted this ruling. It was fair because I was the one who initiated the divorce.

She also did not inherit any maternal land as by then her mother had partitioned her land among her siblings; they include her brother, who works in Lilongwe and sends helps for the whole family. 'I could not say much because we rely on the help that he sends.'

The second marriage dissolved because her husband was abusive to her and had an extra-marital affair. This prompted her to leave him. Here too, Loveness lost ground in terms of access to a marital house through the initial marriage negotiations. Although this was initially a consensual marriage, it also did not last:

When I divorced my first husband, I was just staying at home until I got some piece work and found my second husband. The second man, it was a marriage by choice. We both loved each other. He came to *kudzapepa banja*. He came with his *ankhoswe* and I took mine. Then they proposed just by words and he was accepted. He did not give anything to my *nkhoswe* nor to me. He asked if he could be given time before he built a house for me. He said that because he did not have money at that time. My *nkhoswe* accepted this and we got married. We then started staying here at my mother's place. Then he asked that I should go to his place. He took me there. We stayed together for almost a year, and then he found another woman. Then I came back. I just left.

In this case, Loveness initiated the separation by abandoning the marriage without turning to her *nkhoswe* for assistance:

The man took the other woman to stay with him in South Africa but now they are back and live in Lilongwe. I did not divorce him, I just left. Here it is common for people to divorce, most of the times it's the husband who divorces the wife. The wife may divorce the husband only when she encounters serious problems like domestic violence - like beating and not taking care of the wife. In my case, he would only take care of his body but not my body. He would not even buy necessities like soap for me. He would also beat me. This man did not build a house for me either. I did not tell my *nkhoswe* this time to ask him to build the house because I was disappointed with the way he had handled matters when my first marriage ended.

Both of Loveness's marriages involved virilocal residence in which the husband pleaded for time before building her the customary marital house. Thus Loveness lost out on both the marital house and access to matrilineal land beyond a place to erect a house on her mother's land. Loveness's story also points to the issue of domestic violence as a factor in marriage breakdown, and the impact of the migrant labour system on relationships. However, her response to her situation also illustrates the degree to which women in Muluwila are able to exercise agency in getting out of abusive relationships. Here what is important is the degree of autonomy that matrilineal social organisation confers on women. This is in agreement with what Ligomeka (2003a) said that domestic violence is on the increase and that women are trying to curb this problem. Even though she lost out on access to land in her maternal home, her ties to her maternal kin still acted as a safety net that she could fall back on, as she was able to return to her mother's place and can rely on the support rendered by her employed brother.

7.2.2 Harriet's story¹⁸

Harriet, an elderly woman in her 60s, is currently living on land that she inherited from her father. At the time of my interview she was not married but had been married a total of five

¹⁸ Interviewed 28 March 2012.

times, all of them described by her as marriages by choice. As described in Chapter 6, she was living on land that had belonged to her father, which he had partitioned among his children before he died. Her first marriage, which produced one child, a daughter, ended in divorce. Thereafter she married another four times. Two of these marriages ended when her husbands passed away, and two when she was abandoned. In spite of disputes with her relatives who wanted to take her land after her father had passed on (see Chapter 6 on land disputes), Harriet managed to retain ownership rights to the land given to her by her father; however, she also failed to secure a marital house through marriage. All five of her husbands promised to build a house for her but none of them did and neither her *nkhoswe* nor the chief were able to enforce her claims to a house. Like Loveness, Harriet felt helpless to do anything about this. She narrated her experience as follows:

My first marriage was out of choice. I had found a piece job and I met this man. After some time I told myself that I should get married, fearing that I could have *mimba ya pa tchire* [literally, ‘a bush pregnancy’, meaning a baby with an absent father]. We had *chinkhoswe* but my husband asked my *nkhoswe* if he could be allowed to marry me before building a house for me here at my mother’s place and he was allowed. Then we got married.

This marriage turned out to be abusive, leading Harriet to leave the relationship:

After we married, I saw the way he was treating me, I said, ‘ah! This man may kill me’. He was a violent man. He would beat me if he came home and found that I was not yet home, whether I had gone to fetch water or firewood or to the maize mill or was chatting with my friends. Upon my return he would beat me. I told him, ‘My brother, I will not manage, even though we have a child together. It is better that we part ways. This is prison.’ So we parted ways. With this one, we did not stay long in the marriage. We divorced. By then we were staying in a house that had been built by my parents some time back. My husband did not build me the house which he had said he would build for me.

After a time Harriet remarried. This marriage lasted for some year (in which time her baby daughter from her first marriage grew up), ending with the death of her spouse. Thereafter

she got married again but this man 'ended up abandoning me'. Her fourth marriage also ended with the death of her husband:

Then I got married again to another man who also passed away. For this one, his relatives have not yet divorced me after the passing away of their brother. We used to stay well together, me and this man, but even he did not build me a house.

Her last marriage (which she entered into despite the fact that she was not formally divorced from her deceased spouse) was far more difficult. In this case her husband eventually abandoned her, but not before there were major struggles over household support. By this time Harriet was living on land that her father had left to her and her siblings. She was able to turn to the chief for assistance:

This last man, he would not go to cultivate our garden. When he comes, he would just stay at home and do nothing. He did not fend for the family. I would go out to look for piece work to buy soap for the family. After a while, I went to file a complaint at the chief without his knowledge. The chief called him and said, 'I have this garden; I want you to cultivate it for me and I am going to give you maize – two basins'. He accepted but he did not know that I had gone to complain at the chief's place. When he did the work and got the maize, I went back to the chief and told him that we have got the maize but do not have money to mill it. So the chief called my ex-husband again and told him to weed his garden. This time, he told him that he was going to give him MK100.

Subsequently the man 'just left our house without saying anything'. He was gone for about 11 months but then returned with the expectation of resuming relationships with his wife. Harriet agreed but he continued to be unreliable and finally abandoned her once again.

Then he came. People here started asking him, 'What have you come to do? Have you come for marriage or what?' Then he said, 'I have come for marriage'. Then people around here told me just to welcome him back. When I accepted him back, he only helped me once, tilling the land so that we could grow the maize that we have harvested this year. After that he never helped again. Then, one night, he just left again without my knowledge. Then I went

to his uncle who happened to be the *ankhoswe* of our marriage. I told the *ankhoswe* to assist us with the problem I was encountering with my husband because it had been going on for a long time now but I was persevering. The *ankhoswe* said if I wanted to find a job I should do so, or if I wanted to get married again, I could, because they had run out of ideas on how they could help.

Harriet's narrative highlights the phenomenon of serial marriage and its role in the calculations that men and women make around their livelihood strategies. It also highlights women's relative lack of bargaining power in enforcing their customary rights with regard to the marital house, and the weakness of the institution of *nkhoswe* in insisting on the husband meeting his obligations when a marriage dissolves.

7.2.3 Kettie's story¹⁹

Kettie is a 60-year-old woman who is currently living with her children. In her case, her former husband started building her a house when they got married but he left her before finishing it. She struggled to finish building the house on her own but finally did so with the assistance of her children and one of her sons-in-law. When she was married, Kettie deferred to her absent husband in decision-making around her home, because he was sending support for the children. Now it is her daughter, Mwayi, who is working in South Africa (in Johannesburg), who sends support to her and makes the primary decisions around the household.

Kettie got married at the age of 13 'because in those days they would force us to get married early at a tender age'.

That was during the colonial era. ... I got married to my cousin. During that time, I was staying with my grandmother at Ku Nselema. We were just staying just as people do at the village. My grandparents came from the Portuguese people. The land was so big by then that my grandparents shared the land with us.

¹⁹ Interviewed 29 March 2012.

Kettie also moved to her husband's place upon marriage. They were able to grow groundnuts and used the proceeds to buy a grocery shop. However, her husband then left her to marry another woman. He also managed to secure a job in Blantyre, at the police station. Fortunately, for Kettie, he 'was a good man' and made provision for her:

I thank God my husband was a nice man. Even though at first we could not have a child [later they did], he would run around and get traditional medicine for me so that we could conceive. What happened between us just happened because of Satan; otherwise, he was a good man who cares for his family. That is why I did not take him to court when our marriage ended. I still love him. He did not disgrace me. He is the one who helped me get pieces of land which we are still farming up to now and we do not suffer. I cannot complain.

Kettie did not have any control over what she got from the marriage but depended on her ex-husband's good will.

When our marriage ended he took two radios to the other wife without my knowledge. That was when I was in Blantyre. He also took a car battery [as a source of power]. When I asked him about that, he said he had given it to his child [from the other wife] who wanted to use it for discos. I have two cassette players but what is missing is a car battery. But I do not worry. I just told myself that I will leave it to God. My ex-husband did not insist on getting the house.

In her case, she has also been able to rely on the support of her in-laws which she regards as a blessing:

The relatives of my ex-husband have stood by me. They did not scramble for our property when our marriage dissolved because I have done good things. I am a quiet person. He, my ex-husband, has done many bad things to cause me pain. ... Concerning the property I had with my ex-husband, I feel it was well shared. For most women in this village, when their marriages dissolve, the land, the house, and other property are often snatched away from them by the relatives of their ex-husbands.

Kettie also reflected on men's reluctance to honour matrilineal norms and the implications for women:

Most men do not quite want marriages nowadays. They prefer to build their houses at a neutral place so that when they mistreat their wife, the wife would be the one to move away from the place. The woman becomes poverty-stricken because she does not have money to build a house... when a man dies the relatives of the deceased come and ask for the property that their late brother had.

However, she considers herself fortunate that her ex-husband does support his children, but this also constrains her options:

For my family, right now, my ex-husband makes decisions concerning the children. He is the one paying school fees for the school-going children. He honours his responsibilities. He despises me. I do not say a word because he is the one helping my children so if I say any bad words to him, it might mean that he may stop helping the children. In a way, by helping the children, he is also helping me.

She has also handed over authority in her household to her daughter who is working in South Africa:

As for the decisions concerning the house, they are made by my daughter Mwayi who is in Johannesburg. She intends to finish building the house when she comes. It is Mwayi's husband who is building the house. Personally, I do not have any decision-making powers. I just sleep in this house. The decisions are made for me. In cases where I do not agree with the decisions, I just leave it and do not say anything.

Kettie feels that matters to do with property rights are not for women like her, by which she means women who are old and without income of their own:

Women's property rights are for the girls who have money. They are not for people like us, who are old. When marriages dissolve, the courts rule that if the concerned parties have a lot of property, they should share

equally. But if the people have few things, then the government says you should leave the property for the children. The court also rules that the man should have the children so that he should fend for them. As a woman, you do not complain about the children because if the court gives you custody of the children, what are you going to give them?

7.2.4 Jane's story²⁰

Jane was 24 years old at the time of the interview. She had recently left her husband because he was physically abusive to her. He had also stopped her from selling rice, which was an important source of income for her:

The husband who I got married to works at Eskom. When he came, he found me doing business. I was selling rice, so this man told me to stop and follow him where he was staying in a rented house in Thondwe. It was a marriage by choice. We were staying there as a family, but after a little while I noted that things were not going well because he would ill-treat me, he would beat me. Even now, I still have scars from that marriage so I just said that as things are now, since you are being cruel to me, I am just going home. This is my third month since I came from this marriage. We did not divorce because the relatives of this man told me that he was a violent man. But I did not listen. I thought they were lying so I married without their consent.

She has a small child from a previous relationship (which did not involve marriage). She now lives with her brother in a house she had built previously with money realised from the sale of rice, in her maternal home.

Right now, I stay with my child and my brother. This house we are living in is mine. I built the house with the money that I realised from the rice I was selling. By then, I used to make money. Stopping me from selling rice did not work for me. I think he stopped me out of malice, thinking that if I would be making a lot of money I would not respect him. So I agreed. There was no

²⁰ Interviewed 3 April 2013.

support for me or for my child. By then my child was staying here with my parents. If it were not because of his violent behaviour, I suppose I would have still been together with him and staying there where we were staying.

She left the marriage with nothing from it:

He [her husband] took everything. ... I came here wearing the same pair of trousers I am wearing today. We had a lot of things as a family – a hotplate, cupboards and many other things that a family can have except a fridge, but otherwise we even had a sofa. Of course the sofa was bought by my ex-husband before we got married. My husband did not build me a house as our custom stipulates and he did not even buy me land. He found this house here and left it as he found it. He did not do anything to it. I built this house in 2008.

In Jane's case she had a house to return to - not the marital house that her husband should have built for her but one which she had already built, which puts her in a position of relative autonomy. However, like Loveness, Harriet and Kettie, she did not press any claims against her husband:

As of now, it is me who makes decisions concerning this house. When my marriage ended some people were telling me to go to organisations that help on issues concerning women abuse. Some were saying I should go and sue him while some were saying I should go to police. But you know, because of my stupidity, I did not go to any of these. I just said, 'Ah! Since he did not 'cut' my life, I won't go'. He was the one responsible for ending our marriage so if I would go to these organisations and they told him to take me back it would be like I am forcing him. For me, I did not want something that is forced. Only because of that, that's why I say I was stupid.

7.2.5 Zione's story²¹

Zione was 30 years old at the time of the interview. She had left her husband after a very unstable marriage and was living in Muluwila with her boyfriend and her two children from her marriage on a small piece of land belonging to her mother. She was also very young when she got married, at 16, in an arranged marriage:

My marriage was an arranged marriage. My husband asked his father's wife [his step-mother] to help him find a good lady. So the stepmother saw me as good lady to suit her stepson. However, it was said that he had divorced many wives before that. She came to my mother and they agreed to the marriage.

She went to live with her husband who also proved to be abusive and beat her when drunk. When he found work in another district of Malawi she returned to live in Muluwila with their children. She then found out that he was involved with another woman in his place of work and decided to look for another man herself. She presented this decision as one that was driven by material considerations, but it brought her husband back into her life:

It was difficult for me to raise these children on my own. I decided to find a boyfriend for support. I got one. Whilst dating this man, the father of my children came. That time we were not yet divorced. He did not do anything, apart from saying that he had come to fetch his children. My sister told him that he could not leave without me or else he would have to leave the children. Because my relatives insisted, I left with him. We went to Blantyre and stayed in a location called Kachere instead.

Thereafter problems in the marriage re-emerged:

My sister-in-law, who was staying in the same location, told me that my husband was married to another woman who had left to give birth at her parents' village. She informed me that the lady who my husband was involved with was older than me. She further advised me that it would be better for me to leave before she [the other woman] came back, to avoid

²¹ Interviewed 4 April 2012

fighting. She appreciated how I used to take care of them before my marriage with her brother started having problems.

At some stage Zione's husband was arrested on a charge of theft. His sister refused to help him because of his treatment of Zione and her children, leaving Zione as the one to bail him out.

... his sister ... refused to go and look for him at the police station because he did not listen to her. She had advised him not to marry the other woman but he had insisted so for her this was like a punishment that he deserved, even though he was only a suspect ... I went and negotiated for him to be released. So he was released from prison. I sold a few utensils in the house to top up the transport money. I was hurt with all this but I did not tell anybody at home.

Subsequently Zione decided to return to her boyfriend in Muluwila but her husband 'started searching for me thinking that I was selling beer and my body for sex'. After again returning to him and again being subjected to abuse, she finally left him to return to her mother's place and her boyfriend. Her boyfriend has built a house for her but does not want to go through a formal marriage, which she regrets, even though her life is now more stable:

This is my house; my boyfriend built it for me. ... I have two children from my husband. ... We are four people in my house – myself, my two children and my boyfriend. ... I felt good that my boyfriend built a house for me. However, I am not happy because he does not want to arrange for us to get married. This means I have not found a man to support me as I want.

She also has lost out on land beyond the yard where her house has been built, because it was divided among her siblings.

7.3 Knowledge of customary rights and national legal provisions

Both the way in which customary law is practised and enforced at the local level as well as the national provisions enshrined in Malawi's Constitution are significant mechanisms for regulating how women and men enjoy their rights to access and own property. In my study,

respondents generally appeared knowledgeable about customary norms but much less knowledgeable about national provisions relating to women's property inheritance.

In terms of customary law, all 12 of my in-depth informants acknowledged that customarily women are accorded rights to access and own maternal land and to have a house built for them there when they marry. My key informants, the chief and the 12 *nkhoswe* also said that in cases of marriage dissolution where a husband had not build a house for her wife before or during the duration of the marriage, he should still do so. Furthermore, if he had built the house at his natal home, he should build a house for his ex-wife at her natal home. However, as can be seen from the tables and stories above, this practice is difficult to enforce. Historically property inheritance in matrilineal Malawi communities has been closely associated with marriage, with women being given maternal land when they are getting married in anticipation of their starting to live independently and having children. However, marriage is now a point at which some women lose their rights by agreeing to reside with their husbands elsewhere.

Here the role of the *nkhoswe*, or, rather, his absence at key moments, emerges as significant. In the stories narrated above the *nkhoswe* seem not to have taken an active role of 'protecting' their *mbumba* in terms of matrilineal norms. At the same time, it also seems increasingly common for brothers, who could be the *nkhoswe* of the women, to benefit from the maternal land by also inheriting portions of it. In some cases, it is a challenge of blood relationship such as cousin to cousin that seems to hinder the women from claiming their rights to land or housing for fear of disturbing cordial relations that exist between the two families of the man and woman who had a cousin marriage. On the part of men, it appears that for some men such as Kabbage, there could be lack of respect to adhere to women's property rights enshrined in the customary laws but also that these in-marrying men *obwera* feel insecure that at any time when a marriage dissolves, they would be told to 'take their blankets and go' leaving out any house that they built behind and any meaningful investments that they may make as Kishindo (2004) suggested.

With regard to the provisions of national laws relating to women's property rights, my study found low levels of knowledge about them in Muluwila. Of the 100 respondents in the background survey, only 17 had heard that Malawi's constitution makes provision for women's property rights. Seven respondents had heard about it on the radio, six said they had

heard about it from friends and general conversation, and four said they heard about it from both the radio and friends. However 11 of these 17 were not sure what the Constitution actually provided for - all they knew was that it was about women being able to have 'things'. One male respondent complained that the laws were unfair to men:

What I heard is that the government is now siding more and more with women regardless of how a marriage has dissolved. Women have rights to access and own property, more especially these days. It started during Banda's regime. During his time if a man mistreats a woman, the Malawi Young Pioneer would come and lock you up in prison or they would beat you. During President Bakili's regime, more rights were accorded to women. When you talk about the rights that women have been accorded after Muthalika and Joyce Banda's regime, it is even worse. If a woman mistreats you you cannot go and report it anywhere. People are going to laugh at you. If a woman is provoking you, treating you badly, you cannot raise your hand and beat her because she will go to the court. The next thing you will see is that the court has directed the chief to surmon you for a hearing. You might even be locked up by the police (Maliko, 13 July 2012).

The only one of my nine in-depth interviewees who reported being able to make use of national provisions around women's property rights was Martha, the widowed woman who was the beneficiary of her late husband's will. As already indicated in the narratives above, several of the women were aware that there were legal provisions but felt that it was difficult for poor and uneducated women like themselves to act upon the information. Kettie has already been quoted in this regard. Similarly Harriet commented:

I have ever heard about women's property rights. I just hear people talk about it. They say it is gender. Women can have their own property and men can have their own property too. I cannot really say from whom I heard it. Just friends - they talk about this. These ideas are propagated by those who are working. They are not for those who have nothing like me (Harriet, 29 March 2012).

Loveness also felt that issues to do with women's property rights are not for people like her who are not working and uneducated:

I have heard about laws concerning women's property rights but I cannot manage to say what I have heard. Well, I have heard that when a marriage breaks down and if the issues are taken to court, at the court they asks you, 'Has he built you a house?' If you say no, they tell him to build you a house roofed with iron sheets for you. ... As for money, they tell the man to give the woman whatever he can manage. I heard this from friends. Those who are married, those who are working. Big people not my size. I just listen. Those who work in town. But as for those in the village, if the husband was not working, the issues do not go to court. They end right at their homes. But if the man was working and if he had things, eeeh! People confront each other and drag each other to court (Loveness, 28 March 2012).

Jane associated women's property rights with President Muluzi's regime and the advent of democracy:

I heard about women's property rights from my friends and the radio. It is just a recent thing that now women have property ownership rights. They own land, house and they even acquire education. Unlike in the past, nowadays, when a woman is brave, she can do all sorts of things. I think this is because of the democracy that came in. People were told that they can do whatsoever they want to do. Unlike in the past whereby when a woman would want to do something, people would summon her to go to the chief and there she would be asked how could you think of doing such a thing? (Jane, 03 April 2013).

Despite her stating that women in Malawi are now free to do whatever that want to do, she identified gender-based violence as a major obstacle to women's property rights:

In a marriage setting nowadays, owning land and a house depends on the married couple. As a couple, you may decide to buy land at a neutral place and stay there. But there are other men who are abusive. When you buy the land they begin to say that this land is mine. They start abusing you as if you made a mistake agreeing to buy the land. His intention is that you should give

up on staying with him so that he can take his relatives to stay with him. So I am seeing that nowadays, men are taking advantage of women in terms of property ownership. Such men make their relatives the ‘defender’ of the place. In such a way women are losing property such as housing and land (Jane, 03 April 2013).

Another respondent in the background survey also argued that despite women’s property issues being enshrined in the Constitution of Malawi and victim’s unit being set up in police stations, the issue of gender-based violence means that women face many challenges in claiming their rights. She cited the case of her daughter who was beaten by her husband while pregnant during the time that I was conducting my field work. She had been living neolocally with her husband in another village, although both she and her husband came from Muluwila village. The husband had an extra-marital affair and when the wife discovered this and questioned him, he became violent, beating her and taking all her clothes and household utensils. Neither her *nkhoswe* nor the local police were able to help:

When this happened, she went to her *nkhoswe* but the *nkhoswe* just said that he will see what will happen. They also advised us to go to police. We went to the police several times but things did not work. The husband has a relative who is a police officer. This officer was phoning other officers who were handling the case and they were deliberately delaying the case. Whenever we reminded them about the case, they would say that they have not found the husband.... So I knew that they would not help me and I decided to go to marriage counsellors again. Together we went to the village headperson who gave us a referral letter to the court. Marriage counsellors did go back again to the court. We just gave up because I (mother) also saw the same in my marriage. We left everything in the hands of God who knows everything. If it was the pregnancy, God would still provide for the baby to grow (Christina, 17 March 2012).

7.4 Summary of key findings

In summary, the narratives presented in this chapter confirm the centrality of property in the form of land and housing for the wellbeing of women in Muluwila. It is crucial not only as the basis of their livelihoods, but also because of the social meaning it carries in relational terms (especially but not only with regard to concerns about the future for one's children), as a source of identity and a place of belonging.

The stories presented in this chapter resonate with what other authors have found regarding the instability of marriage in matrilineal communities, with high rates of marital dissolution and re-marriage. From the perspective of the women I interviewed, sexual infidelity and experiences of gender-based violence at the hands of their partners were major causes of marriage dissolution.

The stories also confirm the strength of matrilineal norms and uxorilocal residence among my respondents, alongside the emergence of new practices around neolocal and patrilineal residence. The resilience of matrilineal norms offers women some sort of safety net with regard to a place to stay and/or return to in times of crisis such as when a marriage dissolves. This also allows women to exercise a degree of agency in relation to the decision whether to stay in an unsatisfactory marriage or not.

However, within this complex terrain, significant developments in relation to a couple's choice of residence upon marriage are serving to undermine women's claims to property in their maternal homes and weakening their rights to land in cases where their marriages dissolved. Here the emergence of virilocal forms of residence upon marriage emerges as especially significant. In a context of increased pressure on land, women's moving away from their maternal homes upon marriage means that they are unable to exercise their claims to land in their maternal homes and are vulnerable to 'losing ground' there as a result, particularly with regard to agricultural land. The practice of men building a home for their wives upon marriage is also falling away, further weakening their customary rights to property. Exacerbating this situation is the relative weakness of the *nkhoswe* as an institution in asserting women's rights and a widespread ignorance about national legislation designed to protect women's property rights.

CHAPTER 8: DISCUSSION AND CONCLUSION

In this final chapter I discuss my research findings in terms of my conceptual framework and the general literature on women's land rights in matrilineal communities in Malawi. My discussion is structured to answer my main research questions, which are reproduced below:

1. Are women in Muluwila village 'losing ground' in terms of property rights when their marriages dissolve?
2. If women are indeed 'losing ground', how and why is this happening?
3. More particularly, what are women's own experiences of property relations in the context of marriage dissolution in Muluwila?
4. How significant are national legal provisions and customary rights that allow women to access and acquire property in mediating these experiences?

In addition to these broad questions, I was also interested in exploring a number of related issues, specifically:

- i. The significant changes around land ownership, land use and land values in my study area, dating back to the colonial period
- ii. The meanings attached to the matrilineal social system, marriage and property in my study site in the contemporary period and the changes people have observed over time
- iii. The way in which issues around women's property rights are being resolved in cases of marriage dissolution; and
- iv. The implications of changing norms and practices around marriage and property in Muluwila for national policy on gender equality and women's rights to land.

In exploring the answers to these questions through my mixed-methods research design centred on a case study of women's experiences in Muluwila, I have been guided by feminist standpoint theory, which argues for the importance of grounding one's analysis of gendered social relations in the everyday experiences of women. As already noted in my introductory chapter, on this context 'losing ground' is a term that I have adopted to express the idea that the capacity of women in Malawi to exercise their rights to acquire, own and control property

in the form of housing and land is being eroded and, in many cases, denied outright. In other words, it does not necessarily mean an absolute loss of land rights but, rather, an increase in threats to those rights and/ or a diminishing of the extent of women's rights in terms of matrilineal norms and practice under customary law, as well as an inability to assert the rights that they have been accorded in terms of the Malawian constitution and statutory law. In some cases, however, it may involve an absolute loss of rights.

In the first section I briefly review what my research has shown with regard to my first research question, as well as the third question set out above. In the process I also address the subsidiary questions that have flowed from my primary research questions. My overall conclusion is that there is clear evidence that women are losing ground with regard to customary rights, without their being able to secure new forms of rights to any significant degree. However, this conclusion needs to be qualified by a recognition of the relative resilience of the matrilineal family system as an institution and an appreciation of the ways in which women are themselves attempting to negotiate the social environment in which they find themselves, including by supporting changes to matrilineal land practices that strengthen the claims of their sons as well as their daughters to matrilineal land. Matrilineal social norms emerge as important for shaping the way they make sense of and interact with the world.

In the second section, I reflect on what is driving women's relative loss of land rights and attempt to lift out of my research findings for Muluwila specifically, as well as my broader review of the history of Malawi and of matrilineal social organisation in general, the major reasons for women losing ground. In Section 3 I revisit these issues in light of the conceptual framework I have outlined in Chapter 2, in which I have drawn on Connell's three-fold framework for understanding gender relations and Bourdieu's notions of *habitus* and field, along with the idea of 'living customary law'. As discussed in Chapter 2, Connell argues that to understand gender inequalities in a given society, we need to consider the intersection of three significant dimensions of social organisation, namely the power relations between men and women, the gendered division of labour and the way in which cathexis (covering affective and sexual attachments) is structured and understood. In what follows I also reflect on the operation of the institutions I identified in Chapter 2 as major social fields in Bourdieu's sense, which have emerged as crucial in shaping how women enjoy their rights to access and own property in Muluwila village, namely, the matrilineal family network

(comprising the *nkhoswe* and *mbumba* or *apantundu*), as well as the traditional court system and magistrate's courts, and the state, in particular at the local level. In section 4 I look at the significance of national legal provisions vis-à-vis customary rights in supporting women's property rights and make some recommendations in this regard. In section 5 I pull out some issues for further research, before concluding with a brief recap of major themes and the contribution of my dissertation.

8.1 Are women in Muluwila 'losing ground'?

The results of my field work presented in Chapters 6 and 7 make it clear that women in Muluwila are indeed 'losing ground' around customary rights involving both matrilineal land on which to grow food for home consumption and/or sale, and the marital home that men are supposed to build for their wives as part of the marriage settlement. Thus most of the nine women I interviewed in depth lost out on acquiring land at their maternal (natal) homes, which became a serious problem when their marriages dissolved, while only three had had the experience of their husbands building a marital house for them. In two of these three cases, that experience was incomplete – in the case of Maria, the house was of poor quality and 'fell down', while in the case of Kettie, her husband abandoned her before completing the house (which her children subsequently helped her to complete). Only Martha, the woman whose husband also secured her rights to their marital land through a will, was a full beneficiary of the practice of the husband building a marital home for his new wife. There is also evidence that women are increasingly losing out on the labour of their sons-in-law who, in terms of customary norms, are expected to work in the fields of the parents of their new wives upon marriage but regularly do not. In some cases these developments can be attributed to the fact that the men who are responsible for building the houses and/ or providing the labour have opted to leave Malawi in search of work outside the country, in an attempt to improve their livelihood options. These migrant workers sometimes migrate before they build a marital house for their wife, impacting negatively on the way women are able to enjoy their rights to own a marital house, as custom dictates.

The dissolution of a marriage is a critical moment at which women's loss of or reduced claims to land rights become visible. Marital bonds in Muluwila, as in other matrilineal communities in Malawi, are much weaker than the bonds between matri-kin and my study found high rates of marriage dissolution and remarriage among my respondents. Weak

marital bonds thus do not mean low levels of marriage, and marriage was regarded as an important institution by most of those with whom I interacted in the field, including as an institution with which to procreate and raise children and to structure household livelihoods. My study also found some evidence to support the idea that the form of marriage dissolution is important for shaping the particular outcome in any one case. While the death of a spouse can precipitate tensions around property between the surviving spouse and the members of the deceased spouse's family, death is a socially significant event that is accompanied by various rituals and the transmission of property is relatively well regulated within customary law in terms of norms if not always practice. Certainly the widows in my study did not emerge as the most vulnerable group of women in terms of property in the context of marriage dissolution. The most insecure were likely to be women who were either abandoned by their spouses or themselves chose to abandon their husbands (often in a context of gender-based violence and/ or sexual infidelity). Divorce involves a formal process for ending a marriage which also provides some opportunity to regulate decisions around property in terms of matrilineal norms, but it was considerably less common than abandonment as a way of ending a marriage in Muluwila. Abandonment by its nature is an ambiguous process, and this was reflected in the level of discord and uncertainty it tended to generate around marital and individual property.

While uxorilocal residence upon marriage remains the dominant pattern, a major consideration for why women's rights are vulnerable because of marriage dissolution is an apparent shift towards more couples settling at the home of the husband upon marriage (virilocal residence) or moving to a place that is not family-owned (neolocal residence), an issue that is discussed further below. *Chitengwa*, as these forms of marriage are called, is well-established in Muluwila but this practice was identified by nearly half (47) of the respondents in my background survey as a change in custom and emerged as an important factor in the undermining of women's claims to matrilineal land when conflict emerged in a marriage. Almost all the women in my in-depth interviews were involved in virilocal or neolocal residence in their marriages and found out, when they returned to their maternal homes after their marriages had dissolved, that they had lost ground in relation to those siblings who had remained behind. In several cases all they were able to secure was a place on which to build themselves and their children a house, without additional land for cultivation attached.

Adding to the dynamics around family organisation and land ownership is the growing trend among parents – both men and women – of choosing to give land to their sons as well as to their daughters, rather than to regard matrilineal family land as the inheritance of the daughters of the family (*banja*) alone. By way of example, two of the three men with whom I conducted in-depth interviews (Mtengo and Banda) had both inherited land from their mothers, the one (Mtengo) when his marriage dissolved and the other (Banda) when he got married. Significantly, this trend is not only driven by men. In the background survey nearly half of the 77 women in my sample reported that both their sons and daughters would inherit land from them. In my in-depth interviews a number of the women spoke about the meaning of land as tied up with their investment in the future well-being of their children, without specifying the gender of those children. It can be argued that these attitudes reflect a change in customary norms around daughters' inheritance of maternal land and are also adding further momentum to these changes.

My field data also reveals clearly the unequal power relations that operate among men and women in Muluwila in key areas to do with land. Arguably, as my literature review brought to the fore, this is not a new phenomenon, although there are scholars who associate matrilineal societies historically with strong powers for women. Overall my study supports those who have argued that although land inheritance passes through the maternal line in matrilineal societies, this should not be taken to mean that women are therefore in dominant positions over this land *vis-à-vis* men. Thus although the women of Muluwila village are still said to be the owners of household land, as matrilineal custom dictates, in practice they do not have independent decision-making powers over the land and houses that they are said to own, beyond certain day-to-day decisions, and they often struggle to assert their claims to property in relation to powerful men within their families and households at critical moments. The headship of the typical *banja* of a married couple in Muluwila was generally regarded as being assumed by the man, with the majority of female respondents and almost all the men in my background survey reporting that the head of their households was a man. In total 65 out of the 100 respondents in my survey said the head of the *banja* is the man; women mainly headed households in the absence of an adult man, although rarely headship in married households was seen as residing in the woman (7 out of 67 such households) or, in one case, held jointly. Nearly 60% of the women respondents in this survey reported never making major property decisions such as whether to sell the land. Lack of decision-making powers

means, for instance, that they do not have effective control over the disposal of these properties, which may leave them in a particularly vulnerable position if their marriages end.

Furthermore, the *nkhoswe*, who is in a position to make crucial decisions that affect the *mbumba* in his matriline, is generally male; he is expected to act as the head of the *mbumba* in matters pertaining to major clan events such as marriages, marriage dissolution and the death of clan members, as well as to take overall responsibility for the welfare of the children of his *mbumba*, and to try to mediate disputes among relatives as well as between his clan members and other people. In the absence of a brother as *nkhoswe*, an elder sister can assume this role but this is not common. 78 of the 100 respondents of the background survey said the decision concerning the actual use of their houses or land (for instance, a decision whether to rent it out or sell the property) lies in the hands of *ankhoswe* who in most cases are male, and from the woman's maternal side. Even in women-headed households, women are supposed to have an *nkhoswe*. All of this is indicative of the fact that in the typical matrilineal home in Muluwila, the woman is accorded limited decision-making power under customary law

At the same time, however, care needs to be taken not to overstate the extent to which women are losing ground, nor to under-estimate the importance of matrilineal norms for securing tenure security and status, if not necessarily full ownership rights, for women. Furthermore, men are also facing problems with regard to accessing land, given the pressure on it, even though they are better positioned to find (low-paying) waged work.

Not all women are losing ground and my study supports the argument made by Peters (2008) that property inheritance is still traced mainly through the maternal line, with benefits for women. Uxorilocal residence upon or after marriage remains the norm, with a little over two thirds of households in the survey being uxori-local (ie living at the place of the wife) at the time of the survey. The claims women have to their maternal homes was found to act as a very important safety net for women, including at times of crisis such as the breakdown of a marriage. Importantly, this safety net was also significant in making it possible for women to choose to leave marriages that they found untenable, including because of gender-based violence, as was the case for Zione, Jane and Loveness, three of the informants with whom I conducted in-depth interviews.

There are also some new practices that are appearing alongside customary forms of land inheritance which are opening up new options for women with regard to their land rights. This includes people writing wills to determine who will inherit the property, as in the case of Martha who inherited her land and house as a result of a will which her husband wrote before he passed on. Other new practices in Muluwila include fathers giving property to their daughters (and their sons), as in the cases of Harriet and Maria who both inherited land from their fathers before their fathers passed on. While such cases are very much the minority, they reflect a broadening of the options available to some women. They also impact on the social meaning attached to land, with Maria, for instance, commenting on how her land made her think of her father who had provided for her and her children. Women also expressed interest in buying their own land in the course of my interviews because they feel that they do not have proper decision-making powers over the land and the marital house that they are entitled to have. Purchasing land can be seen as a new response to addressing the challenges of land shortage. However, most of my respondents lamented that even though they may wish to do so, they do not have the means to purchase land. Nor do they have other livelihood options on which to rely if they are unable to assert their claims to maternal land and the marital house.

What is clear is that the amount of land that women are able to access and claim to own in their maternal homes is under pressure, and in a context of extreme pressure on land, alternative sources of land are few. In a context of marital instability this puts pressure on women who have not been able to establish their rights to land at the time of their marriage. A number of women in my study ended up with access to no more than a house built on land that is regarded as owned by another member of their matrikin, typically their mother but also other siblings, including brothers.

8.2 If women are, indeed, losing ground why and how is this happening?

The answer to this question is not a simple one, with my study identifying a range of issues that are combining to impact negatively on women's rights. As argued in Chapter 5, current developments have to be located in relation to Malawi's experience of colonial rule and the very negative impact of its history of colonial settlement, including land alienation and labour extraction as well as the country's incorporation into a regional economy based on migrant labour. This severely disrupted local household economies and reduced the amount of land

available to African households, as land was appropriated by colonial and, later, nationalist elites in estates that grew cash crops which were exported outside the country. Muluwila was directly affected by this process, through the establishment on what was historically village land of an estate now known as Mpatsa Farm, which initially belonged to Bruce, a colonial settler who amassed large tracts of land in Zomba District.

Today the main factor impacting on women's land rights in a matrilineal community such as Muluwila appears to be the major land shortage. Increased pressure on family land as a result of population growth and an absence of alternative sources of livelihoods beyond agriculture is resulting in the sub-division of family land into ever smaller parcels of land, leading to growing competition for land within and across households. As a result, residents in Muluwila seem to be involved in a constant manoeuvring involving various strategies to secure their access not only to land but also to domestic and agricultural labour.

Both men and women are negatively affected by the shortage of land, as are households which generally struggle to make a minimum living off their land. In this manoeuvring, however, unequal power relations between men and women are giving men advantages over women. In the case of men, these strategies include taking their wives to reside with them virilocally upon marriage, so that they will be less disadvantaged should the marriage break down. The problem with this for women, as my study shows, is that if their marriages dissolve, they are likely to find on returning to their maternal home that they have lost out on their claims to land there and that the land that they would have expected to inherit previously has been shared among their siblings who remained on the land. In a growing number of cases, these siblings include their brothers. The question that arises is why women and their parents and *nkhoswe* would go along with this and here one consideration that seems to play a part in Muluwila is the fear that a refusal to cooperate with the prospective husband could leave the woman pregnant but unmarried, with no claims on the father of the baby, if she insisted (unsuccessfully) on uxorilocal residence upon marriage.

A further important issue concerns the functioning of the *nkhoswe* as a key institution in the protection of the interests of the *mbumba* or maternal kin group. In my analysis I have conceptualised *nkhoswe* as an important institution within a larger social field, in Bourdieu's sense, comprising the matrilineal families of both parties to the customary marriage. My study suggests that this important institution is under pressure, which may also be attributed

to the pressure and competition around land. Generally, it appears that those women whose land rights have been most at threat and/or eroded are those whose *ankhoswe* have not served them well – either because they have not pursued their responsibilities actively or because they have been outwitted by the *ankhoswe* on the husband's side in the negotiations around marriage, death or divorce. Much as the use of *nkhoswe* in mediating around the sharing of property may work for some women, the results of my study show that the *nkhoswe* do not necessarily assist their *mbumba* claim the property that they are entitled to; they may even go so far as to tell them to accept the decisions that have been entered into between the *nkhoswe* of the disputing parties, even when these decisions do not promote the rights nor consider the needs of the woman in question. One of my in-depth informants, (Loveness), suspected that her *nkhoswe* might even have been bribed. What also needs to be borne in mind here is that as much as the *nkhoswe* are expected to protect the interests of the women on whose behalf they negotiate at times of marriage, divorce and death, they also have personal interest in the maternal land and, given the severe pressure on land, may stand to gain if a niece or sister moves away from the maternal land upon marriage.

The weakness of *nkhoswe* in enforcing matrilineal norms and practices, which many of the narratives in Chapter 7 bring out, is clearly an important contributor to the erosion of women's rights, particularly in terms of accessing and owning maternal land and being provided with a marital house upon marriage. It also appears that relatively few land dispute cases are taken to the chief in Muliwila, while the magistrate's courts are out of reach for most women and the local state play relatively little role in protecting women's rights. My study found a general lack of knowledge concerning national provisions that are meant to buffer women from losing their rights to property in Muluwila, as in other parts of Malawi. At the same time, knowledge of the laws is not enough on its own; one also needs the capacity to enforce one's claims through the courts which is extremely difficult in a places as isolated and poor as Muluwila. A number of the women in my in-depth interviews expressed resignation rather than a willingness to fight for what was theirs, once negotiations at the level of the respective families had failed.

Another issue that emerged through my study was the impact of gender-based violence on marital relations and its consequences in driving women to leave their husbands. This is a particularly vicious expression of assumptions by men of their dominance over women and

their right to assert such power through physical force or through economic and emotional forms of violence if need be. As the stories in Chapter 7 reveal, gender-based violence is a serious problem in many marriages. Strauss (1988) has argued that victimisation brings such fear to the mind of the victim that she may not be able to speak up against it and claim her rights. Similarly my study found examples of victims of violence who were unable to claim their rights to land out of fear. For instance some found that their land was given to other people like their brothers and their brothers refused to give them back, thereby depriving them of owning what should have been theirs according to their custom. Others felt powerless to change their situation or so relieved to have escaped from the abusive situation that they did not want to take things further in terms of legal options. Statements such as ‘I have left it in God’s hands’ or ‘At least it is good that I got out of the abusive relationship otherwise, he would have killed me’ reflect these perspectives.

Only one woman in my study spoke of reporting her encounter with gender-based violence at the hands of her husband to the police, and her experience was that they did not assist her. In fact, she suspected that the officials handling her case had been bribed not to do anything because her husband’s brother worked for the police. The other women said they had little faith in the police and the courts as well. They argued that these institutions do not assist women well. Most positions of authority are held by men who are not sympathetic to women’s complaints around gender-based violence. These findings are in line with studies by Chiweza (2005), White (2010), and Kabwila (2013) which have all found high levels of gender-based violence in Malawi and low levels of reporting it to the authorities.

8.3 Habitus, field and gendered sites of configuration

Bourdieu’s concepts of *habitus* and social field lay a foundation for understanding the way in which the women of Muluwila interact with and make sense of the social environment or the social fields in which they negotiate their relationships and claims to land. As discussed in Chapter 2, Bourdieu’s *habitus* embraces the existing norms, rules and values that an individual actor draws on in calculating and determining future actions within a given context. These norms, rules and values represent general social standards, but, importantly, they also interact with the specific situation and personal capacities of the individual actor. The

calculations that individuals make in acting can be both inhibitory and emancipatory with regard to their consequences. The social field is the ‘relatively autonomous structured domain’ within which the individual acts; Bourdieu also draws an analogy between the social field and a game, in which participants play to secure their own advantages, while sharing with the other players a common knowledge of the rules of the game. In this study, I have identified the matrilineal family, the traditional courts and the state (in the form of the district commissioner and magistrate’s courts in particular) as primary social fields which are also, in Connell’s term, ‘sites of configuration’ of unequal gender relations.

Through these concepts Bourdieu points to the way in which an individual is both embedded in his or her culture and thus accepting of much of what happens in his or her environment, and at the same time also capable of questioning and adapting certain aspects of the social environment to suit his or her needs better. Bourdieu argues that agents shape their aspirations according to indices of what is considered ‘accessible’, i.e. approachable or possible, and what is inaccessible, i.e., what is and what is not ‘for us’ (Bourdieu, 1990: 65). In the case of Muluwila, an example of the former would be Harriet turning to the chief to get her husband to provide food for the family, while an example of the latter would be Kettie saying that ‘Women’s property rights are for the girls who have money’, not for poor village women like her. In the context of Muluwila, it appears that customary law and the traditional courts, i.e. locally based institutions, offer women more opportunities to exercise agency than the national domain, but these also have their limitations as discussed above.

Thus in order to understand the experiences of women in Muluwila around issues of their rights to access and to own property one needs to understand the environment in which these women are living and their capacity to act within it. The environment includes but is not limited to the cultural expectations embedded in the matrilineal family network (*banja*) as well as the institutions of *nkhoswe*, along with the wider legal and policy environment, as well as the livelihood options open to the residents of Muluwila, in the context of an acute shortage of land. In my study I regard these as the primary fields in which both the men and the women who are members of the particular matriline and the *obwera*, the incomers, operate in terms of ‘the rules of the game’ that structure the social field while using different tactics to their advantage or disadvantage, including in matters relating to the acquisition and disposal of property. These tactics are likely to be particularly evident in key moments

affecting the matriline, such as when an individual is entering into a marriage or when a marriage dissolves.

The matrilineal social norms and values which shape women's attitudes and options have been developed through a historical process, which has seen the emergence of two main forms of marriage, that of *chikamwini*, in which the pattern of residence is uxorilocal, and *chitengwa*, in which the residential pattern can be either virilocal or neolocal; both forms, however, accept that property should be inherited through the maternal line. Furthermore, as my study has shown, the main way in which the residents of Muluwila acquire land is through inheritance from the maternal line as their custom entails. Additionally, this inheritance of land usually takes place when a daughter wants to get married, so marriage remains a key institution through which property is acquired.

However, as my field work has shown, there are complex dynamics in the way in which those residents who were born in Muluwila and the *obwera*, those who have married into the village, manoeuvre around these norms. Despite the resilience of matrilineal social organisation as an enduring feature of the *habitus* within which the residents of Muluwila negotiate their everyday lives, family norms and practices are changing, which creates a context of increased uncertainty and fluidity around accepted behaviours. Both men and women try to use their knowledge of local norms, values and rules concerning the ownership of land and housing for their own benefit. However, their actions can be to their detriment if they are not well targeted and the individuals concerned lack the power in decision-making to affect the outcome in their favour.

As my survey findings reported in Chapter 6 confirm, there is widespread poverty in Muluwila. Residents have limited livelihoods options. Most are involved in farming, barely producing enough food to last their families for most of the year. Even though family members engage in various strategies to boost their livelihood options, such as piece work and micro business enterprises, their options are sharply circumscribed by very low levels of education and an absence of local employment opportunities beyond very marginal and insecure jobs as cleaners and farm workers. The majority of residents are living on family land which means that the next generation of daughters and granddaughters has to share already small pieces of land. In the face of already limited livelihood options, which men (and women) could have benefited had it been that other better livelihood options were available

and accessible to them, creates more competition for land. My results suggest that competition for land for both housing and cultivation is stiffening, in part because brothers are also inheriting maternal land that previously would have gone only to their sisters. At the same time, the bonds of reciprocity shaping relationships between siblings and within the matrilineal clan remain critically important for household and individual survival.

This context also helps explain the behaviour of those men who ask their wives to leave their maternal homes and relocate to their new husbands' homes upon marriage. It appears that they are making calculations at the point of getting married that if and when the marriage is to dissolve in the future, they will not have to fulfil their obligation of building a house for their wife in the wives' natal homes, as custom dictates. The question that arises for the women in this scenario is what is shaping their decision or agreement to relocate and reside in their husband's village or home upon marriage? This question is especially pertinent in cases of re-marriage when the potentially negative consequences for their property rights might be thought to be more apparent. Should or could they have been in a position to calculate the potentially negative outcomes arising from that decision? The fact that some women accept the risks of moving with their husbands upon marriage is indicative of the limitations on their independent decision-making capacity, given the importance of marriage as a source of economic, sexual and social identity. This is where Connell's threefold model of gender relations, involving power, the division of labour and cathexis, can be useful for analysing women's relative lack of agency in relation to important areas of experience.

8.3.1 Power relations in Muluwila village

According to Connell gender relations are not configured in isolated acts but through various institutions which function as sites of configuration (Connell, 1995: 73). These sites include the family, the state, police, and courts, among others, with 'sites of configuration' thus functioning in comparable ways to social fields in Bourdieu's sense. They are all critical sites for the exercise of gendered power relations. What my study has shown is that despite the common perception that women in matrilineal societies exercise power, in Muluwila their independent power in relation to these institutions is in fact limited. Within the family, men hold considerable power, both as the perceived head of the *banja* in the majority of cases and as *nkhoswe*. Within both the traditional court system and that magistrate's court system,

power also generally vests in men, although in matrilineal Muluwila, some women may take up important roles of leadership in the community.

This is line with what Mwambene (2005: 8), White (2010) and others found to be the practice in various areas in Malawi where matrilineal social organisation is dominant. The authors argue that the actual decision-making powers over land and housing lies in the hands of men and not with the women. Thus, the women are characterised as ‘needy’. They need *nkhoswe* (who usually is male) to assist them in deciding on matters of land and housing, entrenching norms that stereotype men within the matriline as being more able to make sound decisions around property than women. This extends to its use and, potentially, its disposal. While the men have power to make decisions concerning the land and house and position themselves to control it, the women have the power over day-to-day domestic matters, such as the provision of food; hence they cook it and provide it for themselves, the men and the whole family. Such stereotypes about men and women’s roles also serve to explain gender relations in terms of the division of labour.

Another way in which power relations play itself out in the face of gender relates to the issue of early and coerced marriage for women. As noted from Chapter 6 on findings, there are high rates of early marriages, and coerced marriages especially with regard to cousin marriages still exist in Muluwila. Women who are forced into marriages do not have decision-making powers in relation to either their parents or the man who marries the woman in question. As my results have shown, these men persuade the girls that they should relocate and reside in the man’s home and not the woman’s home, a practice which appears to be increasing in terms of frequency. Findings from my study indicate that Muluwila village is not an exception in this regard. Renier (2003), Mwambene (2005) and others (Kunchulesi, Palamuleni and Kalule-Sabiti, 2011 and Lovo, 2013) all cite early marriages as a factor contributing to high marriage dissolution rates in Malawi.

In the face of diminishing landholdings in Muluwila, men appear to be devising strategies to secure their access to this scarce resource, land. My study reveals another strategy that men deploy in order to access and own land in their own right. In cases where a married couple reside neolocally on land bought by the husband, upon the dissolution of the marriage the man is likely to deny the woman access to and ownership of land. In such a case men’s argument is that because they were the ones who purchased the land with their own money,

then the land is theirs and their former spouse has no rights to it. Another example of a subversive strategy is provided by those men who say, in the context of a threatened or actual divorce, that they will take custody of their children, on the grounds that they are in a better position to look after them since they are better off economically than their estranged wives. Through this they hope to secure for themselves the neutral land that they bought during the duration of their marriage. This is contrary to the matrilineal norms of Muluwila which dictate that the woman and not the man should retain custody of the children who belong to their mother's matriline. An important Chichewa maxim is the saying that '*malo ndi a ana*', which means that land is for the children. Thus by taking custody of their children, men work with local cultural values to legitimise their taking of the marital land also, on the grounds that this land is for the welfare of the children and they are thus acting morally and in terms of local norms. However, in such cases the consequence for the children's mother is that she is left both 'childless' and landless.

8.3.2 Division of labour

According to Connell, the division of labour between men and women also shapes the way in which certain decisions and practices are performed in society. In Chapter 6 the division of labour between men and women was described and men's relative advantage in relation to waged work noted (even though this generally involves very low paying jobs in and around Muluwila). Women are primarily responsible for reproductive work, including home-making and, through cultivation, making sure there is food in the home, as well as for cooking, and taking care of the children and their husbands. White (2010) argues that the activities done by women do not generate surplus income which they can use to buy assets to the same extent as men can, and yet the activities for which they are responsible tend to consume time and energy. If a marriage dissolves and disputes over property go to the magistrate's court, most village women would find it difficult to prove what their contributions to household property would have been, because they would have been less likely to make a financial contribution towards land or major household items than men. White (2010) also argues that when disputes over marital property go to the chief's court, household assets are divided in gendered ways. Women are given 'feminine/ kitchen items' such as cooking utensils and pots, which are less valuable than 'masculine tools'. Valuable items such as roofing sheets and windows frames are generally considered to be *ziwiya/ zida zachimuna* (man's tools).

It is notable that at the chief's court and the Zomba magistrate court, men hold positions of power. These men are the ones who make ruling on civil cases such as marriage dissolution cases and share marital property. As seen in Chapter 7, according to one official at the magistrate's court, 'for the women who takes their cases to the court, the majority of them just accept the ruling without appealing in cases where they feel they have not been served well'. This is in agreement with Razavi's (2007) observation that women have too little voice at local-level administration as well as within formal law (Razavi, 2007: 1488). This then agrees with Connell's observation that because the division of labour in the society tends to favour men, women are often not well served by various institutions that exist in the societies in which they live.

8.3.3 Cathexis or affective attachments

Connell argues that in a society with patriarchal norms, sexual desire tends to be harnessed and organised in favour of men over women (1995: 76). Thus, Connell argues further, when analysing gender order in a society, it is important to ask political questions pertaining to the relationships involved, for instance, 'whether they are consensual or coercive, whether pleasure is equally given or received' (Connell, 1995: 74). These ideas are pertinent for the analysis of the relationships between men and women in marriage in a matrilineal society such as Muluwila as well.

In Muluwila affective relationships in marriage were found to be volatile, with high rates of marriage dissolution and re-marriage, as well as high levels of sexual infidelity within marriage, including on the part of women. Marriage is an important arena for sexual relationships but women's experience in this regard is frequently unsatisfactory. Of the nine women respondents in my in-depth interviews, the three women who were forced into marriages reported that they were not satisfied sexually in their marriages and, additionally, suffered physical abuse while their husbands were not providing for their households as their wives expected. While women demonstrated sexual independence in initiating relationships (as in the case of Zione whose story is told in Chapter 7), they were also vulnerable to abuse. Given that sexual infidelity is a major reason for why marriages in Muluwila break down, it raises questions about what it is that women are looking for in a marriage partner, because there seems to be a general sense of dissatisfaction with marriage in terms of affective relationships.

The gendered dimensions of cathexis in Muluwila are well illustrated through the phrase that one of male respondents used which reflected wider attitudes and social behaviour within the village. This was the comment, '*Mwamuna ndikabudula, amatha akuyenda*' which translates as 'A man is like a pair of short (Bermuda) pants, he wears out as he is on the move'. What is actually being said is that it is considered natural for men to move from one sexual partner to another – i.e. such behaviour is seen as normal because it is in men's nature. This introduces tensions within the marriage but, furthermore, if a marriage were to end, it is not seen as a problem for the man who is expected to be able to find another woman to marry, without encountering social stigma. Such attitudes have implications for the degree of attachment an individual man is likely to feel towards his spouse. The underlying values have implications for the stability of marriage and also how women are perceived in this society. They are expressive of the social dominance of men over women in sexual relationships in my study site. As for women, sometimes remarrying is stigmatised. When a woman remarries, she is seen to be unstable, not capable of keeping a man. This to some extent reflects the relative sexual independence of women.

Such attitudes shape the feelings of attachment between spouses, how much they value their spouses and how willing they would be to do any meaningful development with or for a spouse. Men tend to see marriage as temporary but do not mind because if the marriage dissolves they are confident that they can move on and get married again. Where they marry, they will have access to land and even housing as the parents of the bride will provide a house for the couple while waiting for them to build their own house.

The degree to which emotional attachments in marriage in Muluwila are relatively weak can also be inferred by looking at how marriages dissolve. As my research findings have shown, a number of respondents submitted that marriages break down quite readily over small issues. An example is that of Caroline whose marriage ended when she inquired about the pots and plates which her mother-in-law had taken from her bedroom. But women may also initiate the process of marriage dissolution by simply telling their husbands, when they do not want them in the house any longer, that *tengani mphasa ndi mabulangete anu muwone nsana wanjira*. The literal meaning is 'take your mat and blankets and see the back of the way', in other words, take your things and leave the house and marriage.

Such expressions portray the attitudes of the people. The phrase is part and parcel of the culture to the extent that as it is said over and over again, it is rehearsed and entrenched in their belief system and consequently, it is normalised. At the same time it serves to confirm the unstable nature of the marriage bonds between husbands and wife. It also points to the gendered way in which property is shared when a marriage dissolves. On the one hand, it implies that there are particular items that it is accepted that a man should have when a marriage dissolves. This is not limited literally to the mat and blankets articulated in the expression, even though these items are part of what a man gets as his share when a marriage dissolves, especially when the dissolution is formalised through divorce. On the other hand, it also shows how vulnerable a man can be under the matrilineal social organisation when a marriage dissolves to losing his place of residence, particularly if he is living with his wife at her maternal home. In such a case, however, a man is also able to fall back on his own maternal family and, as already discussed, is likely to re-establish himself through remarrying.

8.4 The significance of national laws and policies

In this context the need for regulating women's property rights under national laws and policies cannot be overemphasised. In this respect Malawi has made strides in recent years, with the Constitution stipulating that women have rights to 'acquire and maintain' land regardless of their marital status, and to a 'fair' share of any property that they hold jointly with their husbands. Malawi is also a signatory to various international conventions and protocols that advance women's rights, including CEDAW. However, having laws and policies on paper that are not being used is little better than having no national provisions at all. A significant reason for this, as the Zomba court magistrate told me, is that many rural women do not know about the national provisions that could assist them make claims to their rights to property when these are under threat, including when their marriages dissolve.

This perception was borne out in my study which found that only a small proportion of women knew about these national provisions, and of those who did, very few had clear information about what the provisions involved, and/or felt that the provisions were not intended for poor, uneducated rural women such as themselves. These women suppose that women's rights issues are only for educated, well-to-do women who are employed in formal jobs. They feel that because of their low status in society, they would not be able to make

sound arguments in a court of law. They also wish to avoid being labelled by their community as '*nzimayi wokanganila chuma*', which literally means 'a woman who fights for riches'.

The magistrate whom I interviewed as a key informant indicated the need for civic education to educate not only women but also society in general about women's property rights in Malawi, as most men and women do not understand what they are about. This emerges as an important issue and is one of the recommendations emerging from my study. However, there is also a problem with regard to the enforcement of women's customary rights, where the problem is not one of knowledge about the rights, but the enforcement of those rights through customary channels, in particular the institution of *nkhoswe*. Given that the local level is one where women are more comfortable acting, it is important that local institutions are also educated, supported and monitored to ensure that they promote women's rights as well.

At the same time, the state needs to be investing in forms of local rural development that strengthen rural livelihoods, including non-agricultural forms of making a living. Here an important area for investment is education which has been found to be very poor for both men and women. Additional land for smallholders also emerges as an important area for further policy intervention.

8.5 Further areas for research

According to Eisenberg (2007) '*habitus*' represents 'a fluid set of guiding principles for social actors, enabling them to understand and negotiate particular environments and cultures as well as what is unique to each of them as individuals'. Yet while an individual is embedded in her culture and thereby accepting much of what happens in her environment, at the same time she is also capable of questioning and adapting certain aspects of the social environment, to suit her needs better. People cannot be seen as passive recipients of the guiding principles embedded in their culture. They manoeuvre by negotiating in various ways around what they suppose to be helpful for them. Both men and women in Muluwila are operating in a dynamic and difficult world that at the local and domestic level is governed by the guiding principles of matrilineal social organisation, which shapes the social fields within which they operate. As my discussion has shown, within this world women are disadvantaged with regard to men in a number of ways, including in terms of power relations within marriage, the *banja* and the

wider family network and the gendered division of labour. However, matrilineal customary law also accords women significant claims to land and familial support.

An area for further research that would enhance our understanding of these complex dynamics would be to explore the experience of men in relation to marriage and matrilineal social organisation from their perspective. Linked to that would be research in the institution of *nkhoswe* specifically, to deepen the understanding of the social dynamics impacting upon it. As noted in Chapter 5, the role of religion and the way it intersects with customary law and matrilineal norms and practices is also a topic that warrants further investigation.

8.6 Conclusion

In this dissertation I set out to explore the extent to which women in matrilineal communities in Malawi experience threats to, or actual loss of, both access and ownership rights to property, more specifically to land and housing, if their marriages dissolve. Property ownership entails having the power to make decisions pertaining to the use and disposal of the property in question, as well as being able to exercise control over the property. Property also entails a network of social relations that govern the conduct of people in relation to the way they use the land or house in question, as well as the meanings they associate with the it. Thus, as Hann argues, the ultimate determinant of what property is and what it is not is embedded in the attitudes of the group whose culture is being studied (Hann, 1998: 34).

The issues around property rights issues have been explored through an investigation of women's experiences regarding property when their marriages dissolve in Muluwila village, TA Kuntumanji, in Zomba district, an area which is characterised by matrilineal forms of property inheritance. From a feminist standpoint theory perspective, I developed a mixed-methods research design, drawing on both qualitative and quantitative methods of data collection. My primary sources of data came a household survey, in-depth interviews, and key informant interviews, supplemented by transect walks, mapping, observation, and a focus group discussion. My study provides clear evidence of women being denied access to property and ownership rights by their former husbands or marital families or struggling to assert or regain rights in their natal homes upon the dissolution of their marriages, leading me to conclude that women are, indeed, 'losing ground'.

Marriage bonds between a husband and a wife are typically weak while bonds between brothers and sisters are stronger in the matrilineal communities of Malawi. Marital instability in Malawi is not a new phenomenon, with various studies noting an increase in the occurrence of marriage dissolution. In many cases, the parties remarry, hence marriage rates remain high. As the economy of matrilineal Muluwila is agriculturally based, land is crucial for household production as a source of livelihoods. In a context of limited livelihood strategies and low levels of education (which closes off opportunities for better salaried employment), owning land is a critical resource. Property ownership is also embedded in a network of social relations, for instance between mothers and daughters, *nkhoswe* and *mbumba*.

Issues around owning property (land and housing) at the point of marriage dissolution in my study have reflected emerging social changes due to pressure on land to patterns of inheritance which is accommodating fathers giving their land to daughters and brothers benefiting from inheriting maternal land which formerly was inherited by daughters. As in Gray's understanding of property ownership rights in terms of power relationships suggested earlier that property ownership rights conversely implies that property can also be a source of vulnerability. This is particularly the case in relation to gender roles and relations, which also involve power relations in Muluwila where women's property rights to land and housing seems to be increasingly threatened.

As is suggested in the literature suggested, I found a significant number of Malawian women are vulnerable to losing property as a result of the dissolution of their marriages. It is often assumed that women in matrilineal communities have strong ownership rights to land because descent follows the female line and marriage is commonly uxorilocal. My study, however, found that women do not have strong powers over land in Muluwila. This is despite government interventions, including the drafting of a National Gender Policy which provides for equal and secure property rights for men and women, including in cases of marriage dissolution, and provisions for women's rights to access and own property in Malawi's Constitution (2000). In practice however, as my study has shown, decision-making powers over the land that women are said to own are commonly vested in males within their maternal lineage, i.e. in the hands of the uncles or brothers of the woman in question. Furthermore, some men in matrilineal marriages are said to be hesitant to make meaningful investments in

the land that they access through their wives and may not even build a house on this land, as matrilineal custom dictates. The power relations between men and women often favour men over women, as most decision-making positions are occupied by men, be it in traditional courts or other government institutions. My study indicates that women are not being served well in that many men occupying positions of power appear unable or unwilling to empathise with rural women in their struggles to claim and/or secure the property to which they are entitled..

In 1997 Peters (1997: 207) pointed out that there is dearth of research on basic issues relating to residence after marriage in matrilineal communities in Malawi. More recently Berge, Kambewa, Munthali and Wiig (2014: 64) have argued that the volume and extent of matrilineal land holding across Malawi is a neglected research topic. My dissertation makes a contribution towards filling this knowledge gap through its exploration of rural women's experiences around land and housing after their marriages have dissolved, in a matrilineal community in Malawi.

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APPENDICES

Appendix 1. Background survey on women's access to and property rights in Muluwila village, Traditional Authority Kuntumanje, Zomba, Malawi

DATE:

INTERVIEW NUMBER:

LOCALITY:

INFORMED CONSENT OBTAINED:

This survey is intended to give a general picture about this community. There are no right or wrong answers. I will start by asking you questions regarding yourself.

MODULE A: HOUSEHOLD IDENTIFICATION AND SOCIO-ECONOMIC CHARACTERISTICS:

(1) **Household composition**

No.	Relationship to respondent	Sex	Age (approx.)	Marital status	Primary Occupation	Highest Education	How often is the respondent at home	Household head
1	RESPONDENT							
2								
3								
4								
5								
6								

Married: 1

Divorced: 2

Abandoned: 3

Widow/ widower: 4

Remarried: 5

(2) **Source of household income:**

- a. From where does this household get most of its cash or income? Please identify the main source of household income, followed by the next most important source and then the third most important source. [Code 1, 2, 3]

1	Farming
2	Remittances from elsewhere
3	Income-generating activity – please specify:
4	Piece work
5	Local wage employment – please specify:

6	Other (describe)
---	------------------

b. Which is the most important source?

(3) **Relative wealth ranking**

On a scale of 1-5 where

- 1 = very well off;
- 2 = somewhat better off than average,
- 3 = average
- 4 = somewhat worse off than average
- 5 = very badly off

Compared to others in your village, you are:

What makes you feel that way?

(4) Does this household have livestock?

- 1=Yes
- 2= No

If answer is 'No', please go to question 6. If answer is 'yes' continue with question 5.

(5)

No.	What type of livestock do you have	How many do you have	Use
1	Cattle		
2	Goats		
3	Pigs		
4	Sheep		
5	Poultry		
6	Other		

(6) Do you have a vegetable garden

- 1= yes
- 2= No

If answer is 'no' go the question 8; if 'yes' proceed with (7).

(7)

No.	For what use are the vegetables
1	Primarily Sale

2	Primarily Home consumption
3	Both sale & home consumption more or less equally

Food availability

(8) How much of the food that this household consumes does this piece of land produce?

On a scale of 1-5 where

- 1= more than adequate
- 2=somewhat adequate
- 3=adequate
- 4=somewhat inadequate
- 5=completely inadequate

The food that this household manages to get throughout the year can be described as

MODULE B: LAND HOLDINGS

In the next set of questions we will talk about types of land, how they were acquired and their uses.

(9) As of now, whose land is it on which you are living?

(10) In terms of which arrangement was the land you are now living on obtained?

1	Customary tenure
2	Freehold title through purchase
3	Rental
4	Part of employment package
5	Given by local chief
6	Other (describe)

(11) If inherited, from whom was this land you are living on inherited?

(12) What is the customary tenure practiced in this area?

(13) Can you explain how one acquires land and/or a house in this area under this type of tenure?

MODULE D: ACCESS TO AND OWNERSHIP OF LAND AND HOUSING

(14)

	Is there a main user of this land? If so who?
1	No
2	Me
3	My spouse
4	Family as a whole
5	Other (describe)

(15)

Whose responsibility is it to make decisions about the land?	
1	Me
2	My spouse
3	My spouse and me
4	Family as a whole
5	Parents
6	Parents-in-law
7	Male of older generation than me
8	Female of older generation than me
9	Community
10	Other (describe)

(16)

Have you been involved in decisions made about the land?	
1	Yes, I am the main person to decide
2	Other person/s had equal say than I did
3	Other person/s had more say than I did
4	No

(17)

What is the main basis of your decision-making power?	
1	Land is mine
2	Inherited
3	Purchased
4	Given by family
5	Allocated to me as an individual
6	I am main user
7	Responsible while spouse is away
8	Status as a spouse
9	Status as a daughter/ son
10	Status as a parent
11	Other (describe)
12	N/A –not involved in decision-making

(18)

Whose responsibility is it to decide whether this land is rented, let, given or sold to others?	
1	Me
2	My spouse
3	Family as a whole
4	Parents
5	Parents-in-law
6	Male of older generation than me
7	Female of older generation than me
8	Headman
9	Government
10	Community
11	Other (describe)

(19)

Have you been consulted about decisions with regard to sale or transfer of this category of land?	
1	Yes, I am the main person to be consulted
2	Yes, the other person/s had equal 'say'
3	Yes, but other person/s had more 'say'
4	No, I was not consulted
5	Not applicable- land cannot be sold
6	Not applicable because we have never sat down to discuss anything concerning selling or transfer of the land.

(20) **Housing**

Whose house is it (in which you are living)	
1	Mine
2	My spouse's
3	My relatives
4	My spouse's relatives
5	Land lord's
6	Other (describe)

(21)

How was it acquired?	
1	Was given from the matrilineal side
2	Was given from the patrilineal side
3	Was bought
4	Renting from a land lord
5	Our children built it for us
6	Acquired it through other means (please explain)

(22)

When was it acquired	
1	Less than a year
2	1-5 years ago
3	6-10years ago
4	11-15 years ago
5	More than 16 years
6	When was the house acquired

(23)

Who makes decisions concerning the house?	
1	Myself
2	My spouse
3	Other (Please describe)

MODULE C: HISTORY OF THE LAND THE RESPONDENT IS LIVING ON

(24)

When was the land first acquired?	
1	More than 100 years ago
2	During the colonial period
3	During Dr. Hastings Banda's regime 1964-1994
4	During the first wave of democracy/ Dr. Bakili Muluzi's regime 1994-2003
5	5 years ago
6	Don't know
7	Other (describe)

(25) How was the land first acquired?

(26) Through whom was the land first acquired?

(27) What are the main problems regarding land ownership here?

(28) Would you like to have access to one of the lands?

(29) If yes, for what purpose?

(30) Who will inherit the land on which you are living?

a. In case they say the land is for their children, ask: is it for sons or daughters?

b. Do sons and daughters have equal inheritance rights to property?

(31) Have there been any disputes concerning this land and or house?

- 1=Yes
- 2=No

(32) If respondent indicated that the land was under some dispute proceed to question 33 a-c below. If not, then go to question (34).

a.

Who presided over the dispute	
1	Wife's relative (Specify)
2	Husband's relative (Specify)
3	Neutral person
4	Local chief
5	Court
6	Other (describe)

b.

Was the dispute resolved	
1	Yes
2	No

c.

How long did the process of resolving the dispute take?	
1	Over 10 years
2	6-9 years
3	5 years
4	1-4
5	Less than 1 year

(33) Do marriages dissolve in this village be it through divorce, abandonment, or death of a spouse.

(34) Please explain how is land and housing shared when a marriage dissolves through divorce?

(35) Please explain how is land and housing shared when a marriage dissolves through abandonment?

(36) Please explain how land and housing are shared after the death of a spouse:

a. When the married woman passes on

b. When the married man passes on

(37) Is there anything more you would like to tell me about land and about women's access to land in this area?

Our discussion ends here. Thank you so much for your time and for answering these questions.

*Nature of housing and surroundings including livestock, mode of transport if any to be noted below.

Appendix 2. Letter of informed consent



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STELLENBOSCH UNIVERSITY CONSENT TO PARTICIPATE IN A RESEARCH PROJECT

Greetings. My name is Bridget Matinga-Katundu. I am a doctoral student in the Department of Sociology and Social Anthropology Department, Stellenbosch University, South Africa. I am inviting you to participate in a research study which will contribute to my PhD thesis. In order for me to proceed with our discussion, I need your agreement, either orally, or by means of your signature or that of your representative, should you prefer.

Please take note of the following background information.

1. The aim of the study is to examine women's experiences with regard to property rights in Malawi. As part of this study I wish to collect information from people through individual interviews and/or group discussions. I am asking you to participate in a:

.....

2. Participation in the study is voluntary, ie you can choose whether you want to take part or not. If you agree to take part, you may still withdraw at any time, without any negative consequences. You may also refuse to answer any questions that you do not want to answer and still remain part of the study.

3. If you agree to take part in this study, I will ask you to:

answer some questions / contribute to a group discussion [CIRCLE RELEVANT ONE]

in which you draw on your experiences and knowledge concerning women's property rights in your community and/or Malawi generally. Our conversation will take approximately 45 minutes to one hour.

4. There are no foreseeable risks to you in this research. There will also be no direct benefit to you, including no payment of money for agreeing to take part. However, I expect that my study will add to our knowledge of what is happening around women's property rights in Malawi and it may contribute to improving government laws and policy on land and women's rights.

5. You will not be identified as a participant in the study in my thesis unless you give me express permission to use your name. Otherwise your identity will remain confidential. In that case, where information you have given me is used, your identity will be protected through the use of codes or pseudonyms (ie your name and identity will not be revealed).

6. The data will be stored in a safe space and will only be used for legitimate research purposes.

7. If you are agreeable, I would like to record my interview/discussion with you. This makes it easier for me to be sure my notes on our discussion are accurate. If you do agree to being recorded, you may still ask for the tape recorder to be switched off at any time during the interview. The tapes are intended for educational purposes only and will not be given to anybody else in the community. They will be stored by me in a safe and secure place.

Appendix 3. Interview schedule for in-depth interviews



In- depth interview Schedule

Interviewee identification: _____

Interviewer's Name: _____

Interviewer's signature: _____

Date and time of interview: _____

Locality of interview: _____

Informed consent obtained: Yes No

Interview recorded: Yes No

Sex of respondent: M F

Current residence of interviewee:

Marital status: (Please tick one)

- Married
- Widowed
- Divorced
- Separated
- Abandoned
- Live-in-partner
- Single, but in a relationship
- Single but currently not in a relationship

Approximate age of interviewee: _____

Occupation: _____

Theme 1: Background: childhood and youth

I would like to begin our chat by asking you to tell me about yourself and your background, for example where you were born, where you grew up, what your place was like and so on.

Prompt questions include:

1. Where were you born? _____
2. What sort of place was it?

3. Did your family have its own land there?

4. Whose land was this that you lived on?

5. Were there any family members who used to live with you where you were living?

6. If yes, what was the nature of their relationship with you (were they your brothers, sisters or what?) _____
7. Do you still have any ties with the land and if so what ties are these?

8. What level of schooling did you achieve?

Theme 2: Place where the interviewee is staying today

I am interested to know how you got to live in your current place. Could you tell me how you came to live in this place? What do you think about this place and why?

Prompt questions include:

9. How did you find yourself living here?

10. *If the respondent moved to this place or other places: tell me the history of this land, to whom did it belong?*

11. When did you move here?

12. Why did you move to this place?

13. Where were you living before you moved here?

14. Did anyone else move here with you? If yes, who?

15. Were you pleased to move here?

16. Why or why not? Please tell me more about your answer.

17. For how long have you been living in this place?

18. What do you like about this place, if anything?

19. What do you not like about this place, if anything?

Theme 3: Current household structure

Please tell me about your household and who is living with you at home- for instance, your husband/partner, your parents, children, relatives or whoever you are staying with.

Prompt questions

20. Who lives with you now?

21. Are you caring for any other children other than your own?

22. Why did they join your household?

23. Was your marriage by choice, how did you get married?

24. What was your marriage like?

25. Do you have any intimate partner right now?

Theme 4: Matrilineality

Matrilineality is a custom that is common in our country, Malawi. Another form of marriage and land ownership is patrilineal. I am interested to know more about the matrilineal custom. Could you please explain to me what it means to you and how it is practised in this community? You can also tell me about changes that this custom may have undergone over the years, and possibly why there have been these changes or why it has not changed.

Prompt questions:

26. What is matrilineality?

27. How common is it in this village?

28. How is the matrilineal custom practiced at present?

29. What are the positive and/or negative aspects to it, compared to the other systems

Points to explore: Explore the history of matrilineal custom (especially in relation to how property such land and / house were acquired by husband and wife) and how it is practiced today; how it came to Malawi, if known

30. Is there any particular person who is considered to be the owner of land and the matrimonial house?

31. How is ownership of land and matrimonial house understood?

32. When were you first married?

33. What led to your marriage dissolving? (*Here, depending on how the marriage ended, appropriate words such as divorce, abandonment or death of a spouse will be used*).

34. How long ago has your marriage been dissolved? (*Here use the appropriate word depending on the kind of marriage dissolution the interviewee has gone through*)

Less than 1 year 1-2 yrs 3-4yrs 5 +yrs

35. Briefly, would you share with me what lead to the dissolution of your marriage.

36. Are there any steps that you or your marriage partner took, for instance consulting marriage counsellors, or anyone else before your marriage was finally dissolved?

37. What happened to the property that you had?

38. Did you have any help or mediated the process of property sharing if there was at all a property sharing process that took place?

39. If yes, who helped in resolving or mediating the sharing of the property? Please circle the appropriate answer. Was it:

- a. 'Ankhoswe' (your marriage counsellors)?
- b. The village headman?
- c. Friends
- d. Family members?
- e. Sorted among yourselves?
- f. Other? Please indicate who helped.

40. Did this help make any difference?

41. Did you feel that the property was shared in a fair manner? Please explain your answer.

Theme 5a: Property: Housing and Land

I am interested in understanding the situation of women in this community with regard to land and whether or not they have rights to own or use land / house; and how secure these rights are. Could you explain to me the situation in your family, including who owns the land and whether you have any rights to the land and or house?

Prompt questions include:

42. Who built the house/ houses which you have/ had?

43. Who in your household is considered to be the owner of the house in which you live?

44. What makes it theirs?

45. Can you personally make any decisions about this land or house?

46. Have there been any changes around household land in recent years? (Malawi's independence era can be taken as a point of reference)

47. What are these changes, if any?

48. If no changes, ask them to explain why they think there has not been any change.

49. Have there been any changes around ownership of marital house in recent years under the matrilineal customs?

50. What are these changes, if any?

51. *If no changes:* Why do you think there have not been any changes?

Theme 5b: Conflicts over land and housing

I know that sometimes there are disagreements about land and housing in families. I would like to know if there have ever been disagreements over the ownership or use of land or houses, and what you think about this disagreement if it did occur. How did you go about addressing issues of owning and accessing the land or house? How did you feel about the process of deciding who will own what? How long did the process take and was there anyone who helped with the process?

Prompt questions include:

52. Have you ever been involved in any disputes about land and or house? If yes, could you describe what happened?

53. If none, how did you go about property sharing especially, who will own the land and the house?

54. What are (if still happening) or were the disputes about and how serious were they?

55. Who is there to help resolve the disagreements?

56. How long did it take to resolve the dispute?

57. Do you know of other people who also had disagreements over who will own the land and house after their marriage dissolved?

58. If yes, how was this resolved?

Points to explore: Explore the practices that surround marriage dissolution.

59. What happens when a marriage dissolves through:

a. Divorce: Explore

i. The process of divorce

ii. How it is divorce done under the matrilineal custom?

iii. Who is involved in mediating the process of deciding what happens to property?

iv. How is property vis-à-vis house and land shared?

b. Abandonment: Explore

i. What happens when a spouse abandons the other?

ii. What steps are taken to handle the issue of abandonment?

iii. Who is involved in the process surrounding the issue of a spouse being abandoned?

iv. What happens to property vis-à-vis house and land allocated?

c. Due to death of a spouse: Explore

i. What happens when a spouse dies?

ii. Are there any customs that are followed in terms of making decisions around property which a family had before the other spouse passed away?

iii. Who is involved in deciding who gets what property vis-à-vis land and house?

iv. Does a surviving wife have rights to access and or own land or house that used to belong to the family?

Theme 5c: Significance of ownership of land and house

As you know this study concerns women's property rights, particularly rights to land and house. I am interested to know how important it is for women to have independent rights in/ ownership of land and or a house- do you think it is important and why do you say what you say? Are you satisfied with the rights you have? Can owning land or a house ever be a problem for women?

If interviewee has independent rights in land and/ or house, prompt questions include:

60. What is your household's land and house used for?

61. How important is it for the wellbeing of you and your household?

62. If you did not have this piece of land how would you feel or what difference would it make?

63. What about the land as an ancestral land?

64. What about the land being important as home?

65. Do you sometimes feels that this land conveys a sense of relationships with the land and some people being connected to it and may be you?

66. What does / did it mean to you to have rights to access and/ own land/ house?

67. What were your feelings when you first got rights/ ownership?

68. What were the reactions of your ex- partner, family/ community when you acquired rights towards the said property?

69. Have you ever felt that the land or the house was a burden? If yes, in what way?

If participant does not own land/ house, prompt questions include:

70. Would you like to own land and or a house?

71. Why?

Theme 5: Agrarian changes that have taken place over time

I notice that almost each and every household has a piece of land where they farm. Farming seems to be very important for people living in this area. I am interested to know, the kind of crops that you grow here, what they are used for, who is practically involved in the farming in your household and why. I would also like to know if there have been any changes over time on agricultural activities were done in the past.

72. Explore if agriculture is the main activity done in this community.

Prompt questions

73. Has the way people farm changed over the years? 1 Yes 2 No

74. If yes, how?

75. When did these changes take place?

Do you know why?

Theme 6: Livelihoods and income

Let us now turn to the ways in which you and your household make a living and how important is the land and the house for that. Tell me about what you do for a living and how you generally manage to have food in your household. What is the significance of land/ house as a source of this household's source of income and livelihoods?

Prompt questions include:

76. What are your activities for income/ providing food in your household?

77. I would also like to know how previously your household managed to fend its food before the marriage dissolved (If the marriage was dissolved by way of divorce, abandonment or death of the spouse, use the relevant word such as ' before you

divorced...').

78. What challenges did you have then and what challenges do you have now?

Module 7: Gender roles and responsibility:

In our chat, I would also like to know more about the work you do, in both the home and outside the home. In addition, I am also interested to know how you feel about your life as a woman (if talking to a man, then say as a man). For example, you can talk about how much power you have in relation to men/women and in what areas. You can also talk about how you relate with the other members of this household.

Prompt questions include:

79. Are there any differences between men and women's roles and responsibilities?

80. _____

81. Are there differences between men and women in terms of making decisions

82. What activities are you responsible for doing?

83. Who decides on issues concerning land, spending money, where children go to school among other things?

84. What power do you have, in relation to these activities?

85. What gives the decision-maker power to make the decisions?

86. Who does he/ she consult?

87. If you disagree with the decisions, what can you do? (Ask this question if the interviewee is not the one who makes decisions).

88. Are there any areas where you make decisions? (ask if he/ she is not the one who makes decisions)

89. Have you experienced any changes in your responsibilities over time?

90. What are the major challenges facing your household?

91. What are the major challenges facing you?

92. If you have a problem, to whom do you turn for help?

93. Have you heard of any laws concerning rights to own property?

Yes No

94. If yes what did you hear?

95. From where did you hear this?

96. If you were given an opportunity to advise on how marital property should be shared, what would you say...

a. To government

b. To 'ankhoswe'

c. To Chiefs

97. Is there anything else that you feel like you should add to our discussion before we close?

Thank you so much for participating in this research and for your time.

Notes on interview

This section is to be filled-in immediately after the interview is completed but not in the presence of the interviewee.

Approximate length of interview: _____

Responsiveness of interviewee: _____

Generally the interview was (Please tick one per line):

1. Very relaxed Reasonably relaxed Tense
2. Forthcoming/Open Reasonably forthcoming Not forthcoming

Note any modules and or questions that the interviewee seemed particularly uncomfortable or distressed about answering.

Note any striking points such as idioms, clichés and or unexpected responses

Note any difficulties encountered during the interview. Comments on such things as surroundings, the house of respondent, evidence of livelihoods level, poverty or relative wealth, assets, evidence of active farming.

Note any other comment worth making

Appendix 4. Focus group discussion



FOCUS GROUP DISCUSSION CAMEOS TO BE USED IN MULUWILA, ZOMBA, MALAWI

Date: _____

Welcome to this focus group discussion session. Your participation is voluntary and is very valuable. Please feel free make your contributions.

Cameo 1:

Achisale and Anaphiri have been going out together for some years. They now want to get married and live together in their own house. They do not have enough money to buy their own, new land but have land in their respective homes.

- What marriage custom should they follow?
- What does 'matrilineal custom' mean?
- Does land or house have any significance in the matrilineal culture?
- How will the two most likely acquire land to build their house?
- Where should they build their house?
- Whose responsibility will it be to build the house?
- What are women's property rights in this marriage custom?
- What are men's property rights in this marriage custom?
- With regard to land and house, what are the patterns of inheritance in matrilineal customary marriage?

Cameo 2:

After a successful marriage ceremony Achisale and Anaphiri start staying together. Years later, they have their own 3 children. During the course of their marriage, they start having differences on a number of issues. They argue.

- What are the natures of disputes/ arguments which Achisale and his wife Anaphiri are most likely to have?
- How are these resolved?
- Are there any parties who would mediate between the two?

Cameo 3:

The disputes become so frequent that Achisale starts contemplating abandoning his wife. In the event that Achisale finally decides to abandon Anaphiri:

- What will happen to the children that the two have together?
- What will happen to the property especially the land and the house which they have?
- Will Anaphiri have access to and ownership rights to the land?
- Who will decide on what should happen to the land and the house?
- Do their relatives have any influence on the decision to be taken?
- Is there anything that Anaphiri can do to ensure that her rights to owning land and house are secure?
- What is the extent of marriages being dissolved by way of a spouse abandoning his/ her spouse?
- What is the magnitude of case of women abandoning their husbands?
- What is the most dominant reason that a spouse would abandon the other in this community?

Cameo 4:

After thinking long and hard about their problems they both come to the conclusion that their marriage is not going to work and they should divorce.

- What will happen to the property especially the land and the house which they have if they divorce?

- Will Anaphiri have access to and ownership rights to the land?
- Who will decide on what should happen to the land and the house?
- What processes are the two supposed to follow to finally divorce?
- Do their relatives have any influence on the decision to be taken?
- Is there anything that Anaphiri can do to ensure that her rights to owning land and house are secure?
- For how long will the process leading to divorce most likely take?
- How will the property (the land and house) be distributed?
- What is the extent of marriages being dissolved by way of divorce?
- What is the magnitude of women initiating divorce?
- What is the most dominant reason for divorce cases in this community?

Cameo 5:

A while later, they both realise they had made a mistakes because they still loved each other, They therefore decided to forgive each other and continue with the marriage. Suddenly, Achisale was tragically involved in a fatal car accident and died. Anaphiri is worried.

- Why might Anaphiri be worried? Does she have anything to fear? Form her children? From her relatives? From her late husband's relations?
- Would the issue of access to and ownership of the land and house be something that Anaphiri should worry about? Why or why not?
- Who would decide what happens to the land and house?
- Would Anaphiri have any say on what should happen to these properties?
- What is the extent of marriages being dissolved through death of a spouse in this community?

Cameo 6:

Eventually, the late husband's sisters and brothers come and forcefully take the household items, claiming that it was their brother who worked for the items. They demolish the house. Anaphiri is left deep in thoughts.

- What could Anaphiri possibly be thinking about?
- How often would women here be left without being able to have access to or ownership of land or house?
- What could be the impact of this on the woman and the children?

- What should Anaphiri do about her situation, if any?
- What are the steps that the relative would have taken to sort out the issue concerning the land and the house?

Cameo 7:

Chisomo, the eldest daughter in this family sees how her mother has been treated. She ponders on a number of issues that it raises. She would like to know:

- Is access to and owning property by women important?
- Are there changes with regard to women's access to and ownership of property dating back to when Malawi got independence? If yes, what could be these changes, if any? If no, why have the norms not changed?
- If they have changed, what could have influenced these changes to take place?
- If we compare the time of independence and the present time, which period could be said that women's property rights are or were more secure? Why or why not?
- Are there any considerations that would be made to ensure that women's property rights are secure?
- Have you ever heard what government says about women's access to and ownership rights to property?
 - If yes, from where did you hear this?
 - What was it that you heard?
 - What are your thoughts on what you heard?
- Is there anything that the government of Malawi has put in place to assist women who face situations like Chisomo's mother?
- Is there anything Chisomo can suggest to government and other relevant people like the ones who were involved in resolving her parent's dispute regarding women's property rights?

Thank you so much for your time and participation.

Appendix 5. Key informant interview schedule (*nkhoswe* and chiefs)



Key informant interview guide

Interviewee identification: _____

Interviewer's Name: _____

Interviewer's signature: _____

Date and time of interview: _____

Locality of interview: _____

Informed consent obtained: Yes No

Interview recorded: Yes No

Sex of respondent: M F

1. Were you the *ankhoswe* of the family of ...?
2. Do you have knowledge of what led to the dissolution of this marriage?
3. Could you please narrate what it means to be an *ankhoswe* of this family?
4. Who was involved in mediating issues around the said family's marriage dissolution?
5. How were issues relating to property sharing decided upon?
6. Were there any contestations on who owns what property, especially the land and house?
7. Do you think the way these issues were handled was fair or they could have been handled in a different way? Please explain your answer.
8. What are some of the major challenges that you encounter as the *ankhoswe* in resolving issues relating to women's rights to access and own land?
9. How long did it take to resolve how property such as land and house would be shared?

10. Do you have knowledge of what the laws of Malawi says in terms of women's property ownership when a marriage dissolves, be it through divorce, abandonment or death of a spouse?
11. If yes to question 8 above, please explain to me what it is that you know relating to this matter.
12. Do you have any suggestions or recommendations that you would like to make to government concerning issues around women's rights to access and property ownership in Malawi?

Thank you for your time and willingness to participate in this interview.

Appendix 6. Key informant schedule (magistrate)



Key informant interview guide No. 2 for the court magistrate and chief

Interviewee identification: _____

Interviewer's Name: _____

Interviewer's signature: _____

Date and time of interview: _____

Locality of interview: _____

Informed consent obtained: Yes No

Interview recorded: Yes No

Sex of respondent: M F

1. Do people from rural areas bring to you for your attention cases relating marriage dissolution and how property such as land and housing should be shared among the parties involved?
2. How often do people bring cases of marriage dissolution to this court be it that the marriage has dissolved through divorce, abandonment or the death of a spouse?

3. What are the most common complaints that people bringing cases of marriage dissolution cite as a cause for marriage breakdown?

a. Divorce:

b. Abandonment:

4. What are the grounds for a marriage to dissolve according to the provisions in your court?

5. On average, how long does it take to resolve how property, especially land and housing, is shared between parties whose marriage has been dissolved?

6. How do you determine who gets what property (land and housing) when a marriage dissolves through:

7. Divorce:

8. Abandonment:

9. Death of a spouse:

10. What does the Malawi's constitution say about women's property rights especially when their marriages dissolve whether due to divorce, abandonment or death of a spouse?
11. In your view, do women from rural areas in Malawi know about the provisions in the Malawi's constitution regarding their rights to access and own property such as land and housing?
12. Are there any suggestions or recommendations you would like to make to government regarding women's property rights in Malawi?

In case you have anything that you feel you would like to add on the issues of access to and ownership rights to land and housing for rural women, please feel free to do so.

Thank you for your time and participation in these interviews.