



**Survey Report:
Impact of Luo Culture on
Women's Land, Property
and Inheritance Rights**

Acknowledgement

The report on “Impact of Luo culture on women’s land, property and inheritance rights in Kenya” is part of Kenya Legal and Ethical Issues Network on HIV & AIDS (KELIN) project. This report is an outcome of efforts of many individuals. First and foremost, we would like to thank KELIN-Kisumu office for the logistical support during the survey period and their useful inputs, including finalizing the research design, preparation of data collection tools, and analysis of data and reviewing the report. We express our heartfelt gratitude to many people who made this report possible, particularly all the participants who took time to participate in this research. Special thanks to the research team, more specifically Dan Owuor in collecting and analyzing the data and proof-reading the report. This research would not be possible without the tireless efforts of all the drivers who took us to the field.

August 2021

Acronyms & Abbreviations

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CSOs	Civil Society Organization
CBO	Community Based Organization
HIV	Human Immunodeficiency virus
KELIN	Kenya Legal and Ethical Issues Network on HIV & AIDS
KII	Key Informant Interviews
FGD	Focus Group Discussion
NGOs	Non-governmental Organizations
TOR	Terms of Reference

Table of Contents

ACKNOWLEDGEMENT	3
ABBREVIATIONS AND ACRONYMS	4
EXECUTIVE SUMMARY	6
REPORT STRUCTURE.....	11
CHAPTER ONE: INTRODUCTION	12
CHAPTER TWO: METHODOLOGY	16
2.0 Evaluation Purpose.....	17
2.1 Evaluation Objectives.....	17
2.2 Rationale for the Study	18
2.3 Conceptual Frameworks.....	18
2.4 Scope	19
2.5 Evaluation Target Audience & Benefits	19
2.6 Evaluation Methodology	19
2.6.1 Study Site	19
2.6.1.1 County Profile	19
2.7 General Approach	22
2.8 Sampling Technique	22
2.9 Data Collection	23
2.9.1 Secondary Data Collection	23
2.9.2 Primary Data Collection	24
2.9 Data Analysis	25
2.9.1 Stakeholder Participation & Ethical Issue	25
2.9.2 Evaluation Limitations.....	25
CHAPTER THREE: RESEARCH FINDINGS	27
CHAPTER FOUR: CONCLUSIONS	39
CHAPTER FIVE: RECOMMENDATIONS	42
Legal Recommendations.....	42
Recommendations for CSOs	42
Recommendations for Government	43
ANNEXTURE.....	45
Annex 1: General Checklist.....	46
Annex 2: List of People Interviewed	47
Annex 3: Data Collection Tools	48

Executive Summary

Background: Land ownership is a key indicator of wealth, social security, power and even political security in Kenya. In the last two decades, Kenya initiated a number of progressive legal reforms on women's rights, gender equality and women's empowerment that have led to significant improvement in the status of women in the areas of health, political and community representation, access to credit, education and employment. Regardless of these remarkable achievements, only 1% of women in Kenya hold land in their names and the other 5% of the women population hold the titles jointly with a man. This even though they provide 89% of the labor force for subsistence farming and 70% for cash crop production. Women also head 32% households with the number even higher in HIV endemic areas of Nyanza region. This may be partly attributed to the fact that land reforms in Kenya are geared towards securing land rights of the family, without much regard for differences in land ownership of individuals within households. Currently there is an emerging consensus that there is a nexus in women's land ownership and improved livelihoods. More importantly, land is a valuable asset for women that raises their community status and shapes their identity as producers.

Women Land rights in Kenya: Kenya has made significant progress in expanding women access to and ownership of land. Kenya has robust legal provisions associated with women's access and ownership of land and property rights and these include; Constitution of Kenya 2010 / specifically article 40 provides for the right of everyone to be able to own land individually or with others and Article 27 that provides for non-discrimination based on gender; land Registration Act that explicitly secures women right to own land; marriage Act that provides for joint ownership of land; matrimonial property Act; Law of succession Act that provides for a hierarchy of beneficiary where the wife is the next of kin and Kenya has ratified several international frameworks such as the Beijing Platform for Action, the United Nations Security Council Resolutions 1325 and 1820 and Convention on Elimination of all forms of Discrimination against Women (CEDAW).

Regardless of these laws, women access to and ownership of land has been hindered by lack of awareness of these laws and poverty that has hampered women from procuring legal services thus slowing their ability to access and own land.

Evaluation purpose and objectives: Despite the integration of women land and property rights in the Kenya legal frameworks, no comprehensive study has been conducted among the Luo community to determine how their culture impact on women land, property and inheritance rights. Therefore, the main purpose of the evaluation was to assess and document how the Luo culture impacts on women land rights and to help visualize the correct cultural positions and reduce levels of abuse and exploitation of the vulnerable due to lack



In Kenya, only

1%

of women hold land titles in their names

5%

of women hold land title jointly with a man

Women provide

89%

of the labor force for subsistence farming, and

70%

for cash crop production

of written accounts of cultural positions.

The overarching objective of this study was to explore and document the impact of Luo culture on women's access to land (ownership and tenure rights) and independent exercise of related rights in Kenya. The findings provide empirical evidence to the state and other non-state actors to put in place interventions and enforce laws that support women access and ownership of land. The specific objectives were: (i) To assess how access to information influences realization of Women Land ownership among the Luo community; (ii) To examine how land administration patterns influence the realization of Women land ownership among the Luo community; (iii) To assess the role of culture in influencing women land ownership among the Luo community; (iv) Evaluate progress regarding implementation of centrally developed laws at the community level; and educational and knowledge gaps among women regarding land laws and procedural structures; and (v) Develop a set of concrete recommendations to the various stakeholders in addressing the identified gaps and weaknesses.

Evaluation methodology: Given the importance of securing women's rights to land, this study provides qualitative insights into how the Luo culture impacts on women's land rights in three Counties of western Kenya whose majority inhabitants are of Luo ethnic extraction. The study, conducted in three counties of Kisumu, Siaya, and Homa bay, looks at cultural, legal, administrative and institutional barriers that women face in accessing and owning land, along with identifying the knowledge gaps among women. It employed qualitative research methods such as Key Informant interviews (KIIs) and focus group discussions (FGDs) and observation. The study surveyed 36 individuals, of which 69 per cent were women.

KEY FINDINGS, LESSONS LEARNED AND RECOMMENDATIONS:

Access to information influences realization of Women Land ownership among the Luo community.

The respondents indicated most women are still not aware of any land laws especially those in rural areas. However, those who were aware of these legal provision regarding women property rights received information from various parties including training from various stakeholders such as Civil Society Organization, local administrators such as chiefs, community women rights champions, local radio stations and land office. A majority were also not aware where they can seek help while those who were aware indicated that they seek help from the CSOs, local administrators and even the judiciary in case of court disputes. More importantly, those who were aware indicated that they knew the legal provisions such as the Kenyan constitution 2010, marriage act, matrimonial property act, the law of succession, and sexual offences act. They also know the requirements and procedures of registering land in their own names with a few indicated that they have started the process, and some have land registered under their own names.

The objective of this study was to explore and document the impact of Luo culture on women's access to land (ownership and tenure rights) and independent exercise of related rights in Kenya.

This study provides qualitative insights into how the Luo culture impacts on women's land rights in Kisumu, Siaya & Homabay Counties.

36

individuals were surveyed, of which

69%

were women.

Recommendations

- i. Initiate and/or strengthen community-based campaigns and advocacy programmes through Civil Society Organizations (CSOs)/local administrators/elders and community land champions to strengthen and empower communities.
- ii. Inclusion of land and property rights in the curriculum at an early stage.
- iii. Enhance media campaigns especially on local radio stations on the rights of women to own land.
- iv. Publishing and publicizing laws on land rights in languages and forms that can easily be understood.

Land Administration Patterns and Realization of Women Land Rights.

The study found that in all three counties, despite women having access to land only very had land registered in their names. The most common sources of land ownership for women in all the countries are through buying or in very few cases inheritance from their fathers/parents/family. The respondents indicated that some of benefits that women accrue from having land registered in their names include: reduction of dependency by promoting food and social security thus improving household livelihood; promotion of wealth creation since women can use land to generate income; investment for future generation (children); using it as a security/collateral to acquire credit facilities and enhancement of women dignity and social status with the society.

The findings indicate that main reasons as why very few women had land registered under their name was partly attributed to: lack of support from local administration; ignorance/ lack of information on the processes and benefits of owning land; violence perpetrated by immediate family; poverty since most women do not have financial capability to process tittles deeds; cumbersome land ownership procedures and lack of relevant certification (marriage certificates, identity cards, death certificates); disinheritance of property and retrogressive cultural practices. However, currently there is emerging shifts towards women having land in their names due to sensitization programs by non-governmental organizations, media campaigns and community dialogue / barazas by state and non-state actors.

Recommendations

- i. Sensitization campaigns for both gender and even local administrators on land rights
- ii. Inclusion of land and property rights in the curriculum at an early stage.
- iii. Reducing the cost on land registration, transfer and issuance of tittle deeds.
- iv. Publishing and publicizing laws on land rights in languages and forms that can easily be understood.
- v. Exploring alternative justice system (Use of elders to mediate on disputes).
- vi. Encouraging joint ownership of land or writing of will so that the wife is not disinherited in case of her husband's death.

Luo culture impacts on women land ownership and property rights.

The study found that since issue of title deeds was not common in the old days, the Luo's, traditionally assigned women land to till and engage in any productivity activity they wanted to pursue based on the number of children they had but the women had no power to alienate land. Although women have access to land among the Luo's, the study found that patriarchal and conservative social set-up is one persistent barrier to women's land ownership in all the three study counties. Patriarchy was found to be traditionally accepted, with men as the prime household decision makers on land adjudication and subdivision. When it comes to land inheritance sons

are given prominence on land matters relative to women. Moreover, women are viewed as “properties” whose voice cannot be considered on issues touching on land. Interestingly, due socialization, some women do not want to inherit their father’s land feeling that it will break family ties since they will get married and get access to their husband’s land. Of note, the elders observed that some of the practices such as disinheriting widows or vulnerable women of their land rights has nothing to do with Luo culture but is as a result of commercialization and greed of the current generation. One notable exception in this regard was found that women who are more educated/exposed or whose parents are more educated/exposed and more liberal enjoy more rights and demonstrate a higher degree of land ownership than women from other groups.

Recommendations

- i. Promote customs and practices that favor women’s access to, use and control of land
- ii. Engage communities in discussions about gender-sensitive interpretations of customary law.
- iii. Initiate and/or strengthen community-based campaigns and advocacy programmes through Civil Society Organizations (CSOs)/local administrators/elders and community land champions to strengthen and empower communities.
- iv. Ensure that legal literacy programs include women’s land rights and introduce it at an earlier age.
- v. Explore alternative justice mechanisms (Use of elders to mediate on disputes) in resolving land disputes.
- vi. Encouraging joint ownership of land or writing of will so that the wife is not disinherited in case of her husband’s death.
- vii. Adopt, implement and enforce strict anti-harassment policies.
- viii. Recruitment and capacity building of more female paralegals both at the county and national level.
- ix. Provision of gender sensitivity and capacity-building trainings to local administrators including but not limited to county village administrators, assistant chiefs, chiefs and improvement of basic physical infrastructure to provide better services.
- x. Encouraging civil marriage unions to allow women have requisite documents that can make work easier in succession cases.

Progress regarding implementation of centrally developed laws at the community level; and educational and knowledge gaps.

Most of the cases regarding women land rights that the courts and local administration deal with include: boundary disputes; succession issues especially among widows who have been disinherited or denied utilization of land by in-laws; gender-based violence related to land where widows have been attacked, raped when trying to utilize land; forgery of documents to disinherit women; and arbitration issues. On these issues the study found that in resolving such disputes the courts and local administrators are guided by the legal instruments such as; Constitution of Kenya 2010 / specifically article 40 on protection of right to property and Article 27 that provides for non-discrimination based on gender ; land Registration Act that explicitly secures women right to own land; marriage Act that provides for core ownership of land; matrimonial property Act; Law of succession Act that provides for a hierarchy of beneficiary where the wife is the next of kin. Regardless of these laws women access to and ownership of land has been hindered by: lack of awareness of these laws and poverty that has hampered women from procuring legal services.

Recommendations

- i. Initiate and/or strengthen community-based campaigns and advocacy programmes through Civil Society Organizations (CSOs)/local administrators/elders and community land champions to strengthen and empower communities.
- ii. Publishing and publicizing laws on land rights in languages and forms that can easily be understood.
- iii. Exploring alternative justice system (Use of elders to mediate on disputes) or court annex arbitration process.
- iv. Encouraging joint ownership of land or writing of will so that the wife is not disinherited in case of her husband's death.
- v. Adoption of strict anti-harassment policies
- vi. Recruitment and capacity building of more female staff and paralegals both at the county and national level.
- vii. Provision of gender sensitivity and capacity-building trainings to local administrators including but not limited to county village administrators, assistant chiefs, chiefs and improvement of basic physical infrastructure to provide better services.
- viii. Encouraging civil marriage unions to allow women have requisite documents that can make work easier in succession cases.

Lesson learned:

Organizing women at the grass-roots level and building peer-support groups such as land champions, increasing the capacity of different types of grass-roots organizations to introduce and negotiate the issue of women and landownership, legal awareness and implementation of existing laws (with back-up from a group of lawyers), facilitating collective learning, exchange and experience-sharing; and access to information through training/advocacy or public rhetoric on women land and property rights through adopting a multi-sectorial approach that integrates championing of women land and property rights through pre-existing structures such as community dialogues/barazas/ women groups or CSOs and community land champions has greatly empowered women to fight for and secure their land rights. However, a more critical analysis of all these programs and their impact on women land and property rights need to be taken into consideration to inform implementation of corrective measures that will give value for money.

Report Structure

This report presents the findings of an independent survey on the impact of Luo culture on women land and property rights conducted in August 2021 by a consultant. The report highlights the survey findings, lessons learned and provide recommendations. The report is structured as follows:

Chapter 1:	<p>Briefly presents a background; addresses conceptual issues related to women land and property rights; describes the structure of legal frameworks, access to information about women land rights, benefits women accrue from having land registered under their names as well as provides brief description of how patriarchal cultures like Luo culture impacts on women land and property rights.</p>
Chapter 2:	<p>Explains purpose, objectives, the scope of the survey and the audience. It also defines evaluation criteria, conceptual framework, data collection and analysis methods and limitations.</p>
Chapter 3:	<p>Details the findings of the survey in relation to the five thematic areas of; how access to information influences realization of Women Land ownership among the Luo community; how land administration patterns influence the realization of Women land ownership among the Luo community; the role of culture in influencing women land ownership among the Luo community; progress regarding implementation of centrally developed laws at the community level; and educational and knowledge gaps among women regarding land laws and procedural structures; and developing a set of concrete recommendations to the various stakeholders in addressing the identified gaps and weaknesses. Each section (one for each of the five thematic areas) begins with a brief introduction of the key survey indicators answered in the section to ensure that the reader understands the context for the findings, followed by a detailed discussion of the evaluation findings.</p>
Chapter 4:	<p>Provides conclusions based on the survey findings.</p>
Chapter 5:	<p>Formulates recommendations for the legal frameworks, CSOs, local administrators and government.</p>

These chapters are supported by Annexures, which include list of documents reviewed, list of people interviewed, detailed evaluation methodology and tools, results framework, etc. Finally, annexes also include the original TOR of the assignment.



CHAPTER 1

INTRODUCTION



Globally, gender inequality associated with access to and ownership of land and other productive resources is interlinked with women's poverty and exclusion¹. The barriers that hinder women from effectively enjoying their land and property rights are complex and to a large extent context-specific². These barriers include but are not limited to inadequate legal provisions or ineffective enforcement/implementation at both local and national levels, institutional and discriminatory cultural norms³. For example, in Kenya, gender-inequality with regard to land and other productive resources are linked to assumptions that women are not capable of effectively managing productive resources such as land or these resources will be lost to another family in the event of marriage, divorce or (male) death, and that men will provide for women's financial security¹. Therefore, challenging these discriminatory ideas is key to women securing their land and property rights. In recent years there has been increased recognition of the importance of women's access to, use of and control over productive resources, including land. To this end, Kenya has initiated legal reforms that have been enshrined in The Constitution of Kenya 2010 and other legal instruments such as acts of parliament that guarantees that no one should be discriminated against on the basis of gender⁴. In addition, the Country is a signatory to several international human rights instruments such as the Beijing Platform for Action, the United Nations Security Council Resolutions 1325 and 1820 and Convention on Elimination of all forms of Discrimination against Women (CEDAW) that defines factors constituting discrimination against women and sets up an agenda for national action to end

¹World Bank, Food and Agriculture Organization of the United Nations (FAO) and International Fund for Agricultural Development (IFAD), Agriculture and Rural Development: Gender in Agriculture – Sourcebook (Washington, D.C., World Bank).

²Organization for Economic Co-operation and Development (OECD) Development Centre, "Gender equality and the MDGs: what are the missing dimensions?", 2010, available from www.oecd.org/dev/poverty/45987065; and Netherlands, Ministry of Foreign Affairs, Women's Economic Empowerment to Foster Food Security: Case Studies from Developing Countries (2011).

³'Double Standards: Women's Property Rights Violations in Kenya', Human Rights Watch Report, Vol. 15, No. 5

⁴The constitution of Kenya 2010

such discrimination^{5,6}. More importantly, the role out of the gender equality and social inclusion (GESI) policies and gender-responsive budgeting have improved women's equitable access to resources, including credit⁷. However, despite this progress there are very few women who own land in Kenya. This low ownership of land is attributed to discriminative customs where women are excluded from inheritance of their parents' or husband property. Hence a lot is yet to be achieved to ensure that women are truly able to enjoy the benefits of development equal to that of men⁸.

Central to ensuring women's rights to equality and adequate standard of living is their ability to access, use and control land and other productive resources. This ensures that they are able to provide for their daily needs and those of their families, and even to face various challenges⁹. Previous studies have shown that strengthening women's land rights increases their bargaining power within the family; provides a sense of security and confidence; contributes to better social status in the society; ensures better education, health and nutrition of their children; contributes to the reduction of gender-based violence, among other positive effects¹⁰. Land ownership gives women economic security as they grow old, or in the events they become household heads as a result of their husband's migration for work, abandonment or death. Women can thus access and have control over land and land-based earnings by owning it, either independently or jointly. Many comparative studies done in African countries have shown that women's property rights and their overall role in the household economy are interrelated, which means women who own land have greater control on agricultural income, higher shares of business and labor market earnings, and more frequent access to credit¹¹. Women who enjoy land tenure security are less likely to be economically vulnerable especially when they grow old or are leading single lives¹². Women's ownership of property is associated with lower levels of both physical and psychological violence¹³. But in most cases women's access to land tenure and ownership is very limited. Moreover, in most cases, land registration in women's name is an urban phenomenon, used mostly for non-farm purposes.

Generally, Kenya women face a number of challenges that hinder their rights to access, own and control land as well as property¹⁴. This partly due to discrimination and ambiguity in laws and regulations and paucity of gender-friendly legislations¹⁵. Moreover, legal and policy frameworks or

⁵UN Women, Convention on the Elimination of all forms of Discrimination Against Women (2009). Available from: www.un.org/womenwatch/daw/cedaw/

⁶All State parties ratifying CEDAW are required to abolish or modify all existing laws, customs and practices and regulations that discriminate against women. As mentioned in Articles 15(2), 16(1) (h), all State parties must also recognize equal rights between men and women to conclude contracts and administer property and provide equal rights for both spouses for owning, acquiring, managing, administering and disposing of property. Available from www.un.org/womenwatch/daw/cedaw/text/econvention.htm

⁷Double Standards: Women's Property Rights Violations in Kenya', Human Rights Watch Report, Vol. 15, No. 5

⁸Double Standards: Women's Property Rights Violations in Kenya', Human Rights Watch Report, Vol. 15, No. 5

⁹The constitution of Kenya 2010

⁹World Bank, Food and Agriculture Organization of the United Nations (FAO) and International Fund for Agricultural Development (IFAD), Agriculture and Rural Development: Gender in Agriculture – Sourcebook (Washington, D.C., World Bank, 2009), module 4: Gender issues in land policy and administration.

¹⁰International Center for Research on Women (ICRW), "The issue: Women's assets and property". Available from www.icrw.org/what-we-do/property-rights (accessed 12 June 2013).

¹¹2009 World Survey on the Role of Women in Development: Women's Control over Economic Resources and Access to Financial Resources, including Microfinance (United Nations publication, Sales No. E.09.IV.7).

¹²World Bank, Food and Agriculture Organization of the United Nations (FAO) and International Fund for Agricultural Development (IFAD), Agriculture and Rural Development: Gender in Agriculture – Sourcebook (Washington, D.C., World Bank, 2009), module 4: Gender issues in land policy and administration.

¹³Pradeep Panda and Bina Agarwal, "Marital violence, human development and women's property status in India", World Development, vol. 33, No. 5 (2005).

¹⁴Double Standards: Women's Property Rights Violations in Kenya', Human Rights Watch Report, Vol. 15, No. 5

¹⁵Amanda, E. (2007). Gender and Economic Growth in Kenya. World Bank Publications



programmes associated with land tenure in the country have explicitly or implicitly excluded women, or at least have not taken any steps to guarantee their access to land. Although the Constitution of Kenya 2010 proclaims equal rights to men and women, the laws and policies contain some discriminatory provisions against women. Additionally, in patrilineal societies like Luo community, women's land rights are hinged on their relationship to a male, usually a father, husband, brother or son. Usually, women do not inherit land on their own, and where they do, they inherit less land relative to their male counterparts. Normally it is through marriage that women acquire use rights in land, and husbands assign particular fields for cultivation and particular cattle to each of their wives. Besides producing for family needs, the women, in some instances, have the discretion to exchange or sell the surplus. Upon widowhood, women act as guardians or trustees for the minor children until a male heir becomes of age to take charge. Women with grown up sons are largely assured of cultivation rights, in contrast to childless women or women who bore only daughters, whose position is very precarious. These patriarchal cultural norms have continued to hinder women's access to- and ownership of- land and property sometimes due to misinterpretation of the applicable traditions and cultures¹⁶. This is further compounded by attrition of elders who used to serve as custodians of culture due to old age and cultural transition to western lifestyles that have further diluted the cultural norms¹⁷. There is also a disconnect between the prevailing circumstance where land rights has assumed the form of individuating and commoditizing entitlements to land, where access and ownership are conceived in liberal market terms and land is narrowly understood as property and traditional understanding of land rights where land was not perceived a financial commodity to be privatized and sold, but as a life-sustaining resource to be shared and protected since it was central to community existence. Therefore, in addition to the establishment of a legal framework and policies with a gender perspective, it is equally important to investigate institutional and cultural factors that hinder women's access to land. This study provides a research-based insight into these issues, and further identify avenues for intervention in order to prevent violations and exploitation of the vulnerable based on culture.

¹⁶UNDP-International Land Coalition Workshop: Land Rights for African Development: From Knowledge to Action Nairobi, October 31 – November 3, 2005 (Proceedings: <http://www.undp.org/drylands/lt-workshop-11-05.htm>)

¹⁷Women's land and property rights in Kenya



CHAPTER 2

METHODOLOGY



2.1 Evaluation purpose

Despite the integration of women land and property rights in the Kenya legal frameworks, no comprehensive study has been conducted among the Luo community to determine how their culture impact on women land, property and inheritance rights. Therefore, the main purpose of the evaluation was to assess and document how the Luo culture impacts on women land rights and to help visualize the correct cultural positions and reduce reducing levels of abuse and exploitation of the vulnerable due to lack of written accounts of cultural positions.

2.2 Evaluation Objectives

The overarching objective of this study was to explore and document the impact of Luo culture on women's access to land (ownership and tenure rights) and independent exercise of related rights in Kenya. The findings provide empirical evidence to the state and other non-state actors to put in place interventions and enforce laws that support women access and ownership of land.

The specific objectives were:

- i. To assess how access to information influences realization of Women Land ownership among the Luo community.
- ii. To examine how land administration patterns, influence the realization of Women land ownership among the Luo community.
- iii. To assess the role of culture in influencing women land ownership among the Luo community.
- iv. Evaluate progress regarding implementation of centrally developed laws at the community level; and educational and knowledge gaps among women regarding land laws and procedural structures.
- v. Develop a set of concrete recommendations to the various stakeholders in addressing the identified gaps and weaknesses.

2.2 Rationale for the study

One of the most valued property that increases an individual socioeconomic status is land. In fact, land rights are a set of institutionalized rules and regulations that are socially recognized and legally enforced by the national government. This rights as property rights include the use, transfer and control of property. However, enforcement of these rights always faces challenges especially where there is a disconnect between different social and legal settings due to the fact that property rights belong to more than one legal arena. This is further complicated by the fact that property rights are also defined through a mix of customary and religious laws. These competing legal systems are known to cause challenges in defining and recognizing women's rights to land.

Key to the goal of poverty reduction/alleviation and rights-based approaches to development is women's rights to access and control over land. The level of right to access and control over land has been shown to improve their livelihoods, economic security and physical safety and greatly impact on gender relations. But the existence of discriminatory laws, policies, patriarchal customs, traditions and attitudes in various societies, including among the Luo's in Kenya, is still hampering women from enjoying their rights as State laws and State institutions compete with informal regulatory systems.

Recently there have been attempts to improve women's access to land and property through adoption of gender sensitive legislative and policy frameworks. But the legal provision has not yet been fully realized in ensuring women's rights to property. Although women play a critical role in management and utilization of property, including farmland, their access to and control over property are often overlooked. In addition, various customary practices and cultural values define gender relations and even women access to land and property rights. Therefore, in order to develop gender-friendly legislation and to remove institutional and cultural barriers, it is necessary explore and document the ground realities in relation to land and property in the country, perceptions, as well as challenges faced by women in acquiring their rights to own, control and use family resources. This study therefore, fills in the gap by shedding light on the impact of Luo culture on women's land, property and inheritance rights in Kenya including accessing, using and controlling land.

This study is important not only in understanding the legal, institutional and sociocultural barriers faced by women in accessing land rights but also in formulation of appropriate policy in order to overcome those barriers. In addition, rights-based organizations and groups will use the findings to carry out evidence-based advocacy or design programmes that address the removal of the sociocultural barriers. This will be a public document available to governmental or non-governmental organizations, including academic institutions.

2.3 Conceptual frameworks

The study is based on the fact that access to and control over property is gendered. The context-specific variation in assigning roles and responsibilities to women and men is dependent on gender and power relations. Hence the impact of sociocultural factors on women's access to land and property rights is the main focus of this study. The assigning of gendered roles and responsibilities engender a value structure that create unequal power relations between men and women as they become part of a nation's policies and programmes. The moment such policies and programmes are institutionalized, they reconfigure the role of gender in the society and treat it accordingly. Hence inequalities between women and men are products of the intricate relationship between traditional value systems and a country's policies. To this end this study will focus on the legal, social and cultural barriers for women to access land and property rights. Also central to this study is assessment of the level of knowledge and information among women in relation to land policies,

laws and procedural structure. Through exploring and assessing the legal, social, cultural and administrative barriers to women's access to land and property rights in their respective social environment, the study will set out recommendations for removing those barriers and ensuring equal access to land for both men and women.

2.4 Scope

The survey covers the impact of Luo culture on women's land, property and inheritance in three counties of Siaya, Kisumu and HomaBay.

2.5 Evaluation Target Audience & Benefits

Legal practitioners such as magistrates and lawyers will use the results of the survey as implementers of legal instruments who need to monitor the resolve land related disputes, to introduce corrective actions if needed, to use the best available practices and to bridge the inequality gaps and to allocate sufficient funds. The CSO and other partners will use the knowledge generated to review their partnership around the women land and property rights and adjust their advocacy and practical actions accordingly. The local administrators will use this information to secure women land and property rights while the government will use evaluation findings in their advocacy and program strategies and guide improvement of legal frameworks.

2.6 Evaluation methodology

This section summarizes the methodology used for answering the survey questions and accomplishing the survey objectives

2.6.1 Study site

The study was conducted in the three predefined counties of Kisumu, Siaya and Homabay.

2.6.1.1 County profile

Kisumu County



Kisumu County is one of the six counties in Nyanza region. It has a land surface area of approximately 2,085.9 km² and water surface area of approximately 567 km². It borders Siaya County to the West, Vihiga to the North, Nandi to the North East, Kericho to the East, Nyamira to the South and Homa Bay to the South West. It approximately lies between latitude 0° 09' South to 34° 77' North and longitude 33° 58' and 34° 33' East. The water surface area forms part of Lake Victoria (the third largest fresh water lake in the world). It has a population of 1,155,574 million comprising of 560,942 males and 594,609 females according Kenya Population and Housing Census 2019 and a majority is of Luo ethnic extraction. It has seven sub-counties namely; Seme, Nyakach, Nyando, Muhoroni, Kisumu East, Kisumu Central and Kisumu West. The main economic activities include agriculture, fishing, manufacturing and mining. There is some small-scale gold mining carried out in the county. The county also sees some limited commercial activity, mainly small and micro-enterprises in the Jua Kali sector. These include auto mechanics, furniture works, tailoring, welding, trade and agriculture¹⁸.

Siaya County



Siaya County is one of the six counties in Nyanza region. It has a land surface area of approximately 2,530 km² and water surface area of approximately 1,005 km². It borders Busia County to the North West, Vihiga and Kakamega counties to the North East, Kisumu County to the South East and Homa Bay County across the Winam Gulf to the South. The water surface area forms part of Lake Victoria (the third largest fresh water lake in the world). It approximately lies between latitude 0° 26' South to 0° 18' North and longitude 33° 58' and 34° 33' East. It has a population of 1,027,795 consisting of 488,077 males and 539,718 females according to Kenya Population and Housing Census 2019 and a majority are of Luo ethnic extraction. The main economic activities include agriculture, fishing, manufacturing and mining. There is some small-scale gold mining carried out in the county. The county also sees some limited commercial activity, mainly small and micro-enterprises in the Jua Kali sector. These include auto mechanics, furniture works, tailoring, welding, trade and agriculture¹⁹.

¹⁸Kisumu county integrated development plan II, 2018-2022

¹⁹Siaya county integrated development plan II, 2018-2022

Homabay County



Homa Bay County is one of the six counties in Nyanza region. It has a land surface area of approximately 4,267 km² and water surface area of approximately 1,227 km². It borders Kisumu and Siaya Counties to the North, Kisii and Nyamira Counties to the East, Migori County to the South and Lake Victoria and the Republic of Uganda to the West. The water surface area forms part of Lake Victoria (the third largest fresh water lake in the world). It approximately lies between latitude 0° 15' South to 0° 15' South and longitude 34° 00' and 35° 00' East. It has eight sub counties namely: Homa Bay, Ndhiwa, Rangwe, Rachuonyo North, Rachuonyo East, Rachuonyo South, Suba North and Suba South. It has a population of 1,131,950 consisting of 539,560 males and 592,367 females according to Kenya Population and Housing Census 2019 and a majority are of Luo ethnic extraction. The main economic activities include agriculture, fishing, manufacturing and mining. There is some small-scale gold mining carried out in the county. The county also sees some limited commercial activity, mainly small and micro-enterprises in the Jua Kali sector. These include auto mechanics, furniture works, tailoring, welding, trade and agriculture²⁰.

The targeted sub-counties are as listed in table 1. The selection of these three Counties was purposive since they are the working Counties of KELIN.

Table 1: Targeted sub-counties

County	Sub-County
1. Kisumu	Seme, Nyakach, Nyando, Muhoroni, Kisumu East, Kisumu Central and Kisumu West
2. Siaya	Siaya Central, Bondo and Rarieda
3. Homabay	Homa Bay, Ndhiwa, Rangwe, Rachuonyo North, Rachuonyo East, Rachuonyo South, Suba North and Suba South

²⁰HomaBay county integrated development plan, 2018-2022

2.7 General Approach

The survey adopted qualitative methods to generate the relevant data. The data was collected largely based on the checklist (Annex 1). Both primary and secondary data was collected. Both purposive as well as simple random sampling techniques were used to select the respondents.

Survey instruments design: In accordance with the TOR, the consultants designed study instruments that met the objectives of the study in terms of collecting relevant data. The survey instruments were designed to ensure that there was minimal variability between interviewers and compatibility with internationally used surveys. The survey instruments were shared with KELIN for approval before finalization. The questions were designed to cover the five key themes of the study: access to information; land administration patterns; influence of culture on women land ownership among the Luo community; progress regarding implementation of centrally developed laws at the community level; and educational and knowledge gaps among women regarding land laws and procedural structures; and developing a set of concrete recommendations to the various stakeholders in addressing the identified gaps and weaknesses. Questions were framed to capture important information around the objectives as informed by the General Checklist (Annex 1):

Training: Once the survey tools were ready, the enumerators were taken through a one-day training to familiarize them with the data collection tools as well as the techniques of survey.

Pilot Testing: A pilot test of study instruments and data collection tools was conducted prior to final data collection exercise. The pilot test was conducted in a small sample, which was not part of the main sample for the survey. The pilot test was done to provide the following: feasibility of sample selection plan; variability of survey population; testing the length and flow of the questionnaire; establishing the response rate; and testing the full logistics of the survey cycle. Data collection instrument were updated and refined based on the results of the pilot test.

2.8 Sampling technique

Our sampling methodology comprised purposive as well as simple random sampling. We purposively selected Chiefs, legal experts (magistrates and advocates), political party members or activists, CSO, community elders, widows and clergy while we shall randomly select women for FGDs. Thus, our sample size was drawn from the pre-determined 3 counties, and their 21 sub-counties. We targeted a total of 37 respondents, comprising individuals anticipated to provide relevant information that leads to achievement of the projects outcomes, especially in determining the: (i) Social-Economic factors influencing women land ownership among the Luo community (ii) the role of culture in influencing women land ownership among the Luo community. The sample size was computed as follows:

- i. From each of the County, we targeted a Chief of location for KII. This gave us a total of 3 participants. These Chiefs were selected because of their role in solving issues to do with land rights and inheritance of property.
- ii. We selected 3 elders for KIIs totaling to 3 respondents. They were selected to give their perspectives on Luo culture and women's right to property and inheritance
- iii. KII were conducted for Civil Society Organizations (CSOs). The CSO were targeted because of their role in advocacy on women rights.
- iv. KII were conducted for Court Officers (Magistrate and a lawyer). The research team conducted 1 KII for a magistrate and 1 for a lawyer to give their experiences and legal perspectives on women land rights and how cultures impact on it.

- v. We selected 3 youths, 3 elders and 1 clergy for KIIs totaling to 7 respondents. They were selected to give their perspectives on Luo culture and women's right to property and inheritance.

Table 2: Respondents for KIIs and FGD

Respondents	Kisumu	Siaya	Homa Bay	Total	Survey method
County					
Chiefs	1	1	1	3	KII
Elders	1	1	1	3	KII
Respondents from the CSO	1	1	1	3	KII
CBO representative	1				
Lawyer	1			1	KII
Magistrate	1			1	KII
Community representative (6 per County)	6	6	6	18	FGD
Religious leaders' representative	1			1	KII
Political party representatives (preferably each from three different dominant political parties)	1	1	1		KII
Youths	1	1	1	6	KII
TOTAL Sample Size	15	11	11	37	

2.9 Data collection

To ensure comprehensive data capture for informed analysis, we collected both primary and secondary data. In all the interviews for primary data collection as well as desk reviews for secondary data, ensured that we focus on the objectives of this assignment. The survey involved pre-booking of interviews and scheduling of appointment prior to personal visits. The project teams helped with the booking the appointments. In-field quality control program to ensure robust and valid data were instituted which included morning meetings to agree on the days plan and evening meetings to provide a brief of the day's work and any challenges. A number of data collection methods were used during the course of the study. The methods used have been detailed below:

2.9.1 Secondary data collection

a) Desk reviews

The team collected secondary data by conducting a thorough desk reviews. The desk review focused on key documents directly related to the project. These include, but not limited to: relevant national government documents such as Kenya Constitution 2010, Court judgements, policy briefs, publications and narrative reports.

2.9.2. Primary data collection

Primary data was collected using a pre-designed tool (Annex 3). following data collection methods were used:

a) Key Informant Interviews (KIIs)

The primary data source included: Government administrators (Chiefs), Clergy, community elders, legal experts, women, youths, local political activists/leaders, key actors (CSOs and rights activists) implementing women rights related projects in the area, research (see Table 2) and the list of attendance is in annex 2. These individuals selected in each of the counties were consulted and interviewed to gain in-depth information on women land and property rights related issues. Information collected from all of the KIIs focused on provisions and constraining factors for women in gaining land ownership. Interviews with local administrators were designed to provide information on government provisions to facilitate the land registration process for women and the related bureaucratic and administrative challenges. The interviews with legal experts centered on understanding the existing legal provisions and weaknesses in the legal system concerning opportunities for women to claim land rights. Likewise, views of political and rights activists on the aspects of empowerment through land and property rights were also collected through the interviews. The KIIs with the community members focused on understanding the societal perceptions on women's land ownership; and, the difficulties women face while accessing services in the land registration offices. These interviews were helpful in building some positive case studies. The list of people interviewed is in table 1. The interviews were done in compliance with ministry of health (MOH) Covid-19 containment protocols.

b) Focus Group Discussions (FGDs)

To supplement the above surveys, we conducted Focus Group Discussions (FGDs) with selected women in the three counties (see Table 2). Attendance list for each section is attached in annex 2. To limit selection bias, the participants in these FGDs were selected in consultation with KELIN, Community elders and local government administrators. An agenda for each field visit was shared with the participants in each county before the meeting date. Focus group meetings were coordinated with pre-selected community leaders and/or community groups who were invited to attend the meetings. We ensured adoption of acceptable standards by forming groups of 6 people for each FGD session and all Ministry of Health guidelines on containment of COVID-19 were strictly adhered to. The research team ensured equitable representation of women of all age groups. Any specific cultural issues were considered to ensure women's voices was well represented. FGDs were semi-structured in nature with key questions and a checklist prepared ahead of the discussion. Altogether 3 FGDs were conducted discussing the critical issues of land ownership, and obstacles faced by women. These were conducted with women.

In all the primary data collection process, we observed the requisite ethical standards. For example, at the start of each interview, we articulated the purpose (and confidentiality) of the study, and sought for their concurrence before proceeding with the sessions. Similarly, we ensured that photographs were taken only with participants' permission/consent. Focus group meetings took approximately one hour based on the checklist prepared by the consultants. Use of checklist ensured that interviews are performed as conversations, where the order of questions could change and follow-up questions posed accordingly based on the direction of discussions.

2.10 Data analysis

The data collected was undertaken through content analysis as well as narrative analysis to analyze verbal and text that come from KIIs and FGDs. Data triangulation was done to validate data from the different sources.

2.11 Stakeholder participation and ethical issue

In order to develop ownership and ensure the involvement and interest of the stakeholders for sustainable changes and future developments, the evaluation was conducted in a participatory way, involving all stakeholders in all phases of the survey. Before administration of the survey, they also gave informed consent.

2.12 Evaluation limitations

There are a number of limitations of the study. Firstly, this study is limited to three selected countries. Therefore, the study findings may not represent all the barriers that women face throughout the nation as well as the barriers women face in other counties; rather, findings are more specific to the selected study sites. Second, the study mainly used qualitative methods.



CHAPTER 3

RESEARCH FINDINGS



This chapter describes findings from the survey and is broken down into the following thematic areas: access to information; land administration patterns; influence of culture on women land ownership among the Luo community; progress regarding implementation of centrally developed laws at the community level; and educational and knowledge gaps among women regarding land laws and procedural structures; and developing a set of concrete recommendations to the various stakeholders in addressing the identified gaps and weaknesses.. The guiding questions, included in the Terms of Reference and data collections tools (Annex 3), are provided at the beginning of each section and are referenced throughout the text.

3.1 Access to information on women property and land rights

At the heart of achieving women land, property and inheritance rights is access to information. Moreover, even in countries with robust legal and regulatory frameworks to protect women's land rights like Kenya, the women must be knowledgeable and understand their rights for the legal instruments to be effective in practice. This literacy must encompass not only just knowing their rights but also knowing how they can exercise and enforce their rights. It has been previously shown that a legally aware community translates into increased demand and higher expectation that informal justice systems will deliver justice and be more accountable²¹. Hence awareness campaigns are key to inform the public about women's land rights and to rally support. More importantly lack of knowledge of legal protection is one of the greatest barriers to claiming rights and sociocultural norms may hinder the realization of women's rights.

²¹UN Women, United Nations Children's Fund and UNDP, *Informal Justice Systems: Charting a Course for Human Rights-Based Engagement* (New York, 2012), p. 24. See also International Development Law Organization, *Accessing Justice: Models, Strategies and Best Practices on Women's Empowerment*(Rome, 2013).

This survey found out a majority of women are still not aware of any land laws especially those in rural areas. However, those who were aware of these legal provision regarding women property rights received information from various parties including training from various stakeholders such as Civil Society Organization, local administrators such as chiefs, community women rights champions, local radio stations and land office. This shows that CSOs and government partnerships are effective in achieving legal literacy. Media platforms also plays a critical part informing women about their rights and how to claim them. The study also found that peer-support groups such as land champions have increased legal awareness and implementation of existing laws (with back-up from a group of lawyers), facilitating collective learning, exchange and experience-sharing especially testimonies of disinherited women who successfully fought their inheritance cases have been particularly effective.

A majority were also not aware where they can seek help while those who were aware indicated that they seek help from the CSOs, local administrators and even the judiciary in case of court disputes. More importantly, those who were aware indicated that they knew the legal provisions such as the Kenyan constitution 2010, marriage act, matrimonial property act, the law of succession, and sexual offence act. They also know the requirements and procedures of registering land in their own names with a few indicated that they have started the process, and some have land registered under their own names.

The study also found information regarding women's land property is currently not readily accessible to women in a format that they can readily access since most of the laws and acts are in technical legal jargons not easily understood by most women. It is thus imperative to translate laws or pertinent sections/summaries into local languages, as well as to publish and publicize the information in formats that is easily accessible to women so as to increase awareness about women's rights to access, use and control over land and other productive resources. Additionally, there is an apparent lack of awareness and proper information on the land transfer and registration processes and requirements more so those who have not been trained or lack information on land rights. One of the major capabilities required for accessing the information is the level of education. The survey found that in rural areas a large proportion of women are still illiterate. This severely impedes their ability to remain updated on the legal provisions meant for them. In addition, this study found that CSOs working at the local level were not disseminating such information, unless

“

A majority of women in rural areas are still not aware about their land, property and inheritance rights especially in rural areas. In fact, most of them believe that it is only men who can inherit land”.

- Participant in FGD

“

Originally, I didn't have any information about women's land and property rights until we were trained by KELIN. But now I know that the Kenyan constitution gives both women and men equal chances to own land. We have also been trained about succession laws and even documents required to register land under my name

- Participant in FGD

“

A majority of women do not have access to information about the relevant legal instruments and information about their land rights since they have been published and published in local languages or formats easily accessible to women”

- Legal expert key informant

they were specifically working on land rights issues. CSOs working on “women’s empowerment” did not have any programme on women’s land rights. Therefore, while the knowledge and information gap among women remains an issue, it is equally important that all sectors of society possess adequate information about existing legal policies regarding women’s land rights and their importance. A CSO key informant indicated that programs targeting increasing women awareness should be aware of women’s daily schedules. The planning of meetings or training and information sessions should be scheduled during that part of the day when women are able to attend. In addition to taking in consideration their request for timing and location, since women rarely visit geographically distant areas for the purpose of attending meetings.

3.2 Women and Land ownership

In Kenya, only 1% of women in Kenya hold land titles in their names with 5% holding it with a man, yet they are the major providers of human resources to support subsistence agriculture. The study found that in all three counties, despite women having access to land only very few had land registered in their names. Moreover, it needs to be pointed out that ownership does not necessarily translate to control. Indeed, despite the emerging trend that women can have land registered under their names, it was observed that women do not necessarily have control over the property they own, and the decisions related to any kind of transaction of such property is taken by the men of the family, whether it is the father, husband or the son. Moreover, under customary law especially in rural areas, women’s land rights tend to be secondary rights, derived through their membership in households and lineages and secured primarily through marriage²². These types of rights are not secure since they are not clearly defined or documented and subject to change, have no time limits hence dependent on good relations between the parties involved. This has resulted in women being passive in the face of these challenges.

The most common sources of land ownership for women in all the countries are through buying or in very few cases inheritance from their fathers/parents/ family. The respondents indicated that some of benefits that women accrue from having land registered in their names include: reduction of dependency by promoting food and social



In Kenya, only

1%

of women hold land titles in their names, and only

5%

holding it with a man



Very few women have land registered under their names and even those who have land registered under their names do not necessarily have control over it. It is the men, mostly husbands, or other male members of the house, who are involved in decision-making pertaining to that land. This is mostly observed when the land is either brought or sold or when the transaction is happening, women are present just to sign the papers and are unaware of their rights and how to exercise them.”

- Participant in FGD

²²Mechthild, R. (2006). Governance, Land Rights and Access to Land in Ghana. A development Perspective on Gender Equity

security thus improving household livelihood; promotion of wealth creation since women can use land to generate income; investment for future generation (children); using it as a security/ collateral to acquire credit facilities and enhancement of women dignity and social status with the society.

The findings indicate that main reasons as why very few women had land registered under their name was partly attributed to: lack of support from local administration; ignorance/ lack of information on the processes and benefits of owning land; violence perpetrated by immediate family; poverty since most women do not have financial capability to process tittles deeds; cumbersome land ownership procedures and lack of relevant certification (marriage certificates, identity cards, death certificates); fear of causing family conflicts with her siblings especially brothers or even in-laws; disinheritance of property and retrogressive cultural practices. In addition, fear of family conflicts. Currently there is emerging shifts towards women having land in their names due to sensitization programs by non-governmental organizations, media campaigns and community dialogue / barazas by state and non-state actors.

3.3 Impact of Luo culture on women land rights

Women face myriad barriers to accessing, owning and controlling land and property. This study looked at how social and cultural practices of among the Luo's impact on women's land rights. Women may have legal right to land and property yet this right may not be recognized as socially legitimate by the community. Moreover, when economic activities and social responsibilities are based on gender, women's access to productive assets such as land are often influenced by social norms, culture and attitudes. In the three study counties, patriarchy and conservative social setup are prevalent and influences women's mobility and status in society. This is often associated with lack of support to women in recognizing/or securing their land rights and fighting against discrimination in access to and control over land. This study found that among the Luo's the major sociocultural factors that hinder women's land and property ownership include: patriarchy, society's distrust in women's land ownership, perception about misuse of property by women and discouragement from community members.

“

We widows face a lot of challenges especially where you are forced to be inherited without your concurrence. Sometimes we face gender-based violence from our in laws over land related issues upon the death of our spouses. Generally, as widows they really lower our self-esteem”

- *Widow in FGD*

“

Traditionally the Luo's used to say “dhako en ogwang (women are mongoose” meaning that they can leave their family and get married elsewhere hence they were not entitled to inherit family land”

- *community elder key informant*

Patriarchy, the main obstacle

In all the three counties of Kisumu, Siaya and Homa bay, there were very few women who owned land relative to men. This was attributed to the strong patriarchal values that hindered women's right over land ownership in all three counties. Among the Luo's land inheritance, for instance, has traditionally been patriarchal in which the ancestral property is passed through the male line. This has led to a disparity between what is provided for in law and what is actually practiced. One of the elder key informant in this study indicated that the Luo's used to refer to women as "Dhako en Ogwang (A women is a mongoose)" this meant that they were considered to be transient and not firm members of firm members of a patrilineage of their natal families since they will eventually marry out of the lineage.

This resulted in daughters having difficulty in accessing land through inheritance, because it was perceived that upon their marriage, they will transfer their lands outside their husband. More importantly, since the daughters were considered to be impermanent members of their natal lineage they would not be trusted with community/family land since which was central to the existence of Luo community because they will get marriage outside their natal lineage. But still the community the daughters differently based on their marital status and circumstances.

For example, unmarried daughters or those who had marital problems and went back to their natal homes were more likely to inherit land relative to the married. Even in few occasions where this was permitted the land titles still remained with the male members of the family to ensure land stays fixed to the patrilineage to maintain access to patrilineal lands for themselves and their sons. The survey also found among the Luo's it is perceived that the fact that daughters are sent off to her husband's house after marriage hence they are not considered as beneficiary of family property. As a result, parents' property generally belongs to sons, and only rarely are daughters considered as the inheritors of parental property. There were few exceptions where men saw women's land ownership as equally important and provided land to women as equal inheritors. However, one elder key informant indicated that since issue of tittle deeds was not common in the old days, the Luo's, traditionally assigned women land to till and engage in any productivity activity they wanted to pursue based on the number of children they had. He further indicated the current trend of in-laws disinheriting widows after the death of their spouses has nothing to do with Luo culture but is majorly greed due to commercialization of



Among the Luo's women are perceived to be the property of men and property cannot own a property"

- Participant in FGD



Since issue of tittle deeds was not common in the old days, the Luo's, traditionally assigned women land to till and engage in any productivity activity they wanted to pursue based on the number of children they had. He further indicated the current trend of in-laws disinheriting widows after the death of their spouses has nothing to do with Luo culture but is majorly greed due to commercialization of land"

- Participant in FGD

land. Overall, all the respondents were in an agreement that currently there are shifts in cultural practices with women now fighting for and securing their land rights and the community is accepting that women can own land.

According to FGDs the Luo community perceives women to be part of the wealth of the community and therefore a property cannot own land. Although in the Luo community the women have access to land most of the rights, they exercised is biased towards use rather than control and ownership. Even in the conservative community social set up, for example in marriages men are considered superior to their wives and have control over their wives' property regardless of whether it is separate or not. This has led to social and economic marginalization of women in the society²³. Among the Luo's it is the men who control household land since land allocation in the community is largely allocated to male household heads that later pass them to their sons. For women their access to land is dependent on their relations with male members of the community. It is the men who allocate women land to farm but decide which piece of land the woman can use and for how long. But there is an exception for example, the Luo's used to allocate land to daughters who were sent away by their husband or those who were rejected by their husband or those who didn't get married. Some of the cultural norms such as sexualization of land utilization where before any activity like planting or harvesting the involved having sex with a man has negatively impacted on women's ability to utilize land especially when they are single or widowed.

The study also found that in all the three counties there is a strong male resistance to women's land ownership. More importantly, it is usually men who have the decision-making power, as well as access to outside information, which means that women's priorities are often overlooked. The Luo cultural practices exclude females from the clan or communal entity and hence from land ownership. For example, any attempt by women to control or own land is viewed as misbehavior. Indeed, one of the CSO key informants indicated that among the Luo community women who buy land are seen to have "anterior motives" of either running away from their marriage or if unmarried they are considered to have the intention of not getting married. Even the land champions who champion women's rights are perceived to be women who are "spoiled or having bad behavior" and are bent on polluting the minds of other women or are out to destroy marriages. It was clear from the respondents that women who try to own land are frowned upon by the society. Interestingly due to

“

Women who buy land or try inheriting family land are viewed to be spoilt and have sinister motives. Some even labelled them as women who don't want to get married. This is mainly due to how people are socialized from birth”

- CSO key informant

²³The main source of information on women's property rights under customary law is E. Cotran's Restatement of African Law, The Law of Marriage and Divorce, Sweet and Maxwell 1968.

socialization from childhood even women are socialized that it is men who should own land and they need to be contented with whatever their husband gives them.

This study found that among the Luo's, widowed women do not inherit land, but were allowed to remain on the matrimonial land and home until death or remarriage. Their rights were partly depended their relationship with her deceased spouse family, number and gender of her children and their age. Essentially, they were to hold the land in trust for their sons until they reach maturity age and then take ownership of land. This was to secure her sons inheritance rights to ensure that the patrilineage persists. The study also found that upon the eldest son taking over the widow remained securely on the land, but this position was problematic in cases where the widow had daughters because in most cases the brother in laws will allow attempt to disinherit her to return the land to their patrilineage since she was considered to be not a firm member of the patrilineage. In addition, the widow would retain her marital property including land rights by remarrying or getting inherited by a male relative of her deceased spouse this was called *ter* in *Dholuo* or Luo language. Traditionally wife inheritance was a way of providing widows with social and economic protection. In the traditional Luo customs, the widows had a choice on whom to inherit them and the male partners were mainly to take care of the family in terms of provision of food and security to the widow.

However, a CSO key informant observed that this culture has been eroded where nowadays widows are not given space to choose whom to remarry and even those who are now inheriting widows just get into these relationships to disinherit them of their property by even selling land or transferring the titles to their names. Cultural practices such as sexualization of land utilization of land where a widow was considered to be impure and had to be cleansed by having sex with a man before tilling, planting or harvesting of crops have led women to submit to unwanted sexual relationships to retain property rights. The study found that young widows are more vulnerable relative older widows in securing their land rights since they had not secured relationship with their in-laws. In addition, widows who had been accused of practicing witchcraft, promiscuous, alcohol addicts or had mental illness were also vulnerable when it comes to securing their land rights. Of note, one community elder key informant noted that traditionally the rights of widows over their spouse's land were guaranteed by clan elders and in case of disputes with in-laws it was the elders who used to settle the disputes without disinheriting the widows.

“

Traditionally the rights of widows of their dead spouses land were guaranteed by the clan elders and any disputes with in-laws was resolved by the elders. This was because in Luo tradition the wife belonged to the clan and held land in trust for her sons until they attained the age of maturity”

- community elder key informant

“

Issues to deal with land issues is a preserve of the males and women in most cases were not allowed to discuss issues of land”

- Participant in FGD

However, this social safety net has eroded with male heirs tending to sell off the land for their own economic gain leaving widows landless and homeless. Widows are also being disinherited by their brothers in laws especially if they only give birth to daughters and some of them even face gender-based violence.

Among the Luo's, patriarchy was traditionally accepted and it is men who hold the ultimate decision-making power within households. Customarily women's right to land is neither considered important, nor is valued. In most cases where women have land in their names, it is either because they have bought the land or inherited from their parents especially where the parents are educated or exposed. Interestingly, this study also found the among the Luo's patriarchy and culture exists alongside the emotional dependency of women on men e.g., even where women buy land, they still register them under the names of their spouses as a sign of respect to them as the head of households. This is partly attributed to the societal recognition of the husband as sole decision maker.

Lack of trust on women

The study found that there is a presumption in the community that women cannot handle the responsibilities as well as men do. For example, women are limited to doing household chores and taking care of the family, and are not regarded as capable of handling property and dealing with land transactions. Most respondents indicated that there is a general sense of mistrust towards daughters and wives. Most indicated that among the Luo's it is perceived that if land is transferred to a woman at a young age, she might take that away with her if she gets married or goes away or elopes with another man while her husband is away. If a wife elopes this way, the husband cannot claim his share; that is also one of the reasons why people fear to register land in a woman's name. In addition, ironically, some women were found to accept men as the ultimate decision makers and worthy of being the landowners. During FGDs in the three counties, respondents indicated that within communities there is a perception that it is not necessary for women to have land registered in their names as long as the land is family's property and they believe that as long as the husbands and sons are around, women should not have land ownership.

Discouragement from community members

Central to resolving land disputes are the community elders, local administrators such as chiefs and the courts

“

Among the Luo's traditionally it is the sons who inherited their father's property since women would get married. Despite this they had access to land to pursue productive economic activities”

- an elder key informant

“

In our community there is a perception that if a woman inherits land or has land registered in their name. They would sell it and even remarry someone else”.

- Participant in FGD

of law. Though the constitution encourages the use of local mechanisms to resolve land-related disputes it also prohibits gender discrimination in law and customs related to land and property, a majority of elders and chiefs are men and this makes women feel that they are not treated fairly when it comes to resolving disputes. This is partly attributed to the fact that among the Luos even the elders have been socialized to believe that women have limited rights to own land due to patriarchy. This has discouraged women from securing their land rights. Traditionally, the community also perceived women who initiated court proceeding to secure their land rights as disrespectful. To this end the community members always discourage them from pursuing such cases in order to preserve household/family peace and harmony. In some cases, they suffer harassment and violence for complaining about the violation of their land rights, in addition to losing support of their family. The study found that the community perceive women who are pursuing their land rights or championing their and rights as women having a bad characters and even warn other women to stop associating with them. There is also stigmatization of widows, for example, the study found that among Luo's women have to be inherited to keep their property after husbands' death and those who are not inherited or refuse to be inherited are stigmatized against by the community and their in-laws in most cases disinherited of their land rights or even sent out of their households and even sometimes excluded from communal activities.

Another FGD participant indicated that men fear registering property in their spouse's name because members of the community will ridicule them that their wives are controlling them. The Luo community believe that women should never be a head of men in anything since men are considered to be the household heads and the main decision makers. This fear of community ridicule or scorn has lead community members not to appreciate women's land rights and even fathers or parents who are enlightened in most cases due to fear of their community members laughing or ridiculing them do not allow their daughters to inherit land.

3.4 Legal provisions on women's land rights

This study found that Kenya has made significant steps in developing a robust Constitution that is in line with international standards of gender equality, and enacting laws to give effect to the constitutional provisions. But the applicability and putting these legal provisions into

“

Women are discouraged to resolve land disputes by either reporting it to local administrators and courts of law because this is considered to be disrespectful to the family. For the sake of peace, we always resolve land issues within the family”

- Participant in FGD

“

Most men fear giving their daughters land as inheritance because members of community will always laugh at them and consider them as weaklings”

- Participant in FGD

practice due to entrenched patriarchal attitudes has been hindered, hence Kenya has not attained the equality envisioned by the Constitution of Kenya 2010. It was clear that enacted laws, including the National Land Commission Act 2012, the Land Act 2012 and the land registration Act 2012 have entrenched the principles of gender equality in access to land. However, the general public is not yet fully aware of these land laws that are likely to improve the women's land rights if fully implemented.

The Constitution of Kenya 2010 has enshrined equal rights to its citizens, irrespective of their gender, religion or any other social divisions, granting equal protection under law²⁴. Kenya has also ratified the Convention on the Elimination of all forms of Discrimination against Women (CEDAW)²⁵. Despite having legislation to protect property rights of women and rights to agricultural land, social customs and practices make women dependent on men, supported by a general reluctance to implement legal measures in favor of women. The socially constructed norms for women act as barriers to exercise their agency²⁶. Regardless of these laws women access to and ownership of land has been hindered by: lack of awareness of these laws and poverty that has hampered women from procuring legal services have hindered women ability to access and own land. Most of the cases regarding women land rights that the courts and local administration deal with include: boundary disputes; succession issues especially among widows who have been disinherited or denied utilization of land by in-laws; gender-based violence related to land where widows have been attacked, raped when trying to utilize land; forgery of documents to disinherit women; and arbitration issues.

This study found that within the legal land scape on women's land rights, women face various "challenges including; lack of awareness of their rights and the means to secure them; ignorance of laws relating to purchase or acquisition of land or land registration processes; ignorance of intricate succession procedures leaving them vulnerable to being disinherited of property left behind by their deceased husbands; the laws are in technical

²⁴Constitution of Kenya, 2010

²⁵All State parties ratifying CEDAW are required to abolish or modify all existing laws, customs and practices and regulations that discriminate against women. As mentioned in Articles 15(2), 16(1) (h), all State parties must also recognize equal rights between men and women to conclude contracts and administer property and provide equal rights for both spouses for owning, acquiring, managing, administering and disposing of property. Available from www.un.org/womenwatch/daw/cedaw/text/econvention.htm

²⁶The World Bank, Gender Equality and Development (Washington, D.C., The World Bank, 2012)

“

“In land and environmental courts most of the cases we deal with involving women land rights include disinheritance of widows, succession, gender-based violence. In all cases we rely on constitutional provision to settle disputes e.g. law of succession Act that provides for a hierarchy of beneficiary where the wife is the next of kin”.

- legal expert key informant

“

“We have had several complains from women that the laws are in technical languages that are not easily understandable to them”

- magistrate key informant

“

“When it comes to women property rights a majority of women are not aware of the relevant legal provisions due to high illiteracy levels especially in rural areas”

lawyer key informant

language, not easily understood by women. This is further compounded by high illiteracy levels that has hindered women ability in taking a leading role in buying, selling or leasing property, hence they mostly rely on their husbands or other male relatives, who in most cases defraud them by registering land in their own names. More importantly lack of access to the Constitution of Kenya 2010 by rural women has greatly impaired their ability to secure their land rights.

Most of the cases regarding women land rights that the courts and local administration deal with include: boundary disputes; succession issues especially among widows who have been disinherited on denied utilization of land by in-laws; gender-based violence related to land where widows have been attacked, raped when trying to utilize land; forgery of documents to disinherit women; and arbitration issues. On these issues the study found that in resolving such disputes the courts and local administrators are guided by the legal instruments such as; Constitution of Kenya 2010 / specifically article 40 on protection of right to property specifically and Article 27 that provides for non-discrimination based on gender ; land Registration Act that explicitly secures women right to own land; marriage Act that provides for core ownership of land; matrimonial property Act that secures right of marital property after death of a spouse; Law of succession Act that provides for a hierarchy of beneficiary where the wife is the next of kin. Regardless of these laws women access to and ownership of land has been hindered by: lack of awareness of these laws and poverty that has hampered women from procuring legal services have hindered women ability to access and own land. Moreover, some of the laws are not gender sensitive and have further hindered women from securing their land rights e.g the Law of Succession Act allows equal inheritance rights for men and women, but excludes some gazetted districts where customary law remains supreme and it also gives preferential treatment to men relative to women on dealings with the estate of a deed spouse.

“

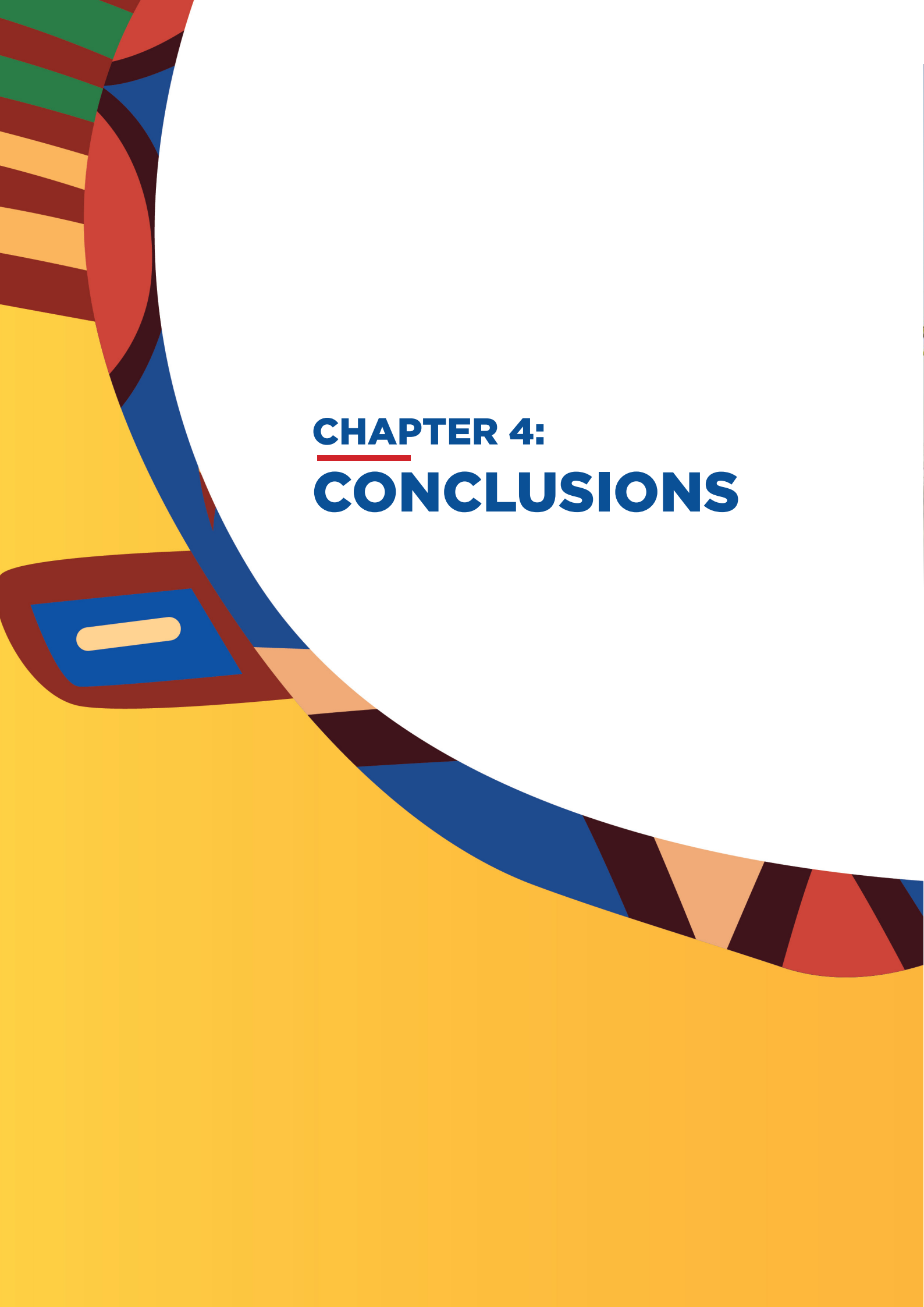
“A majority of cases we deal with in relation to women’s land rights include successions, disinheritance of widows, fraud or forgery and gender-based violence from their in-laws”

*- local administration
(Chiefs) key informant*

“

“Kenya has a robust legal framework on women land and property rights. The only challenges are women are not aware of these provisions and poverty which normally does not allow them to get proper legal advice”

- lawyer Key informant



CHAPTER 4:
CONCLUSIONS



This section of the report attempts to summarize evaluation findings by describing main strength and remaining challenges.

This study concludes that the cultural barriers are still a major challenge for women to have land ownership and other property rights in Luo community. Usually, it is the male member in the family who gets all the parental property and is also at the forefront of all land-related transactions. Traditional beliefs in surveyed community is so strong that only sons are considered as the inheritors of parental property. In such cases, the most common source for women to own property is through land buying or inheritance from their parents.

Women in the study counties are often limited to traditional gender roles and often seem to readily accept discriminatory customs and practices. Women are confined to the domestic or private spheres and are less active in public spheres. The practices and perceptions of women's position in the household, family and community affect the extent to which they can exercise their land rights. This would also amplify the administrative and logistical challenges that women have to face – first the offices being far away from their homes, they would either be cut off from services, or they would have to handle all the stress as a result of leaving the household chores and responsibilities.

Lack of proper legal and administrative support has further aggravated the situation. For example, among the surveyed population it was clear that only a few women had land registered under their names. The larger share of the land is still under men's control. On the other hand, even if women own land, they rarely make any decision with regards to the land. Generally, women face challenges in having land in their names since most of the land are still under their grandfather in-laws' names and succession processes has not been started. In addition, the succession process also takes a long time.

Lack of access to information on women land rights in combination with prevailing social perceptions have remained a challenge for women to exercise their land rights. Moreover, most women were not aware about the requisite documents and processes for land transactions, which also discourages women to go through the hassle of registering land in their names. The training of women on

their land rights, to some extent has promoted land registration in women's name. However, the information dissemination and communication systems are inadequate, ineffective and inefficient to the extent that many rural women still are not aware of such provisions. Interestingly, women have started realizing that owning land not only provides social security and but also contributes in reducing domestic violence. The need for now, therefore, is to sensitize women and aware them regarding their entitlements to progressive provisions to promote women's use, access and control over land.

Women reported of often being mistrusted and even harassed in the by local administrators or even their in-laws. Consequently, women merely join their male counterparts or family members to sign papers, without any knowledge of administrative and legal processes.

This study leads us to conclude that Luo culture impacts on women land rights. Hence women will continue to face challenges in asserting their land and property rights unless there is an organized and effective mass education campaign for women, leading to the movement for women's land rights as well as a demand for more women-friendly legal provisions and gender-friendly administrative processes.



CHAPTER 5:
RECOMMENDATIONS



Although the constitution of Kenya 2010 is progressive relative to the previous one and has enshrined the principle of equality. There still challenges in achieving women land rights indicating a need of a coherent legal framework and implementation mechanisms. Moreover, cultural norms and values will not change unless there a concerted conscious, inclusive, deeply -thought and comprehensive targeted programmes which can ensure sustained outcomes.

Based on the findings and conclusions of the study, the following recommendations are made.

Legal recommendations

- The provisions for equal inheritance of parental property such as article 40 on protection of right to property specifically and Article 27 that provides for non-discrimination based on gender ; land Registration Act that explicitly secures women right to own land; marriage Act that provides for core ownership of land; matrimonial property Act; Law of succession Act that provides for a hierarchy of beneficiary where the wife is the next of kin should be implemented through a legal framework and right institutional set-up.
- Publish and publicize the legal provisions dealing with women land rights in formats or languages that are easily accessible
- Provide women legal protection against forced eviction in rural, urban and peri-urban areas at the hand of both family and community members. This protection should consider the specific needs of women.

Recommendations for CSOs

- The CSOs working on women's rights including land rights should continue champion and raise awareness on women's land rights through a targeted inclusive comprehensive information, education, and communication campaign. This should be geared towards challenging perceptions that women are not able to handle responsibilities touching on land and property. In addition, they need to offer legal aid or advice to facilitate rural women to improve their access to land.
- The CSOs initiate and enhance trainings to frontline workers or duty bearers at the government offices such as local administrators as well as social mobilizers at community level on legal provisions in relation to women's property inheritance and ownership.
- Disseminate new land laws and build capacity and knowledge of traditional leaders to avoid discriminating against women
- The CSOs should put a concerted efforts individually or jointly towards promoting women's land

ownership through advocacy at the user groups and mobility camps at the community level, with participation of both men and women. Hence there is a need of an alliance between those CSO working on human rights and women rights in carrying out their advocacy work more effectively through the use of print and visual media as well as the community radios.

- There need for CSOs to promote mutual sharing and learning among the actors' women's rights and land rights. This networking can be achieved through a multisectoral-approach integrated into the pre-existing structures such as existing groups in the village which have membership of local government officials, women groups, land champions, youth groups, school students, media, etc. these groups should be mobilized for advocacy and sensitization workshops.
- The CSOs working for women's rights plus land rights should continually engage government in policy dialogues. This can be done through the line agencies at the local, regional as well as national levels.
- CSOs should target training and retooling more women land rights activists at the local level as paralegals. Apart from providing them with information, tools and techniques required to become a paralegal, the training should also build their skill sets on negotiation and information on legal provisions with regard to women's property rights. This will be providing the much-needed support to the women service seekers in availing seamless service at the land offices removing some administrative barriers faced by them.

Recommendations for Government

- The Government should adopt, promote, implement and enforce a strict anti-harassment policy.
- Provide gender-sensitivity and capacity building trainings for staffs at all levels. This will help in enhancing their understanding of women's needs and help them interact with and serve women better. Periodic legal literacy programmes on women's property right should also be conducted, especially focusing the frontline workers and duty bearers such as local administrators
- Information on women's land rights should be displayed in public spaces and advertised through media that is accessible to both men and women.
- Create gender-sensitive and effective enforcement mechanisms, such as special police units, to ensure that women are able to claim their rights when they have been subjected to forced eviction, disinheritance or property-grabbing. These enforcement systems should have all the human, financial, legal, technical and other resources needed to make them effective
- Include and introduce early literacy programs on women land rights in the curriculum
- The Government should also devise a mechanism whereby counties that make outstanding contribution to community sensitization on women's rights, welfare and effective resource utilization are awarded and recognized

In addition to above recommendations, there is need for CSOs and researchers to continue with research on women's land rights in Kenya. Research is essential given the complexities of Kenyan society and cultural practices, as well as the nature of the issues concerning land rights and women's rights. Since this study has been limited to three counties in Kenya, similar studies should be conducted to other areas to understand the challenges women face in other parts of the country. In the course of this study, some possible themes for future research were identified include: socialization from early childhood on the impact of women land rights; sexualization of women land rights; in-depth case studies featuring women who have secured their land rights and the benefits they have accrued from land ownership.

Although the current survey was qualitative in nature and it can deepen and enrich understanding,

as well as give insights on new issues but there is a need of quantitative studies to give a clear view of causal relationship between various variables. Future research should concentrate on the interests of women on the issue of land ownership, women's perceptions on access to, ownership and utilization of land. There is need carry out applied and action research to identify gaps in policy formulation and implementation, support capacity development and social mobilization and inform the advocacy of CSOs and social leaders. Land research should include sex-disaggregated data.

The image features a large, abstract graphic design. A prominent yellow shape occupies the lower-left and bottom portions of the frame. A curved, multi-colored border, composed of segments in shades of blue, red, orange, and brown, arches across the top and right sides. The word "ANNEXTURE" is centered in the white space above the yellow area, underlined with a red line.

ANNEXTURE

ANNEX 1: GENERAL CHECKLISTS

Following each of the specific objective of the study, a general checklist is prepared to guide to and to make sure that the required information is collected.

1. Legal Aspects

- I. Existing laws and constitutional provisions (in the new constitution) that enable or hinder women's ownership and access to land and (including registration of land in women's name): list of the policies and laws that are related women's property rights.
- II. Inheritance (legal provisions, legal barriers).
- III. Divorce, marital property rights.
- IV. (Access to) Laws/legal enforcement of rights (of women in relation to land; registering in their names and other lands; control over land).
- V. Legal structure and procedures.
- VI. How difficult it is to register land in women's name?
- VII. Laws/legal provisions that enables or hinders to exercise the rights (registered in their names and others lands; control over land).
- VIII. Transition of law-to-law enforcement institutions/agencies at the district/local level.
- IX. Types and nature of cases filed in the district courts, relating to women's ownership of the land/ women-owned land.
- X. Dispute resolution related to land. If it becomes more complicated if that land is registered in women's name?
- XI. International experiences, best practices in relation to gender responsive process and procedure of land registration (policy, law, law enforcement mechanism).

2. Cultural barriers forming obstacles for women to be able to exercise their rights over land

- I. Religious beliefs associated with women's access and ownership.
- II. Ritual practices hindering women to exercise their rights over land.
- III. Traditional practices that alienate women from land ownership.
- IV. Inheritance.
- V. Extended family responsibility.
- VI. Division of labour, restriction and imposition.
- VII. Divorce and marital property rights.
- VIII. Dowry, marital rights.
- IX. Social structure (of community).
- X. Customary practices.

3. Cultural barriers, mind set and traditional practice that hinder women to exercise their rights

- I. Social traditional practices that hinder enforcing their rights.
- II. Prevalent patriarchal views and stereotypical roles in the community.
- III. Decision-making process within family/households, also who holds the decision-making power within the family.
- IV. Family structure (particularly in relation point ii).
- V. Extended family responsibility.
- VI. Division of labor, restriction and imposition.
- VII. Inheritance.
- VIII. Dowry, etc.
- IX. Social structure (of community).
- X. Customary practices.
- XI. Religious beliefs and worldview.

4. Educational and knowledge fissures regarding land laws and procedural structures

- I. Access to basic education.
- II. How much information do women have about land law and procedural structures? If they are aware of the supporting documents, including citizenship certificate that is mandatory to have access and ownership on land?
- III. Women in the County with marriage certificate.
- IV. Information dissemination mechanism: how women can access to the information: the source of information (access to means and source of information) .
- V. Assessment of the land law and procedural structure based on the information they have.
- VI. Access to social capital (saving-credit groups, community groups).
- VII. Governance at the local level (responsibility of local government?).
- VIII. Outside intervention (e.g. NGO, social movements).

ANNEX 2: LIST OF PEOPLE INTERVIEWED

Name	Position	Sub-County
Nancy Onditi	Chief	Kisumu East
Collins Kodhek	Youth	Kisumu Central
Dan Gaya	Elder	Kisumu Central
Collins Ogolla	Youth	Kisumu Central
Tom Justus Adundo	Chief	Kisumu west
Anjeline A. Juma	FGD participant	Nyando
Rose Orina	FGD participant	Nyando
Esther Ouma	FGD participant	Nyando
Colleta Okoth	FGD participant	Nyando
Rispa Anyanga	FGD participant	Nyando
Plister A. Okoth	FGD participant	Nyando
Caren A. Kiarie	CSO representative	Nyando
Emilly Odhiambo	Widow	Nyando
Adwar Saline	Lawyer	Kisumu Central
Magret Akello	Representative of political party	Siaya
Patrick Opoya	Pastor	Siaya
Easter Okech	CSO Representative	Kisumu Central
Georgina Malanga	FGD participant	Nyando
Christine Oduor	FGD participant	Nyando
Consilia Okundi	FGD participant	Nyando
Doreen A. Otieno	FGD participant	Nyando
Jackline Ouma	FGD participant	Nyando
Eunice A. Opondo	FGD participant	Nyando
Rhoda N. Wekesa	Widow	Nyando
James Ayaga	Community elder	Siaya
Thomas Ondiro	Chief	Rachuonyo North
Eunice A. Okelo	Widow	Ndhiwa
Oyumbo P. A Caroline	Widow	Rachuonyo North
Obura Vincent	Elder	Homabay
Florence Oyolo	FGD participant	Siaya
Christine Akinyi	FGD participant	Siaya
Esther Muga	FGD participant	Siaya

Elizabeth A. Okumu	FGD participant	Siaya
Lilian Amolo	FGD participant	Siaya
Jane Atieno Atieno	FGD participant	Siaya
Dorcus Atieno	FGD participant	Siaya
Lina Akoth	Magistrate	Kisumu Central

ANNEX 3: DATA COLLECTION TOOLS

TOOL 6A. FGD tool for women

Description of Community		
Sub-County		
Enumerator's name		
Date of the interview (DD/MM/YYYY)		
Time	Start:	End:

- I. Sharing of experiences and observations of participants in terms of overall status of women in their village. What is your assessment on the issue of women land rights in your area?
- II. What is your main source of information on women land rights?
- III. Is it good idea to have land in women's name, as well? Why?
- IV. What is the process, or what are the different ways a woman can have land in her name? ask if they know about requisite documents and even how many have marriage certificates
- V. Even if women have lands in their names, have they really been able to enjoy the rights
- VI. What is the overall status of registration of land in women's name in land office?
- VII. Why there are only few women who have land in their names?
- VIII. What advantages or disadvantages women may get on having land on their own names?
- IX. What benefits can there be to the family, if land is registered in women's name.
- X. Inheritance: How willing are family members willing to pass on their property to daughters.
- XI. Who benefits more from customary allocation of land? Men or women? Explain the social and cultural barriers in registering land in women's name
- XII. Do you think there are legal barrier also, or supportive to women?
- XIII. What challenges do widows face after the death of their husband?
- XIV. What should be done to enhance access of women to productive resources such as land.

Tool 6B. KII tool for legal experts (Magistrates, rights advocates/activists and lawyers)

Name of key informant		
County		
Occupation		
Position		
Enumerator's name		
Date of the interview (DD/MM/YYYY)		
Time	Start:	End:

- I. What are the legal provisions associated with women's access and ownership of land and property rights?
- II. Are these provisions acting as enabling or/and constraining factors to women accessing and owning land and other properties? Inheritance (legal provisions, legal barriers).
- III. Do women have access to Laws/legal enforcement of rights in relation to land; registering in their names and other lands; control over land?
- IV. How difficult it is to register land in women's name?
- V. What are the types and nature of cases filed in the land and environment courts, relating to women's ownership of the land/ women-owned land?
- VI. Dispute resolution related to land. If it becomes more complicated if that land is registered in women's name?
- VII. International experiences, best practices in relation to gender responsive process and procedure of land registration (policy, law, law enforcement mechanism).
- VIII. In your own opinion what are the weaknesses in existing laws.
- IX. Have these laws been translated into the practice?
- X. What are the challenges in translating the laws in practice (cultural practices.)?
- XI. Has the new constitution provided enough space/opportunities to make the law in favor of women's property rights.
- XII. What immediate revisions should be made to make the existing law and legal practices more women friendly, in relation to the women's property rights.

Tool 6C: KII tool for Government administrators (e.g. Chiefs)

Name of key informant		
County		
Occupation		
Position		
Enumerator's name		
Date of the interview (DD/MM/YYYY)		
Time	Start:	End:

- I. What types of cases relating to women's tenure security does your office deal with?
- II. Can Chiefs decide these cases or what authority does the Chief have to settle the cases regarding the land issues? If so, how do you solve them and who is involved in the process?
- III. What are the Constitutional provisions or legal instruments that guide you when solving land or property issues concerning women?
- IV. If Chiefs play any role in implementing existing laws and provisions.
- V. What are the cultural practices that hinder women from owning land and other properties?
- VI. Does your office get support of other local institutions such as police office and social ser-

- vices on issues relating to land and property rights of women?
- VII. What needs to be done to change the society perception of women rights to land and property

Tool 6D: KII tool for CSOs and social movement activists (e.g. those working on land rights movements, gender equity/justice, legal literacy, paralegal support)

Name of key informant		
Which CSO are you representing		
Position		
Enumerator's name		
Date of the interview (DD/MM/YYYY)		
Time	Start:	End:

- I. For how long have you served in this organization/Institution?
- II. Is your organization working on issues of women property rights?
- Yes, a specific topic
 - Yes, a part of work on land rights or economic rights in general
 - Yes, as part of work on other women's rights
 - No, but we may work on it in future
 - No, and we definitely not work on it
- III. On what issues in the field of women's property rights do you work (More possible answers)
- Unequal possibilities to own property
 - Women's Land rights
 - Inheritance Rights
 - Matrimonial property (Within Marriages and after Divorce)
 - Dowries
 - Access to credit, bank accounts
 - Women's possibilities to own and run a business
- Other, please explain
- IV. What kind of work do you do on women's property rights (More answers Possible?) Advocacy in order to influence laws and policies
- Legal aid to women
 - Public campaigning/awareness
 - Training of professionals (judges, lawyers and leaders)
 - Education of women

- e) Research
- f) Empowerment of women/women's organizations

Other (Please explain)

- V. Are you familiar with any laws and policies that promote women's right to own land and other property?
- VI. How can women's rights be secured?
- VII. What are the main challenges in promoting Women's land rights?
- VIII. What is your organization doing to realize women land rights?
- IX. What are some of the challenges to realizing women land rights in Kenya? Focus on cultural challenges.
- X. What is your personal opinion on women to having land registered in their names?
- XI. What do you think CSOs should do to promote women land ownership in your area?

Tool 6E: KII tool for Youths

Name of key informant		
Area of residence		
Position in the community		
Enumerator's name		
Date of the interview (DD/MM/YYYY)		
Time	Start:	End:

- I. Are you aware of with laws governing women rights to land or any other property?
- II. Why there are only a few women who have land registered in their names?
- III. How did they get the land registered in their name?
- IV. What does it mean to a family to have land in a woman's (female family member's) name? who is favored between females and males and who makes the decision on inheritance
- V. What social, cultural barriers one has to face, if someone wants to register land in women's name.
- VI. In your own opinion have you observed any cultural shifts regarding women rights to own land or any other property? If yes, can you name or explain
- VII. Are their institutions doing advocacy on women rights?
- VIII. In your own opinion what needs to be done to improve women access and ownership of property.

Table 6F: KII tool for representatives of political parties at the local level (whoever available, preferably women)

Name of key informant		
Which party are you representing		
Position		
Enumerator's name		
Date of the interview (DD/MM/YYYY)		
Time	Start:	End:

- I. What is your party's position on women's access to land or other productive resources?
- II. What does their manifesto say?
- III. What is your personal opinion on this?
- IV. Do you think that ensuring women's land rights leads to their empowerment? How? Why not?
- V. How can we improve the situation where women also can have equal access to land or property? Do you think politicians also have opinion on this? Is 'women's property right' also a political agenda?
- VI. What is the practical advantage or disadvantages if land is registered in women's name?
- VII. What are the practical difficulties in securing women's land rights, including social, cultural barriers?
- VIII. Any training on gender issues? If no, are they interested in participating in trainings in relation to gender issues and gender equality?
- IX. In your own assessment what needs to be done to improve women access to and ownership of land?

Tool 6F: KII tool for Community elders

Name of key informant		
Area of residence		
Position in the community		
Enumerator's name		
Date of the interview (DD/MM/YYYY)		
Time	Start:	End:

- I. Should women own land? What is the community perception?
- II. If yes, what are the social traditional practices that hinder enforcing their rights?
- III. Among the Luo's where women allowed to own land? If yes, how was this done and if no why?
- IV. Who held decision-making power within the family on issues relating to land and inheritance?
- V. What is the perception of the community elders towards women owning land?
- VI. In your opinion, what factors do you think can promote women to own land? Please name them
- VII. Were there traditional religious beliefs on women owning or inheriting land?
- VIII. What do you think are benefits for women who own land?
- IX. In the community, do women have access to land once their spouses die? Please explain your choice of answer above
- X. Are there organization carrying out advocacy about women property rights in your community
- XI. Based on your personal opinion have you seen any shifts towards women property rights or owning land? If yes, can you mention these changes
- XII. In your own assessment what needs to be done to improve women access to and ownership of land?

Tool 6F: KII tool for clergy

Name of key informant		
Representing which faith or church		
Position in the Church		
Enumerator's name		
Date of the interview (DD/MM/YYYY)		
Time	Start:	End:

- I. Should women own land? What is the Church's' position?
- II. What Religious beliefs are associated with women's access and ownership?
- III. In your own opinion why do you think there are very few women with land to their names
- IV. What are some ritual practices hindering women to exercise their rights over land?
- V. What are some of the cultural practices that alienate women from land ownership or Inheritance?
- VI. In your opinion, what factors do you think can promote women to own land? Please name them
- VII. What do you think are benefits for women who own land?
- VIII. Based on your personal opinion do women have access to land once their spouses die? Please explain your choice of answer above and how the church helps vulnerable women to fight for their rights
- IX. Are there organization carrying out advocacy about women property rights in the area where your church is located?
- X. Based on your personal opinion have you seen any shifts towards women property rights or owning land? If yes, can you mention these changes
- XI. In your own assessment what needs to be done to improve women access to and ownership of land?



NAIROBI OFFICE

Kuwindia Lane, Off Lang'ata Road, Karen C
P O Box 112 - 00202, KNH Nairobi
Tel: +254 020 2515790
Mobile: +254 710 261 408 / +254 788 220 300
Fax: 020 386 1390

KISUMU OFFICE

Nyalenda Railways Estate, Block 9/220
Off Nairobi Road Opposite YMCA
P.O Box 7708 - 40100, Kisumu - Kenya
Tel: +254 057 204 1001/+254 020 251 5790
Cell: +254 716 978 740/+254 710 261 408