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Between Law and Custom: Community Awareness of Women's Land Rights in Kajiado West, Kenya

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ABSTRACT: Despite progressive legal frameworks promoting gender equality in land ownership in Kenya, the level of awareness of women's land rights remains critically low at the community level. This paper investigates community awareness of women's land rights in Kajiado West Sub-County, a region where customary practices strongly influence land access and control. Using a mixed-methods approach, the study collected data through structured questionnaires, focus group discussions, and key informant interviews. Quantitative findings revealed that while 70% of male respondents reported high awareness of land reforms, only 50% of women did, with young and unmarried women showing the lowest awareness levels. Qualitative insights attributed the gender gap in awareness to entrenched patriarchal norms, limited civic education, and low literacy levels among rural women. The study concludes that the disconnect between constitutional guarantees and customary practice undermines women's land rights and recommends targeted legal literacy campaigns and culturally sensitive sensitization programs.

KEYWORDS: Awareness, Customary law, Gender, Land rights, Legal literacy

1. INTRODUCTION

1.1 Context of Women's Land Rights in Kenya

Land remains a central pillar of economic security, cultural identity, and political power in Kenya. Despite constitutional reforms and progressive legal frameworks, gender inequalities in land ownership persist. Kenya's land governance landscape is best understood through the lens of legal pluralism, which acknowledges the coexistence of statutory, customary, and religious legal systems. While the Constitution of Kenya (2010)the Land Registration Act (2012), and the Matrimonial Property Act (2013), affirm equal rights to land for all genders, in practice, customary tenure systems continue to hold sway, particularly in pastoralist settings like Kajiado West (Chimhowu & Woodhouse, 2006).

This disconnect between legal provisions and customary realities is particularly pronounced in pastoralist and semi-pastoralist contexts, where land is not merely an economic resource but a deeply embedded cultural institution. In communities such as the Maasai of Kajiado West, land tenure is historically regulated by age-set systems, lineage affiliations, and oral customary law (Olomi, 2023; Tajirika & Owuor, 2022). Within these systems, women's access to land is often indirect—mediated through male relatives or marital ties—and rarely translates to decision-making authority.These parallel systems create ambiguity around enforcement, allowing traditional norms to often override statutory protections.Women continue to face systematic exclusion from land governance processes due to the enduring strength of patriarchal and customary systems that govern land access, use, and control (Njue & Kabira, 2021).

In this context, a rights-based approach becomes essential—emphasizing not only the codification of women's land rights but also their ability to claim and exercise those rights. This perspective aligns with global gender justice frameworks, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which Kenya has ratified. Yet, unless these rights are supported by structural reforms that address access to justice, information, and institutional trust, they remain aspirational.

Compounding these structural inequalities is the impact of rapid peri-urbanization. As Kajiado West experiences increased land commodification and speculative buying driven by its proximity to Nairobi, women's tenuous claims to land are further marginalized (Gaafar, 2014). Kajiado West, predominantly inhabited by the Maasai, presents a unique convergence of tradition and transition. Polygamous marriages, gendered inheritance norms, and clan-based land allocation shape everyday access to land. Formal titling, often accessible only to educated or economically empowered individuals, risks displacing traditional access arrangements without addressing gendered disparities.

The rapid peri-urban expansion in Kajiado West is not just an economic transformation; it is a gendered process of dispossession. As land transitions from communal to individualized tenure, women's access becomes increasingly precarious. While peri-urban areas show gradual shifts

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due to greater institutional presence and exposure to legal reforms, rural zones remain governed by entrenched customs (Olomi, 2023; Tajirika & Owuor, 2022). Women's roles in land governance are largely symbolic, and when reforms do occur, they are often resisted by community structures invested in preserving male dominance (Njeru, 2018).

Meanwhile, peri-urban pressures inflate land values, attracting investors and developers who operate outside the cultural and social contracts that previously governed access (Gaafar, 2014). Women's historical use rights are thus devalued in favor of formal, market-oriented claims. Emerging scholarship underscores legal awareness as a critical enabler of women's land rights (Mutangiri, 2023; Wangari, 2020). Yet, knowledge of rights alone is insufficient when women remain excluded from forums where land decisions are made—such as land control boards, public barazas, and clan meetings (Kamau & Smith, 2022).

Despite Kenya's progressive policy architecture—such as the National Land Policy (2009) and the Community Land Act (2016)—implementation remains uneven. These policies mandate gender equity in land governance, yet they lack effective accountability frameworks to monitor participation or ensure enforcement at the local level (Syagga, 2014).

1.2 Importance of Awareness in Realizing Legal Rights

Awareness of legal entitlements is a prerequisite for access to justice (Mutangiri, 2023). Without proper understanding of land laws, women cannot leverage reforms, even when such laws exist. Previous research highlights that legal awareness enhances claim-making (Wangari, 2020), but when paired with institutional mistrust, reforms fail to benefit women (Kamau & Smith, 2022). Legal reform, therefore, must go hand-in-hand with culturally sensitive dissemination strategies and participatory approaches that bring rights education closer to the lived realities of women in pastoralist contexts.

2. RESEARCH DESIGN AND METHODS

2.1 Study Area

The study was conducted in Kajiado West Sub-County, located in Kajiado County, Kenya. The area is largely rural, inhabited predominantly by the Maasai community, whose customary land tenure systems remain influential.

2.2 Research Design

A cross-sectional mixed-methods research design was employed. Both qualitative and quantitative data were gathered to enable triangulation.

2.3 Sampling and Data Collection

Purposive and stratified random sampling techniques was applied to identify 149 survey respondents across various age, sex, and marital status groups. Purposive sampling was used for focus group discussions (FGDs) and key informant interviews (KIIs). Data was collected using structured questionnaires, FGDs and KII guides.

2.4 Data Analysis

Quantitative data was analysed using SPSS to generate descriptive statistics and Chi-square tests. Qualitative data was analysed thematically to extract narratives on awareness, attitudes, and barriers to legal knowledge.

3. RESULTS AND DISCUSSION

3.1 Awareness of Women's Land Rights by Gender and Age

As shown in Table 1, awareness levels were significantly gendered. While 70% of men indicated high awareness of women's land rights under the 2010 Constitution, only 50% of women reported similar levels. The awareness gap was widest among respondents aged 18–30, where 60% of women reported low or no awareness. This is consistent with findings by Olum (2015), who observed that younger and unmarried women often lack access to legal information due to their marginalised status in both family and community decision-making structures. Focus group discussions highlighted that many women associated land rights with marital entitlement rather than personal entitlement under the law. A participant from Naserian stated:

"I know land belongs to my husband. I can't ask for a title with both our names. That would cause problems."

This perception aligns with findings from Gaafar (2014), who noted that reforms have limited penetration in rural Kenya due to weak dissemination strategies and prevailing male dominance.

Table 1: Awareness of Women's Land Rights by Gender

Awareness Level	Male (%)	Female (%)
High Awareness	70	50
Moderate Awareness	20	30
Low/No Awareness	10	20

3.2 Sources of Information

Men cited barazas (public meetings), chiefs, and land control board engagements as their primary sources of legal information. In contrast, women relied more on peer discussions, church groups, and periodic NGO activities. These findings mirror earlier research by Gaafar (2014), which identified structural exclusion of women from formal spaces of legal education and land governance.

3.3 The Role of Customary Norms

Despite constitutional reforms, the study found that most land decisions are governed informally through elders and clan heads. Female voices are

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largely excluded. For example, 80% of older men were identified as primary decision-makers in land matters, while only 10% of older women held any such authority.

Even where women were aware of their rights, they felt culturally constrained to claim them. Respondents shared experiences of land being withheld from daughters or widows based on taboos or fear of curses.This confirms Kameri-Mbote's (2005) argument that customary institutions often override constitutional promises in practice.

3.4 Implications for Land Reform

The study reveals that even when women possess a basic awareness of their land rights, institutional mistrust remains a significant deterrent to engagement. Many participants expressed reluctance to pursue formal channels due to perceived corruption, procedural complexity, intimidation by male-dominated institutions, and fear of social backlash. As one land officer noted:

"Even when we explain their rights, many women say 'It's not our place to challenge tradition.'"

This insight underscores a broader dilemma in land reform: legal awareness alone is insufficient in contexts where cultural norms delegitimize women's claims and undermine the credibility of formal institutions. For many women in Kajiado West, the formal justice system is not only inaccessible but perceived as culturally inappropriate with their lived realities.

The findings highlight the inherent limitations of legal reform when it is not accompanied by parallel socio-cultural transformation. Statutory protections risk becoming symbolic if not internalized by communities and translated into practice at the local level.

The Social Relations Approach (Kabeer, 1994) offers a useful lens for interpreting these dynamics. It posits that access to resources and information is shaped by institutional practices and norms that reflect existing gender hierarchies. In the case of Kajiado West, women's exclusion from land governance and legal institutions is not simply a matter of individual ignorance, but a consequence of systemic gendered power relations that determine who learns, who speaks, and who decides.

4. CONCLUSIONS

The study demonstrates that awareness of women's land rights in Kajiado West remains uneven and gendered. Despite constitutional protections, patriarchal customs and poor legal dissemination continue to limit women's understanding and exercise of land rights. Bridging the gap between law and custom requires not just reforming institutions but also transforming societal norms.

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