



The community land rights of women and youth in Turkana County, Kenya

Introduction

This policy brief presents the main findings of a situational analysis and assessment of women's and youth's ability to access community land in Turkana County, Kenya, with a focus on their rights. The brief highlights the fact that even though policy and legal frameworks provide for equal rights and non-discrimination in access to land, women and youth still face many land-related challenges in Turkana County. It looks at the current situation regarding community land rights and examines the barriers that women face trying to realize these rights. It further provides recommendations and strategies that can be used to strengthen and secure rights to community land for women and youth.

This brief aims to inform policymakers, administrators, development partners, and local communities, including women's and non-governmental organizations working to improve access to land for women and youth.

The situation

The centrality of land can be seen in Chapter 5 of the Constitution of Kenya, which focuses on land and the environment. However, realizing women's right to access, control, and improve land and manage natural resources still remains a challenge in arid and semi-arid regions.

The unequal treatment between men and women in land governance systems is linked to specific roles and relationships that are regulated by sociocultural norms. As a result, women – particularly poor women – have fewer

options for participating in land governance and natural resource management and for dealing with related crises. This in turn increases their vulnerability and limits their capacity to access, use, and own land.

In agro-pastoral systems, women play a central role as land and natural resource managers, income generators, and service providers. Pastoral women are not only “primary” users of land, but are also major “secondary” users, collecting rangeland products such as firewood, grass, fodder, wild fruit, medicinal plants, gum, and resin. However, many pastoralist societies are

patriarchal, and men own all the livestock and land resources. While pastoral women's property rights have been afforded a certain degree of protection by customary institutions, the sustainability of such protection is likely to be lost as a result of weakening traditional institutions and new developments in land reforms.

The recent enactment of the Community Land Act aims at operationalizing the provisions of Article 63 of the constitution, which deals with community land. Land reforms seek to harmonize the multiple and often overlapping legal frameworks on tenure of land and natural resources.

Key findings

- There is a customary land tenure system in which access is mainly through inheritance, with no formal documentation. The community traditionally demarcates land using indicators such as family graves, large old trees (e.g. mango trees), and watering wells. Nearly all the interviewees asserted that women have no land ownership rights, though daughters of chiefs or women from rich families are allocated land. However, at times this land can be taken away by their brothers once the parents are dead.
- Insecure tenure exists due to a lack of title documents. The Lamu Port–South Sudan–Ethiopia Transport Corridor project, land purchase by investors, and gazettement of forests and ranches were noted as eviction threats.
- Deprivation of access to common areas was reported to be low, but the risk of eviction due to ongoing land development was cited.
- The communities in Turkana County affirmed that traditional land management systems exist in every community. There are councils of elders to ensure that every community member has access to land and to sort out land-related disputes at the community level, but women, youth, and other vulnerable groups (those with disabilities, HIV, etc.) are seldom involved in discussions on land-related matters.

- Those who want to access community land for investment or any other business have to negotiate with the elders, in consultation with the chief and relevant government officials; women are not allowed to participate in the decision-making forums.
- In Turkana County, the resource-based conflicts are mainly over grazing areas, water points, boundaries, urban expansion, and the fencing of livestock passage routes, conservancies, and refugee camps.
- It was noted that the community had very little knowledge and awareness about the Constitution of Kenya. The legal frameworks on community land governance exist, but the chiefs had only basic knowledge of community land matters and disseminated what they knew to the community during *barazas*.

Factors affecting women's and youth's land access rights

- Religious beliefs that women should not mingle with men
- Low literacy levels among women
- Lack of female role models who have succeeded in accessing land in Turkana



Lake Turkana. Photo by Adam PG.

- Poverty
- Corruption
- Lack of political good will, with low priority given to the land question and high priority given to political interests
- Gender inequality due to cultural barriers and discriminatory traditions
- Poor access to information and inadequate knowledge about existing legal frameworks on land

Opportunities

- Working closely with religious leaders, county administrators, existing councils of elders, and women's groups to advocate for land access rights
- Using women's advocacy forums such as Sauti ya Kina Mama and vernacular radio stations
- Using civic education to disseminate information on matters to do with communal land governance

Recommendations

- Awareness creation (sensitization) by non-governmental organizations to enlighten communities on their rights and the importance of adhering to constitutional principles such as participation and consultation
- Translation and contextualization of the constitution with the realities on the ground for the people of Turkana County
- Promotion of adult education to improve literacy levels
- Formation and strengthening of women's groups (Maendeleo ya Wanawake, Sauti ya Kina Mama, community forest associations, etc.) so as to empower them
- Mainstreaming gender and integrity in land governance to root out corruption
- Proper land use planning and formation of associations and self-help groups for the sustainable management of resources
- Exposure visits to other communities which have excelled in order to exchange ideas on how to move forward on women's land rights, specifically the right to access
- Synergies with relevant offices in the county government such as the lands department and civic education, women's, and cultural departments
- Working together with religious leaders and organizations to advocate for women's/youth's rights
- Working with local leaders to become change agents (Members of County Assemblies, Members of Parliament, etc.)
- Leveraging what other organizations are already doing on youth's and women's empowerment
- Capacity building of the councils of elders on issues such as gender-responsive arbitration and mediation skills
- Fast-tracking the development of regulations for the Community Land Act

About this policy brief

This policy brief draws on a situational assessment of community land access rights for women and youth in Turkana County, Kenya, carried out as part of the support provided to the government's land reforms initiative through the implementation of a project titled Support for Responsible Land and Natural Resource Governance in Communal Lands of Kenya. The project was funded by the European Union and implemented by the Food and Agriculture Organization of the United Nations in collaboration with UN Women (the United Nations Entity for Gender Equality and the Empowerment of Women), the National Land Commission, and other partners. The purpose of the research was to assess the land and access rights of women, youth, and other marginalized or vulnerable groups in Turkana County specifically with regard to communal land. This was in order to advocate for secure access by women and youth to the community land where they live.

For more information: fao.org and unwomen.org



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