

Indigenous Women Land Rights And Natural Resource Management in Community Land



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Preface

Samburu Women Trust (SWT) is an indigenous women-inspired organization whose key mandate is to advance and strengthen the voice and position of local Samburu and other pastoral women in the Kenyan North, and to spearhead local initiatives aimed at securing human and/or women rights and safety for local women and the girl child.

SWT exists to empower pastoralists' women and girls to claim their human rights, strengthen their capacity to influence local and national policies, and address harmful cultural practices through integrating the role of women as decision-makers in the community.

Samburu Women Trust facilitates processes that empower and promote women's human rights, capacity building, human rights advocacy and securing a prosperous future through women development programs in Northern Kenya Counties. A key issue in ensuring Samburu Women Trust mandate is enhancing women rights in relation to access and use of land and associated resources.

In this view SWT has been in a continuous path to strengthen its overall goal to ensure women are well positioned to contribute to community development. SWT commissioned a Study about Indigenous Women access to Land in terms of ownership, access to and management including the natural resources in Laikipia, Isiolo and Samburu Counties.

Kenya secured independence from Britain in 1963. A first Constitution was enacted (1963). This was replaced in 1969, in turn replaced by the Constitution in 2010. This constitution widely departs from the two earlier constitutions, including on land and property



Executive summary



The issue of land rights is highly contested in Kenyan politics. Land ownership, use, and management were one of the issues addressed by Kenya's new Constitution. Chapter 5 of the Constitution of 2010 Article 62 states that "all land in Kenya belongs to the people of Kenya collectively as a nation, as communities, and as individuals.

This study focused on finding out the status of women's rights to land ownership, access, and utilization rights in Samburu, Isiolo, and Laikipia Counties. In an overview set up one would want to understand what is access to land and what it means to have rights to access and use of land. When women and girls have access rights to land it basically translates to having advantage for economic enablement.

The absence or insufficient access to land rights and other productive assets denies women and girls chance to generate income, feed themselves, their families, and break down systemic barriers to food insecurity. This is the reality of many women in pastoral set ups in Northern Kenya and probably globally. Albeit women are the prime users of land for basic family needs, they are unfortunately often times exposed to unmatching treatment and deprived of ownership and access to land and related natural resources.

In many societies especially the Northern Kenya pastoralist communities lack of women access to land rights is attributed to customary and traditional malpractices that have been transmitted for generations. In brief description most pastoralist communities have a male dominance culture where women and girls are treated as secondary beneficiaries in all matters of development. Consequently, over time, their male counterparts have established ways to access land, and natural resources.

This has increased male dominance in decision-making processes, and leadership position in land governance and unfortunately isolating women. This is particularly grave in the arid and semi- arid lands of Kenya, which is predominantly unregistered community land. The question SWT is trying to answer in this study is how to address this situation in a rapidly changing access to land rights situation due to devolved units' demand for land and development among other dynamics in land use.

Change of land use is a rapid course that calls for immediate redress to grievances that emanate from it especially involving women, adolescent girls, and other vulnerable women in society. The study, therefore, seeks to generate recommendations that are current to the communities under study to enable women and girls comfortably have access to land.

In Kenya, land is classified as public land, private land, and community land. At present, different pieces of legislation (laws) apply to the different categories of land. Kenyan land system is defined by the Constitution of Kenya, the Land Registration Act, and the Land Act. Kenyan land system is defined by the Constitution of Kenya, the Land Registration Act, and the Land Act.

It is classified into:

PUBLIC LAND

Reserved for public use or environmental protection. It is administered and managed by National Land Commission on behalf of the people of Kenya.

COMMUNITY LAND

It is held by communities on the basis of ethnicity, culture, or similar community interest.

PRIVATE LAND

This is land held by natural or legal persons. The Ministry of Land is tasked with the registration of any interest in private Land. It is classified into the following land tenure system;

1. **Freehold land tenure system:** it gives the holder absolute ownership of the land for life. A freehold title deed generally has no restrictions as to the use and occupation of the land. However, there are some conditional freeholds which may restrict the use of land for agricultural uses only.
2. **Leasehold land tenure system:** this is the interest in land for a specific period of time subject to payment of land rent to the National government and land rates to the county governments. Once a lease expires the land reverts back to the owner or the leaseholder can apply for a renewal or extension of the lease.

Non-citizens can hold leasehold land only for 99 years. (The case in about 48% in Laikipia)

In this study a research statement would be;

One of the major problems of Indigenous Peoples in Kenya is the loss of their traditional lands and territories. Indigenous Peoples have been pushing for proper legislation to protect collectively-held community land for many years. In 2016 the Community Land Act was adopted providing for recognition and registration of collectively-held community lands raising great hopes among Indigenous communities.

Yet very little has been done since by the authorities to concretely implement the Act.

And yet, women have been marginalized the most when it comes to land access, use, and management.

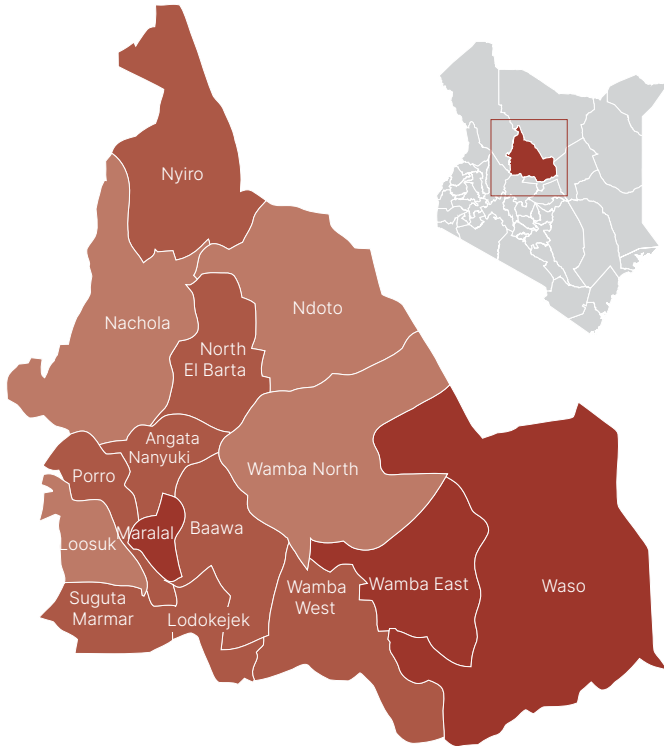


SWT focuses on strengthening gender protection and access to land rights. This can only be attained through the community land registration process, as outlined in the Community Land Act, 2016 (CLA). that has highly subjected communities to vulnerability with serious impacts among indigenous women and girls.

The land rights status in the study area

Samburu County

Figure 1: Samburu County map

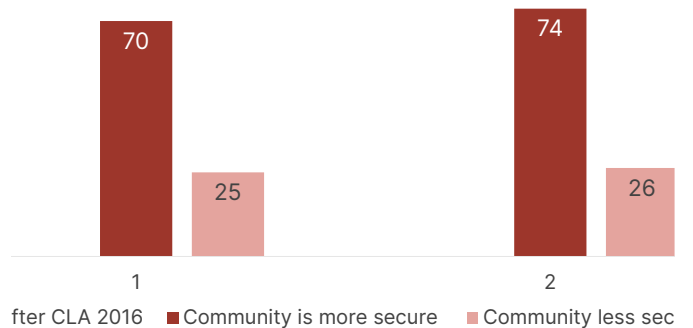


In the recent past, Samburu Women Trust (SWT) joined partners and mobilized communities in Samburu to form a joint platform, the Samburu Indigenous Landowners Forum, a platform for communities in Samburu County to address issues of common concern.

The forum members have been trained by SWT on the provisions of the Community Land Act and the requirements of the land registration process. In November 2020, the Forum submitted a document to the Samburu County Government highlighting the grievances and concerns of the communities in relation to the delay in registering community lands and the prevalence of land grabbing and serious conflict in Samburu County.

After the Constitution of 2010, the community was completely exposed to exploitation over land rights issues but after this intervention, the community is more secure.

Figure 2: SWT Intervention



Samburu County is a county in the former Rift Valley Province, Kenya which covers an area of roughly 21,000 km² (8,000 mi²) in northern Kenya. It is inhabited by the Samburu tribe who are the natives. It stretches north from the Wuaso Ng'iro River to the south of Lake Turkana. According to the 2019 census, the county has a population of 310,327.

Samburu County has all the 3 land tenure systems - Samburu Central is dominated by private ownership with title deeds and Communal land of a single title with registered members. Samburu North and East have a few group ranches and the rest of the land is trust land currently viewed as communal land.

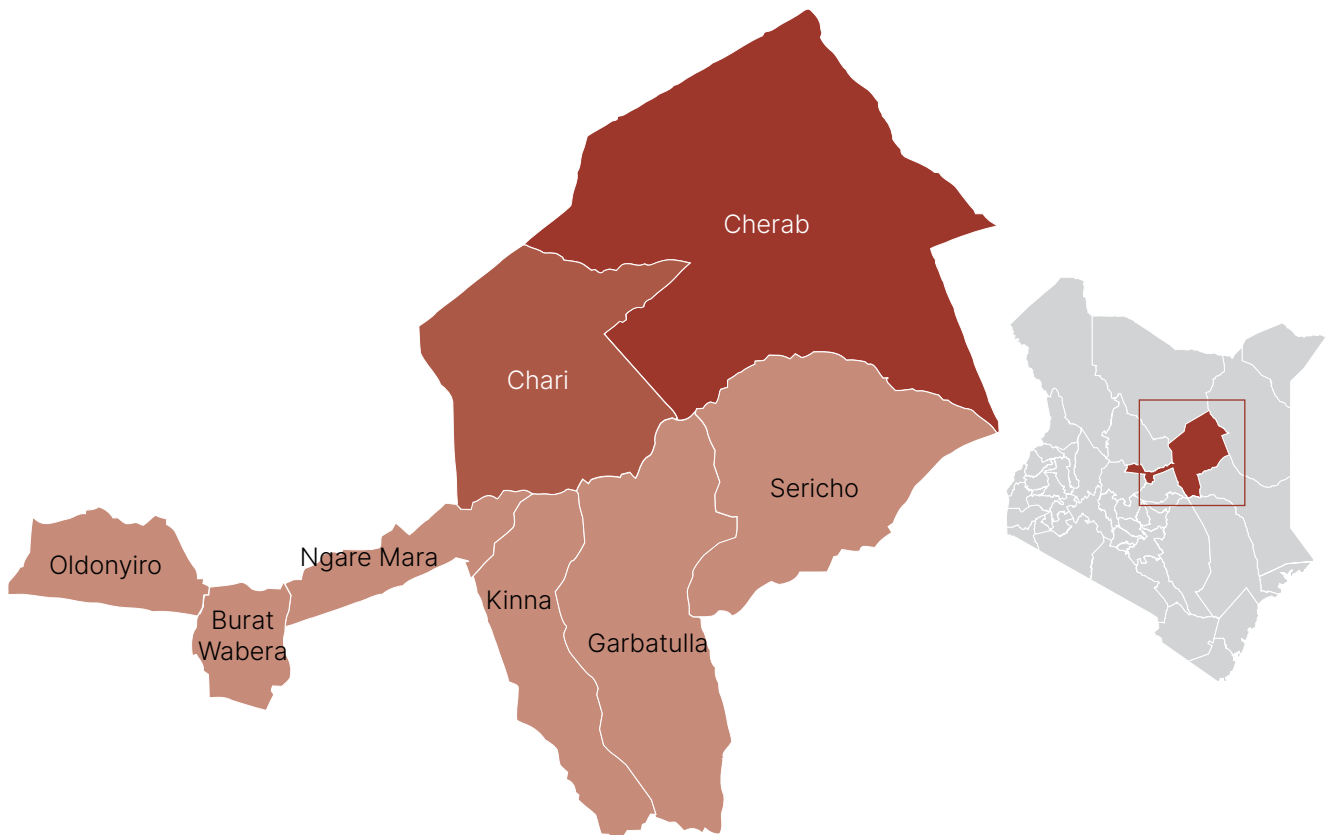
These group ranches were created most of them in the 1970s with male names dominating in the registers. No reviews have been done to date for almost all group ranches. Some group ranches have been demarcated into individual parcels. (Men benefited most).

Women that benefited were only those replacing their deceased partners.

Side interviews during the study exploring the situation after enactment of CLA 2016 indicated that the interventions of SWT and her collaborators in land rights in Samburu have created an impact although communities feel that more needs to be done as actual registrations are yet to be completed for almost all land under communal tenure under the New Constitution.

Isiolo County

Figure 3: Isiolo County map



Isiolo County is a county in the former Eastern Province of Kenya. Its population is 268,002 (2019 census) and its capital and largest city is Isiolo. Isiolo County is to be the first county to be developed as part of the Kenya Vision 2030 program. Other upcoming urban centres are: Garbatulla, Modogashe, Kinna, Merti and Oldonyiro. Isiolo is subdivided into six administrative units: Central Isiolo – including Isiolo Town – in addition to Garba Tulla, Kinna, Merti, Oldonyiro and Sericho.

Since Kenyan independence in 1963, the local authority in the district has been the Isiolo County Council. With the implementation of the new Kenyan constitution, its authority has changed, being a County now it can hold local elections and ensure its legitimacy to addressing land concerns.

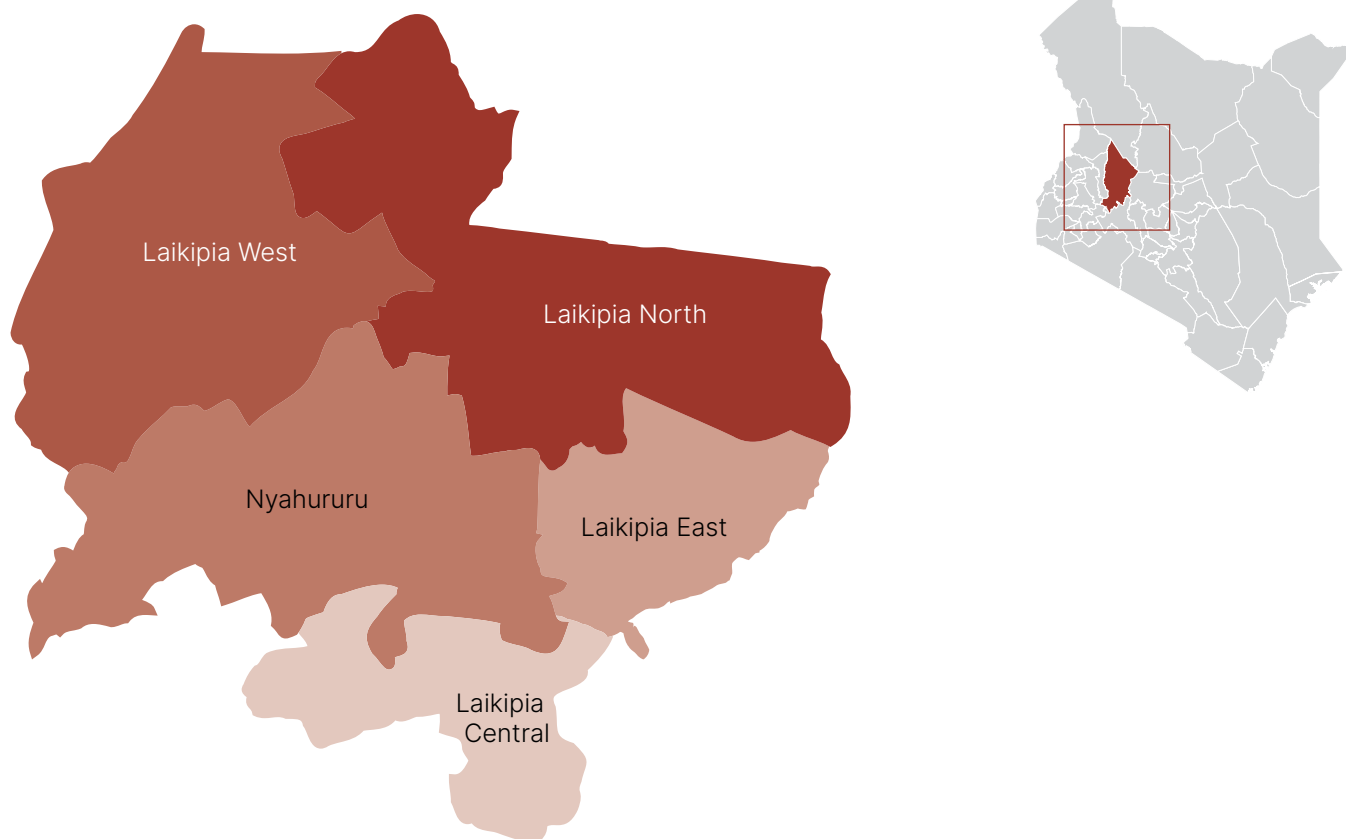
Apart from land around urban centers all of Isiolo is a trust land.

In the recent past SWT and other partners actively engaged a number of communities to transform their land into Communal Land under the Land Act 2016. the study established that women registration as a result of SWT interventions is almost 100% for most of the communities and communities feel more secure especially women folk. the community however, requested more vigilance to be paid to wholesome registration and intense capacity building of both women and men to be involved in decision making and actual happenings in land rights.

In Isiolo intercommunity conflicts over land came out very strongly and there is need to address this as most displacements that occur affect women and girls the most.

Laikipia County

Figure 4: Laikipia County map



Laikipia County is one of the 47 Counties of Kenya, located on the Equator in the former Rift Valley Province of the Country. Laikipia is a cosmopolitan County and is Listed as County number 31. The county has two major urban centres: Nanyuki to the southeast, and Nyahururu to the southwest. Its County government headquarters town is Nanyuki. The County lies between latitudes $0^{\circ} 18''$ South and $0^{\circ} 51''$ North and between longitude $36^{\circ} 11'$ and $37^{\circ} 24'$ East. It borders Samburu County to the North, Isiolo County to the North East, Meru County to the East, Nyeri County to the South East, Nyandarua County to the South, Nakuru County to the South West and Baringo County to the West.

There are 48 large-scale ranches sitting on 40.3 percent of the total land area in Laikipia County, 9,532.2km², some of which are still owned by the descendants of the colonial settlers. (A Case Study of Laikipia District, 2011 John Letai).

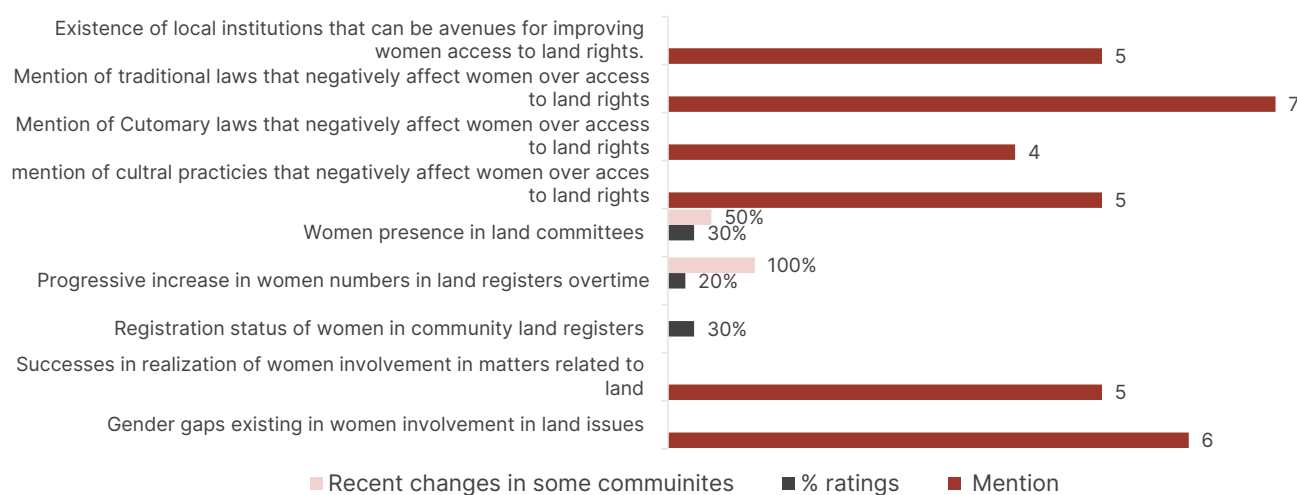
Land Regimes in Laikipia County

1. **Large-scale ranches:** There are 48 large-scale ranches representing 40.3% of the total land area in Laikipia.
2. **Large-scale farms:** Large scale farms are 23 and represent 1.48% of Laikipia County.
3. **Group ranches:** There are 13 group ranches in Laikipia districts representing 7.45% of the total land area.
4. **Smallholder farms:** Small holder farms represent a total of 27.21% of the total land area in Laikipia and are 122 in number. These farms were initially large-scale farms bought by groups of individuals who later subdivide them into small holdings of between 2 - 5 acres

The scope of the study entailed answering questions around the following areas;

ACCESS TO LAND RIGHTS MAIN ISSUES	MENTION	% RATING	RECENT CHANGES IN SOME COMMUNITIES
Gender gaps existing in women's involvement in land issues	6		
Successes in the realization of women's involvement in matters related to land	5		
Registration status of women in community land registers		30%	
Progressive increase in women numbers in land registers overtime		20%	100%
Women's presence in land committees		30%	50%
mention of cultural practices that negatively affect women over access to land rights	5		
Mention of Customary laws that negatively affect women over access to land rights	4		
Mention of traditional laws that negatively affect women over access to land rights	7		
Existence of local institutions that can be avenues for improving women access to land rights.	5		

Figure 5: Pastoralists women access to land rights (Samburu, Isiolo and Laikipia)

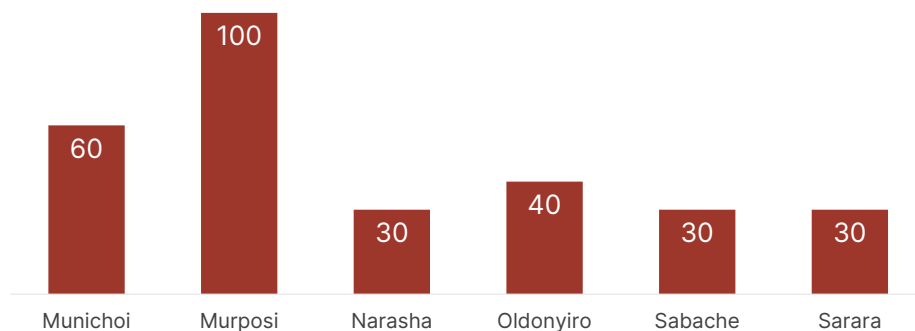


General statement that can be made from the findings of the study is; communal land rights can only be attained through the community land registration process, as outlined in the Community Land Act, 2016 (CLA). However, this process is stretched, laborious, resource-demanding, and requires a series of public participation forums. In such discussions, there are many political and social interests mainly championed by men, leaving out women's voices in the process. These further limits women and adolescent girls on rights to land use in the long run.

Technical officers who should ensure gender equality in land use are influenced by community gatekeepers and politicians, who are mainly men. However, from the study a huge positive trend has occurred in parts of Isiolo and Laikipia where SWT has had impact in facilitating community land registration process. As a result, a mention of more than 50% is the case for Munichoi and Murpusi communities in Laikipia County.

Nonetheless, most informants and respondents indicated a huge need to audit the successes and address gaps as well as other unattended gaps in most community areas covered by SWT.

Figure 6: SWT has had impact in facilitating community land registration process



However, it is important to point to note about 90% of the women interviewed raised concerns over the real commitment of men when it comes to actual land allocation. So, more needs to be done to ensure women's inclusion in decision-making committees as well as full access rights to land and natural resources within.

1. Introduction

In any society land is a critical economic good that is important for driving livelihoods and ultimate cushioning of communities from food insecurity. Blocking women from tenure to land and decision-making over land negatively impacts their core survival. In rural pastoral setups communities depend on land for basic provisions like tilling, herbal medicine, source of household energy, and livestock rearing among others.

Research demonstrates that women's access to land rights is central to raising their status and impact within their households and communities at large. The discrimination in access to land and its resources brought about by male dominance in administrative systems is the leading cause of women's oppression in society.

Denying women access and control over land is a violation of their human rights; that is the right to a livelihood, food, and land as enshrined in the International Covenant on Economic, Social, and Cultural Rights.

SWT is growing its efforts to address challenges faced by indigenous pastoralists women on access to land rights. The findings of the study have identified challenges and have provided matching recommendations to address them. The ultimate focus is to secure a safe environment for women and adolescent girls through safeguarding the tenure rights of unregistered community lands. This in essence is achieved through strengthening local governance and the community's preparedness for registration of their communities' lands. In addition, strong capacity building of players at all levels should be employed. The assessment covered the following specific objectives,

Identify/study major gaps and successes towards realizing indigenous women and adolescent girls' inclusion in decision making processes over land and natural resources.

Identify the level of inclusion of indigenous women and girls in community land ownership in Samburu, Isiolo and Laikipia Counties.

Understand the extent to which indigenous women and girls are included in key decision-making processes/ structures such as the Community Land Management Committees.

Find out how frequently the community membership registers are updated and the percentage of women and girls are included the membership registers with special consideration of married and unmarried women, disabled and Widows.

Identify traditions, customary law, religious or cultural beliefs and practices, the existence/capacity/resources of local institutions that affect indigenous women and girls' rights to ownership, control, access and management of land and natural resources and provide possible interventions on how these challenges can be mitigated.

Identify traditional practices, governance structures, natural resource management plans and laws that can be adopted by the local communities to promote indigenous women and girls' rights to own and control land.

Generate lessons learnt and suggest recommendations for strengthening efforts geared towards protection of indigenous women and girls land rights at the community.

Identify any best practices and initiatives realized through promoting indigenous women rights to own, control, access and management of land and natural resources.

2. Study methodology

Data for this review was collected in Samburu, Isiolo, and Laikipia counties. In Samburu County, the research was conducted in Sapashe & Sarara. In Isiolo, the study was conducted in Narasha & Oldonyiro. In Laikipia, the study took place in Munichoi and Murpusi group ranches. The research methods included administration of individual questions to pastoral women respondents, key informant interviews, focused group discussions, observation, and literature analysis. The key informants were officials from the county government, Community Land Management Committees (CLMCs), Ward Administrators, and non-governmental organizations (where available).

In addition, 1 FGD was held for each of the 6 communities covered in the three counties. focused group discussions with community members was carried out in each of the three Counties of study namely Samburu, Isiolo, and Laikipia counties.

Quantitative data was collected through a household survey administered by trained enumerators using a structured questionnaire. A total of 95 questionnaires were administered to community respondents from the 3 Counties. A total of six focused group discussions were conducted in the three counties. The consultant generated and analyzed qualitative and quantitative data.

The sampling of informants for KII and FGD was purposeful based on the specific information required while the sampling of households was based on the population of the target counties/sub-counties and calculated using the formula (from the MaCorr sample size methodology (<http://www.macorr.com/sample-size-methodology.htm>)).

$$ss = z^2 * p * (1-p)$$

c²

Where;

ss= sample size

z= z value (e.g. 1.96 for 95% confidence level).

p= Percentage picking a choice expressed as a decimal (0.5 used for the sample size needed)

c= confidence interval expressed as a decimal.

Our sample is based on a 4.0 confidence interval.

3. Findings and Discussion

3.1. Background information and literature review

In the context of a new national policy and supreme law (the Constitution of Kenya 2010) which signals a dramatic new policy direction; abandonment of the strategy pursued since the 1950s that security of rural tenure lies in the extinction of customary rights and their replacement with freehold or leasehold entitlements issued to individuals or corporate entities; this was the only means through which property was legally acknowledged. Registrable family and communal tenure were not provided for.

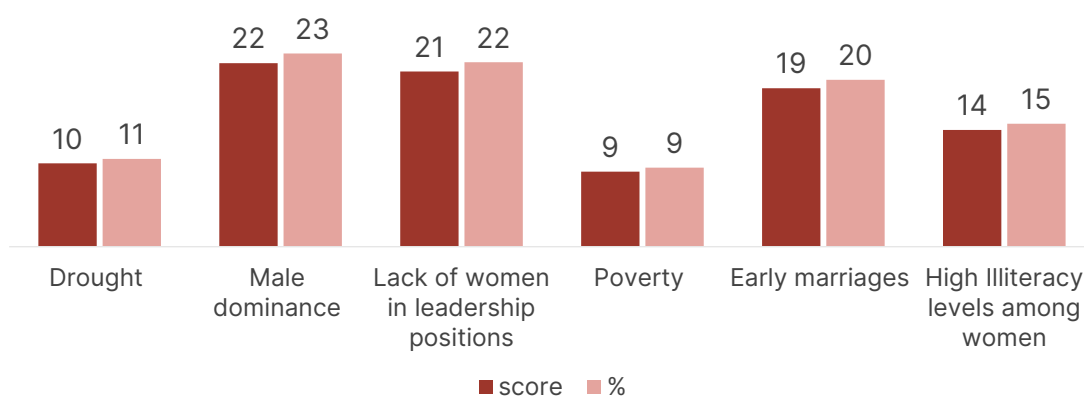
Nor, while tolerated, was community-based jurisdiction as practiced over customary lands legally supported. (Liz Alsen Wily – 2018 - *The Community Land Act in Kenya Opportunities and Challenges for Communities*). All of these are now provided for in Kenyan law, to be reinforced through the application of the Community Land Act. Through this, each community may, if it wishes, secure a single collective title over all or part of its lands, and lawfully govern this property. This includes regulating traditionally 'private' possession of plots within the community domain, as allocated to individual families for settlement or farming purposes. Customary practices may be applied within constitutional parameters of human and social rights.

The law is new, and while already in force, will not be fully applied until Regulations under the law are formally promulgated, anticipated in early 2018. The focus of this first study is therefore on what the law says, its strengths and weaknesses, and pitfalls that require addressing. Reviews of progress will come later.

As mentioned earlier this study focused on the identification of impediments to access to land and related resources for indigenous pastoralists women in Northern Kenya. It was also looking to provide matching recommendations to address these issues. In most rural communities, the land is the single source of household dependence; therefore, access and tenure to land are critical to securing women's and girls' livelihoods in the pastoral communities of Northern Kenya.

Studies show that women's access to and control over land is essential in raising their status and influence within households and communities. This is exactly the goal SWT is endeavoring to attain in addressing the rights of indigenous pastoral women in this region. Women's access to land and security of tenure positively impacts their productivity in society.

Figure 7: Challenges/gaps in women access to land



3.1.1. Gaps That Exist in Women's Access to Land

The study posed a question to respondents in their own view to identify challenges/gaps associated with women's access to land and land rights. The following issues were mentioned by the 95 respondents;

- Drought
- Lack of representation of indigenous women in decision making entities
- Lack of indigenous women in leadership positions
- Poverty
- Early marriages
- High illiteracy levels among women
- Land grabbing often deprives indigenous women of their inheritance leading to insecurity of land ownership.
- Lack of good will from officials to fast-track land registration and ensure indigenous women inclusion in land rights
- Weak implementation of policy.

From the analysis, it was very clear that male dominance was the most mentioned attribute that needs to be addressed in order to give women a chance to land access and utilization. The second most mentioned is lack of women in leadership positions.

Male dominance according to many respondents is associated with day-to-day disadvantages that women go through such as gender-based violence, women and girls' vulnerability arising from impacts of inter-community conflicts, livelihoods insecurity, imbalanced gender roles & responsibility due to male favoritism. According to most informants, the lack of women in decision-making positions has contributed to biased over access to land ownership, discrimination of most women and girls in access to land services, poor representation of women in community decision-making fora, restrictive community, and customary structures, and an ultimate lack of voice for women and girls in general.



High levels of illiteracy was mentioned to relate to a lack of civic education on land policies and rights to ownership. Most communities were ignorant of CLA 2016.

3.1.2. Successes In Realization Of Women's Involvement In Matters Related To Land In Samburu, Isiolo, and Laikipia Counties

There were wide-ranging community responses to this. For some communities, there is a good trajectory, especially for those communities that SWT has invested substantially in capacity building & facilitation of access to the registration of community land, and acquisition of title needs (Oldonyiro). However, across the board, a lot needs to be done to scale up the coverage. This according to key informant interviews requires concerted efforts of a myriad stakeholder forums in order to ensure satisfactory inclusion of all groups especially women in access to land rights.

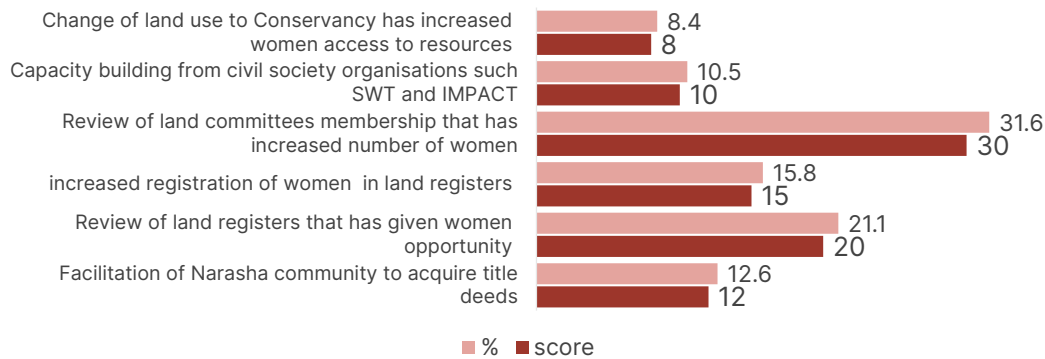
The respondents mentioned the following as main successes;

- Facilitation of the Oldonyonyiro community to acquire freehold title deeds at their town centers and the process of acquiring allotment letters in places of residence.
- Review of land registers that have given women an opportunity for inclusion in community land registers as owners of land.
- Review of Community land management committees membership that has increased the number of women in the decision-making entity.
- Capacity building from civil society organizations such as SWT among others that has increased indigenous women knowledge in land rights.
- Due to increased capacity building indigenous women have remarkable access to benefits accrued from community conservancies.

CASE STUDY: NARASHA

A case of success: Narasha indigenous women group has as a result of singlelized intensive senzitization and mobilization by SWT has demonstrated an unexpected high achievement of a self driven women indigenous organization. As a result they have acquired more than 40 acres to be used entirely for women-based economic ventures. This is an example of a quick milestone achieved by women in a display of proactive drive from intensified capacity building by SWT.

Figure 8: Success in realization of women involvement in related to land



SWT in the study areas has been involved sensitzing and mobilizing communities for land use planning. This is a concept where communities are facilitated to develop comprehensive plans which in essence brings in a community's blueprint for future land use, and serves as the basis for zoning, subdivision, and land use codes. This concept has worked for almost all of the communities targeted in the survey. This has helped to zone out indigenous women own involvement in benefit accruing ventures of ecotourism camps and accompanying socio-economic activities such as sell of beads and cultural performances to raise funds for their families.

Research is always interesting as found in this particular question where respondents were asked to identify some of the successes of women's involvement in land issues. Among the successes highlighted the most mentioned one is the increased enrolment of women in decision-making.

This, therefore, implies that the key to success in land rights for womenfolk is facilitating their position in decision-making platforms. In focused group discussions and some key informants' interviews, this point was supported very well as a government land official in one of the counties indicated that increased enrolment of women in CLMCs has seen a notable reduction in complaints associated with land, particularly around town centers where titling has been done.

Women have increased access to land titles and cases of infringement on their rights are gradually decreasing though he pointed out that a lot of intervention in this line is required. Second in rank is the number of women numbers that have increased in land registers for Laikipia, Samburu, and Isiolo communities where SWT has intensified facilitation.

Although this is the case it is only true for communities that have been reached, for many other communities according to findings, this is not the case hence, more needs to be done.

3.1.3. Registration status of women in group ranches and community land

3.1.3.1. Registration status of women in group ranches and community land

Most respondents indicated that women exist in land registers but in many instances in very low numbers. A case in point is the land registers of Samburu Central which according to land committee chairmen interviewed through key informant interviews narrated that those registers were opened in the 1970s and had only male community members. There were no reviews whatsoever in most of those group ranches up to recent demarcations for some of them. From focused group discussions & key informants, findings showed that women who existed in such registers were widows that replaced their husbands. However, this did not put discrimination away as many replacements were done either to favor the male family members, either a brother of the deceased or son to the widow, again women not being counted as beneficiaries.

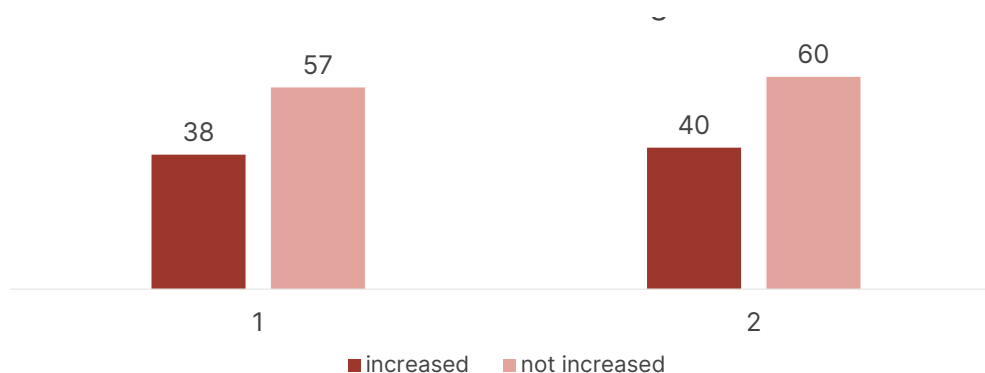
This is different for Laikipia and part of Isiolo communal land owners as SWT and other partners have improved the registration process by having land registers reviewed and as a result, increasing the number of women in the land registers.

3.1.3.2. Occurrence of registration reviews and effect on women numbers in the land registers

SWT was seeking to understand this in order to address limitations emanating from three questions; whether an increase in women's numbers in registers or not, whether there were reviews of land registers in the recent past, and whether reviews happened whether women's numbers increased or were stagnant or no increase.

The findings of the research indicated that;

Figure 9: Women numbers in land registers



The number of respondents specified that there were land registers reviews in the recent past which resulted in a sharp increase in women numbers in land ownership registers; an example is in the case of Munichoi and Murpusi in Laikipia where 100% women registration of women occurred in the Year 2021 land register review. They explained that young girls and even women given out for marriage were included. when they are married they automatically attain membership in their new communities whilst losing membership in their previous communities, this is to ensure no double double registration.

This is evident in their existing community bi-laws on membership and rights This became a huge breakthrough towards realization of indigenous women land rights.

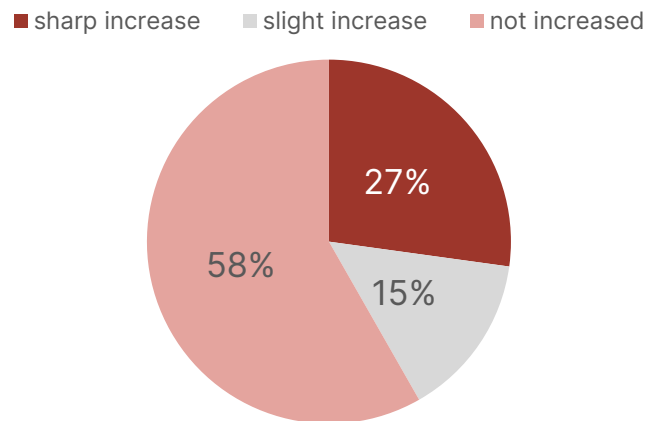
Figure 10: Land registers review in recent 5 years



For some cases such as Narasha the first land registration was done within the last 2 years hence this question is not applicable. This mostly applies to other communities interviewed. The Laikipia scenario is quite unique since, yes, reviews have occurred in the recent past and have impacted women’s inclusion in the registers where for some group ranches over 80% and even some cases 100% registration of female gender in the new land registers occurred. Although the situation is so almost 90% of the women interviewed in this community raised concerns about the real commitments of their male counterparts to really ensure full access to land.

In Laikipia County where reviews were done, there was a tremendous increase of indigenous women inclusion in the members registers as indicated by the chart below.

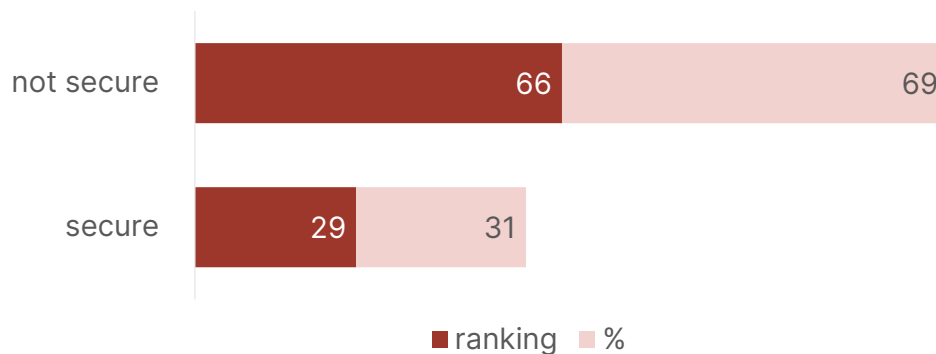
Figure 11: Women numbers in the land register following reviews



3.1.3.3. Security of Land owned by women/girls, from their relatives and other members of the community

This section undertook to answer three important questions in regard to women's access to land and land resources in these pastoral areas; the key to these is whether land owned by women in the community is secure or not secure; Others were established through real-life examples whether women or girls are part of land management committees such as CLMCs and to what percentage. From the findings over 80% of women are of the view that land owned by women is not guaranteed off disputes. From the chart below it is evident that among the respondents that showed hope upon review of registers, one thing remains unclear the ultimate realization of the ownership process and in particular clear access to land rights by women.

Figure 12: How secure is land owned by women

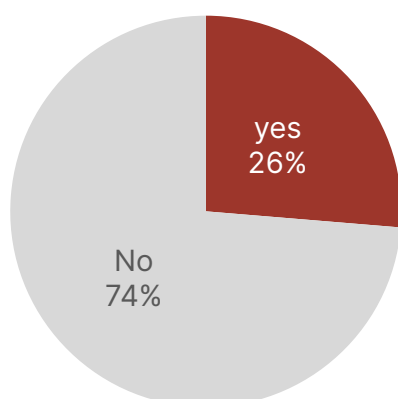


Women expressed great concern that even though in some instances they appear in land registers some of the key decisions are still made by men. For example, the management plans of community conservancies, and access to funds raised from investments on their communal lands such as school bursaries and benefit accruals are dominated by men.

According to them, this is an issue that needs to be addressed with urgency as many women are not even aware of important land laws and land policies that govern access and use of land and related resources in their areas. Some mentioned the existence of gatekeepers who often divert community views especially the role of women as well as their functional rights to own and use land.

Quite a number of women mentioned that they experienced conflicts involving land owned by women where in several cases rulings were made in favor of them while in others rulings are made in favour of their male counterparts. Unfortunately some cases are addressed in the absence of aggrieved women parties. This is a dire situation which some respondents explain emotionally, this should therefore, form part of recommendations to develop an amicable conflict resolution mechanism that promotes equity in providing justice in all disputes related to land ownership in the community.

Figure 13: Experienced dispute scenario of land owned by women



About 30% of women interviewed did experience actual land disputes where women are being deprived of ownership rights. A case in point is an attempt by a family member to snatch land belonging to a widow in Oldonyiro's township. Luckily enough as explained by a woman land committee member interviewed, the land reverted back to the widow; thanks to the current Chairman of the land committee in the area and the area chief (who have been involved a lot through SWT capacity building activities) for their intervention.

This wouldn't have been possible were it not for the sensitization of indigenous women on alternative dispute resolution mechanism (ADR) that played a key role in resolving this dispute and a few others. Generally, in responding to this, in some other areas, women and girls explained that they have so much been discouraged that they don't feel like fighting for their rights in regards to land rights; a situation that calls for further probing to bring out real issues affecting female gender in land rights.

3.1.4. TRADITIONS, customary laws, religious or cultural beliefs, and practices THAT NEGATIVELY IMPACTS INDIGENOUS WOMEN AND GIRLS' RIGHTS TO LAND OWNERSHIP

This section targeted to identify different traditions, customary laws or practices, and cultural practices that negatively impact indigenous women and girls' rights to ownership, control, access, and management of land and natural resources. In addition, it also intended to provide possible solutions to the identified challenges.

3.1.4.1. Traditions, cultural practices, and customary laws that negatively affect access to land rights for women and girls in Samburu, Isiolo, and Laikipia counties

From the administration of household questionnaires as well as in focused group discussions & key informants it came out strongly that indigenous women and girls face continuous discrimination and persistent barriers to the full enjoyment of their rights to land ownership. One women leader explained that this practice has deep roots in the community where the prolonged patriarchal trend has persistently developed a systemic and negative stereotyping of women in this pastoral societies where women are viewed as properties for sale.

This has predisposed to the immature engagement of girls hence women enter marriage life as children who cannot stand for themselves depriving the necessary maturity needed for decision-making. This has instilled a chilling inherent perception within women and girls in this society that they don't own anything, they have no rights to anything predisposing them to abuse of every kind. One elderly woman described that through behavioral adaptation over the years, customs have been developed that have translated to culture and traditions unfortunately some of which have impacted negatively on women and girls in this pastoral setup.

Such negatives include showering male infants with gifts at birth, scenarios where girls are booked for marriage as long as their gender has been known at birth, girls are trained to be married off and given names such as 'my heifer', implying she will be sold for heifers. Women are termed as children even at childbearing age and married adults with children, all these are meant to demean them and ensure a domineering culture over them.

The result is an obvious implication that they cannot access land and over decisions to utilize & manage land.

In addition, at birth of boychild it is celebrated against a birth of a girlchild. Parents who have girls only are treated with disrespect and normally are disinherited. This has contributed to cultural beliefs with a negative mindset to land ownership, control, and management of it. Another mal-cultural practice is polygamy which has opened up dominance by men; by having many wives it translates to literally owning them and controlling them the way they want.

This means the man owns everything including land and other resources. This patriarchal culture has deprived women and girls of land ownership, control, and management opportunities yet women are key breadwinners in these pastoral communities. Cultural norms prohibit women and girls to own land, what a primitive scenario as explained by one interviewee. Other traditions include the mass initiation of boys in which they are educated on dominance skills; on the contrary, girls hardly form groups due to early marriages.

The malpractice of FGM predisposes them to early marriages and mismatching opportunities to access land rights. In addition, inheritance rights are outright locked off for indigenous women and girls.

3.1.4.2. Mitigating the negative effect of these traditions, mal-cultural practices, and negative customary practices on women and girls' land ownership rights

Most respondents described that both women and men of goodwill should come out strongly to educate society on the need for equal access rights to land. Capacity building was mentioned by almost all informants that investing in women empowerment programs arms them with the prowess to get involved in leadership positions hence opening up opportunities for women and girls to own, control, and manage land as a tool for economic growth and well-being.

It was mentioned that discouragement and dropping down of some malpractices such as FGM, early marriages for girls, and hardcore primitive teachings at the initiation of age sets will help adjust the position of women positively towards increased access to land rights. Others suggested constructive cultural practices such as sensitization and influence of a traditional governance structure dubbed NAAPO (the Council of Elders' outfit where only men sit and make decisions concerning the community) in its agenda for women's affairs.

Moreover, some respondents indicated that there is a need to empower women economically through the initiation of alternative sources of income in order to enhance their capacity to engage in matters related to access to land rights.

Some informants also strongly advocated for increasing numbers of women in administrative entities such as land committees and community-based development organizations.

3.1.4.3. The local governance structure that affect access to land, control, and management by indigenous women, and girls in Samburu, Isiolo, and Laikipia Counties

Some of the local governance structures that were mentioned that affect access, control, and management of land by indigenous women and girls in Samburu, Isiolo, and Laikipia Counties include;

- Council of Elders (a traditional outfit that operates through NAAPO)
- Community Land Management Committees (CLMCs)
- Non-Governmental Organizations (SWT, Northern Rangelands Trust, Sarara Foundation among others)
- Government Line departments from County and National levels
- Community Women Organizations (women CBOs)
- Development partners who provide funding opportunities as well as capacity building through training and exposure tour facilitations.

The above mentioned entities have various roles in providing solutions to challenges facing women and girls' ownership, control, and management of land. Some of the actions mentioned include capacity building through sensitization on land rights approaches, facilitating registration of members, and titling of community lands. Moreover, other suggestions include economic empowerment of indigenous women and girls to initiate and grow businesses such as beadwork, livestock trade, and weekly markets vendor ventures such as i.e., hotels and butcheries, and shops. Advocacy work is the role of local institutions in ensuring equal opportunities for both female and male community members.

For indigenous entities such as the NAAPO, there should be efforts to integrate or encourage a blend with a modern approach to inclusivity where in addition to the special place of the NAAPO sub-committees are established to increase women plight sittings. This will reduce the stigmatization of the female gender and hence increase access to land.

3.1.5. Lessons learned and suggested recommendations for adoption in strengthening and protection of indigenous women and girls land rights in Samburu, Isiolo & Laikipia counties

3.1.5.1. Lessons learned in gender protection against the severe impact of the looming drought situation

Several lessons have been generated from this study that include;

- There is limited access to women and girls' participation in land rights issues.
- Opportunities exist for local politicians and the county government to defend women's land rights. The government of Kenya is implementing a countrywide exercise to register all the community land in Kenya. This is in line with the Constitution's requirement for all land in Kenya to be registered. With the enactment of the Community Land Act of 2016 and after that, the regulations to operationalize the law passed in 2018. The CLA requires that for a community to be registered, they need to have a register of all the community members, including men and women, boys and girls who are at least eighteen years of age
- There exist strong traditional laws such as Samburu beliefs that prohibit women and girls to own properties and inheritance. This should be countered.
- Women that are organized into groups have more impact in voicing their concerns.
- Due to concerted efforts from different partners such as Samburu Women , and government land departments, stigma over women and girls' ownership of land has been reduced to an extent.
- Sensitization campaigns on women's constitutional rights have opened room for access to land ownership, control, and management aspects.
- Lobby for land register reviews has increased the inclusion of women in land rights.
- Opening land registers to reviews has provided platforms for women to engage in matters of land since their numbers have increased in land committees.
- Due to the increased membership of women and girls in reviewed land registers access to resources accrued from conservancies is a reality.
- Although women and girls are registered in the new arrangements, however, concerns of women and girls are still high as they strongly believe commitment to totally surrender land to them may be a tall order in the long run. an example is the case land subdivisions which may not guarantee indigenous women and girls' equal opportunities.
- The is lack of transparency in community lands where exploitation of resources as well as prospects on conservancy resources are accessed by a few mainly men.

3.1.5.2. Recommendations that can be made for adoption in strengthening & protection of indigenous women and girls' land rights in Samburu, Isiolo, and Laikipia Counties

Based on the findings of the overall study in Samburu, Isiolo, and Laikipia Counties, below are the recommendations;

- Capacity building of CLMCs to take up initiatives that promote women and girls' inclusion in land matters.
- Strategic exchange tours should be organized to enhance linkages and learning and help raise the confidence of indigenous women and girls to engage in land rights matters.
- Encourage women's active participation in land governance units from the local level (CLMCs) to the national level through awareness raising and access to information regarding land laws and policies. (SWT and other partners).
- Facilitate capacity building for state and non-state officials; such as Members of County Assemblies on promoting women's access and rights to land in customary law. Civil society Organizations should engage local leaders such as Members of County Assemblies, Members of Parliament, and religious leaders to advocate for women's rights.
- A gender-sensitive grievance redress mechanism should be established to ease access to justice for women's land rights. This should sort out the conflicts associated with women-owned land.
- Lobby with MCAs to influence County budgets to increase budgetary allocations for interventions aiming at improving community land registration ultimately enhancing indigenous women and girls' access to land
- Community members should be sensitized on CLA of 2016. This will ensure compliance with all the requirements of the Community Land Act and; more importantly, the inclusion of women in the community land register. This should address the review of membership in old registers.
- There is a need for awareness creation programs by government and non-governmental organizations to enlighten communities on their land rights, principles of the CoK, 2010, on non-discrimination of women, including those on participation and support. Women & girls should be targeted in high numbers to encourage proactive demand for rights to land.
- Peer learning should be a target to encourage the interaction of women and girls with other similar entities. Pastoral Field schools can be a model for this. A Pastoralist Field School is a school without walls where a group of community members normally about 40 interact to learn in different topics on land and other subjects.
- Those targeting women groups for capacity building should execute a deliberate project to strengthen women's organizations in rural communities and support their participation in land governance so that their needs and priorities are taken into account by County and National governments.
- Deliberate efforts should be put in place towards indigenous women economic empowerment. this is aimed at alleviating poverty and place women in a position of self-reliance hence strength to engage in land matters.

3.1.6. Best practices and initiatives realized in promoting indigenous women & girls rights to own, control, access, and management of land and natural resources in Samburu, Isiolo, and Laikipia counties

3.1.6.1. Best practices and initiatives that have been realized in promoting indigenous women and girls have access to land, control land, and manage it.

From the overall study, the following best practices can be enlisted;

- Inclusion of women in land registers has been fundamental in providing women and girls the opportunity to own land.
- Through the formation of women's groups women's issues can be well articulated hence providing a focus to establishing by-laws that specifically address their plight to access land and related natural resources.
- Inclusion of women in key decision-making committees such as CLMC, community conservancies committees, tourism committees, security, and finance, employment of indigenous women as community scouts, has raised the bar for women's rights at the local level.
- Facilitation of Oldonyiro & Narasha Women to own titles has provided an avenue for women organizations to collectively support each other through formation of microcredit, merry-go-rounds, table bankings, small & medium enterprises among others are explicit examples of success for indigenous women working together to advance their plight.
- SWT has broken barriers by facilitating the inclusion of not just women in the literal term of the word but specifically a category of widows, PLWDs, unmarried women, and adolescent girls, in the land registers.
- In the current interim CLMCs the proportion of women is up to 33% which not only meets the constitutional requirement of one-third but has also surpassed community expectations contrary to initial cases of total male dominance. This is considered as a major milestone and breakthrough towards realization of gender equity for indigenous communities.
- Strong capacity building of both gender on land rights has reduced the stigma associated with women accessing land.

3.1.6.2. The key findings on the indigenous women's rights to own, control, access, and manage land and natural resources

The key findings from the study include;

- That at the least assumed the effort to sensitize communities' results is always noticeable. An example is the opening of land registers in Murpusi and Munichoi group ranches where it saw 80-100% registration of women.
- There is increased inclusion of women in ownership of land and management of natural resources.
- Community perception has changed from skeptical to 'it is all possible for women and girls to put efforts to have access to land for use, control, and management.
- High illiteracy among indigenous womenfolk is an impediment to fast-tracking women's land rights sensitization and application of target programs.
- Very low community knowledge of CLA 2016.
- Poverty is a contributor to low self-esteem and proactiveness to engage in demanding land rights. This is often worsened by drought.
- Cultural malpractices have played a significant role in slowing down efforts to promote women and girls to access, control, and manage land.
- It is evident that there is no goodwill from mandated actors to fast-track registration of community land. this has continuously amplified community fears over loss of their ancestral land.
- There is limited financial resources to facilitate registration of community land.

4. Conclusion

Kenya's Constitution establishes gender equity as a right. These include directives that gender discrimination in law, and customs and practices related to land and property in land must be eliminated (CON Article 60(1F). Enactment of a law to protect matrimonial property and the interests of spouses in occupation of land at the decease of the other spouses/s is also obligatory (CON Art. 68).

Legislation is required to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender, still not enacted (CON Art. 27 (8)). The Land Act provides that compensation, when community land or private land is compulsorily acquired, is payable to the spouse/s of affected persons as well as to "any person actually occupying the land and the spouse or spouses of such person" (LA s. 107). The CLA stipulates that there must be "equal treatment of applications for women and men" (CLA, s. 14 (4) (c) (i)). Nor may women marrying into the community be excluded as members, and their rights to land remain unless they divorce and remarry elsewhere (CLA s. 30 (5)).

The above suggests there is sufficient room for a woman to appeal against injustices in land dealings by a community land committee. Nevertheless, it is noticeable that no provisions are made for a minimum number of women to be members of that committee, or that women must constitute no less than one-third of community members to achieve a quorum at assemblies of members. While the law does not prevent women from being allocated lands independently from men, it would also have been helpful for this to be inscribed.

Concerns exist with communities where in the case of unregistered community land the land is held in trust by the county governments. This puts community's insecure situation in matters related to land ownership i.e., whenever there is compulsory acquisition of land within unregistered communities no clear and adequate compensation occurs to the deprived communities.

The land is a basic requirement for a pastoralist's livelihood. Indigenous Women and girls on the other hand are the most vulnerable groups in Samburu, Isiolo, and Laikipia counties. They are involved in day-to-day livelihood ventures, and the sector is crucial to their livelihoods. Women continue to face many challenges in access and ownership of land, which increases their vulnerability to food security, shelter, and general well-being. International and National laws exist that would secure women's access to assets and forbid any form of discrimination against either gender.

However, the situation is not always as anticipated at the grassroots as women and girls' security of land ownership is not assured for both private and communal land. The overall finding points towards a lack of knowledge of land laws, and more importantly, the patriarchal land ownership practice among the pastoralists over the years, which has evolved into mal-cultural practice. This has worsened the security of women and girls' land tenure.

This is a point that needs to be considered by policymakers both at local and national levels as they seek to impact their development agendas.

Policies should be shaped to align development to equal inclusion of both genders, especially increasing women's rights to own and control land.

Awareness should be strengthened to enhance women's understanding of laws and policies that govern the land, and giving women a voice in decision-making at all levels is essential for mainstreaming gender within grassroots development programs.

Increased participation of women and their empowerment, which includes giving them better if not equal access to resources such as land and credit, are essential components of comprehensive social and economic policy.

Empowering women to take leadership roles, including political posts will also go a long way in improving their awareness in issues related to agricultural development and food security for the community as a whole.

5. Appendices

5.1. Appendix 1

Table 4: Sampling frame

COUNTY	GROUP RANCH/ COMMUNITIES	VILLAGE	HH	SAMPLE DISTRIBUTION	SAMPLE SIZE & PICK PER SITE	NO. OF HH/ ENUMERATORS (5 REMUNERATORS)
Laikipia	Murpusi	1	10		14	5
	Munichoi	1	28		30	5
Samburu	Sapashe	1	12		15	5
	Sarara	1	9		16	5
Isiolo	Narasha	1	31		43	5
	Oldonyiro	1	15		24	5
Total			95	100%	142	30

5.2. Appendix 2

Table 5: Targeted institutions/organizations/agencies

NAME OF INSTITUTION	MANDATE	KEY INFORMATION
National, Land Adjudication Office	Land Adjudication	Status of land registers, membership numbers for both gender, review of membership
County Department of Lands	The custodian of all County land registers and liaise with Director of Lands Solve all disputes related to land	Status of land registers, membership numbers for both gender, review of membership
State/County Ministry of Agriculture & Livestock Development	To enhance livestock and agricultural productivity, market access, value addition and enabling environment for livestock and agricultural development	Women access rights to land use for agriculture
State Ministry of Public Service, Gender Affirmative Action	To coordinate gender mainstreaming in national development planning and promote equitable political and socio-economic development for women, men, girls and boys.	Formalization of women groups including land advocacy women groups. Conflict resolution on gender based violence
State Ministry of Interior and Coordination of National Government	The Office of the President, Ministry of Interior, and Coordination of National Government is charged with the responsibility of public administration, internal security, and coordination of state functions and services to all Government ministries.	Dispute solving

5.3. Appendix 3: List of Supportive Legal Frameworks & Policy

Supportive Legal Framework, the Kenya Constitution has been hailed as one of the most progressive constitutions in the world. Kenya has established a policy and legal edifice providing for women's land rights and agriculture. Kenya is a signatory to several international conventions and treaties.

Article 2 (6) of the Constitution of Kenya 2010 recognizes that "Any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution." Some of the regulations providing for land access and ownership in Kenya include;

Table 6: Regulations providing for land access and ownership in Kenya

LAW/ REGULATION	RELATED LEGISLATION
Provide for sustainable administration and management of land and land-based resources and connected purposes	Land Act of 2012
Provides for revision, consolidation, and rationalization of the registration of all titles to land to give effect to the principles and objects of devolved government in land registration	Land Registration Act of 2012
Provide for recognition, protection, and registration of community land rights, management, and administration of community land and to provide for the role of the county governments concerning unregistered community land.	Community Land Act of 2016
Provides for the rights and responsibilities of spouses with matrimonial law.	Matrimonial Property Act No 49 of 2013
Provide a legal, administrative, institutional, and technological framework for optimal utilization and productivity of land and land-related resources sustainably and desirably at National, County and Sub- County and other local levels.	Sessional Paper No. 3 of 2009 The National Land Policy
Calls on States parties to end discrimination against women in laws, policies, and practices, including through the adoption of transitory special measures.	The Convention on the Elimination of All Forms of Discrimination against Women CEDAW
Voluntary Guidelines are a reference and provide guidance in improving the governance of tenure of land, fisheries, and forests with the overarching goal of achieving food security for all and to support the progressive realization of the right to adequate food	Voluntary Guidelines on the Responsible Governance of Tenure of Land Fisheries and Forests (VGGTs)
The 2030 Agenda for Sustainable Development is amongst the policy frameworks globally referred to, on the criticality of natural resources for sustainable development. The sustainable and efficient management of natural resources is now imperative for the achievement of the 17 United Nations Sustainable Development Goals (SDGs)	Sustainable Development Goals.
The Framework and Guidelines on Land Policy in Africa adopted by the African Union in 2009, contains a specific section on strengthening the land rights of women.	Guidelines on Land Policy in Africa



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