



SECTORAL BRIEF



GENDER, LAND AND PROPERTY IN KENYA

Credit photo : sandra

Introduction

This policy brief is part of the Country Gender Equality Profile (CGEP), which assesses the status of gender equality and women's empowerment in Kenya based on recently produced reports and resources. The assessment aims to strengthen national understanding and data on advancing international, regional and national commitments to Gender Equality and Women's Empowerment (GEWE). As the primary source of evidence-driven advocacy and programming, the CGEP provides insights to county and national stakeholders, development partners, the European Union, and the UN System to advance gains and overcome challenges at the county and national levels.

Furthermore, the gender analysis is guided by the transformative and rights-based gender equality and women's empowerment approach embodied in the core European Union values on human rights and reinforced by the new EU Gender Action Plan 2021-2025 (GAP III). The framework recognises that gender equality is crucial in promoting democracy, good governance and sustainable development.

As a result, all EU policies and actions in Kenya contribute to the dual goal of advancing gender equality and accelerating progress toward Kenya's SDG goals and targets. Gender analysis is a starting point for gender mainstreaming and integrating gender equality and inclusion perspectives into the EU programming processes, policies, actions and dialogues.

This policy brief serves as a strategic guide for programmes and policies aimed at advancing and strengthening Kenya's integration of gender equality and women's empowerment across key stakeholders: The Government of Kenya (Ministries, Departments, Agencies [MDAs] and structures of governance: national, county and communities); development partners including the private sector and the United Nations (UN) agencies. This ensures that actions aimed at closing gender gaps and ending discrimination are informed by context-specific analysis that reflects the different realities, needs and challenges of men, women, boys and girls in all their diversity.

Background and Context

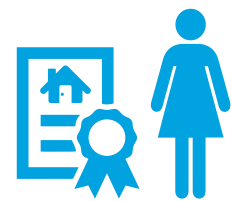
Gender inequalities concerning land and other productive resources are evident in Kenya with women being disadvantaged as their rights are often tied to their relationship to men as spouses, brothers, or fathers who own and control land.¹ These disparities are linked to assumptions that men, as heads of households, control and manage land, implicitly reflecting ideas that women are incapable of effectively managing productive resources such as land.² Men are the main actors in controlling and managing environmental and natural resources, including wildlife and forests.³

The rights of married women and widows have not been secured in practice. Traditionally, property is mainly distributed to sons as daughters are always presumed to leave the family home once they are married off. The Constitution, however, specifically provides for women's rights to the matrimonial home and the protection of the rights of dependents of deceased persons holding interests in land, including spouses, in actual occupation of the land - Article 68. This was to forestall a situation where women were left homeless upon divorce or in the event of their spouses' death when deceased relatives grabbed the property from the widow. The Constitution also explicitly provides equitable access to land, security of land rights and elimination of gender. Discrimination in law, customs and practices related to land and property are among the principles of land policy.

Land is essential to the economic, social and cultural development of Kenya. It is a crucial factor of production; thus, lack of access to land affects the enjoyment of other rights such as food, water and finance. Culture and traditions continue to support male inheritance of family land while the implementation of gender-sensitive family laws is slow. There is a conflict between constitutional and international provisions on gender equality vis-à-vis customary practices that discriminate against

women concerning land ownership and inheritance. Women are also not sufficiently represented in institutions that deal with land. Their rights under communal license are not defined, making it easy for men to dispose of family land without consulting women. Few women have land registered in their names and the lack of financial resources restricts their entry into the land market.

**WOMEN ARE ESTIMATED
TO OWN ONLY
10.3%
OF LAND TITLE DEEDS**



**WHILE MEN OWN
86.5%
OF TITLE DEEDS**



Because only 10.3 per cent of title deeds have been issued to women, when the hectare size of titles is considered, this translates to 163,253 ha (1.62 per cent) owned by women and 9,903,304 ha (97.76 per cent) owned by men.⁴ Without secure land rights, women's participation in and benefit from land uses such as agriculture is inhibited even though women comprise the greater majority of the agricultural labour force.

The National Land Policy, 2009 (currently under review) recognises women's rights to own property on an equal basis with men seeks to protect the land rights of women and other vulnerable groups. While the Land Registration Act 2012 provides for joint spousal registration of land and joint spousal consent in dealings with land, the Land Law Amendments 2016 deleted the provision in the Act

1 Federation of Women Lawyers, Kenya (FIDA). Women's Land and Property Rights in Kenya. Training Handbook. Accessed <https://land.igad.int/index.php/documents-1/countries/kenya/gender-3/625-women-s-land-and-property-rights-in-kenya/file>

2 United Nations. (2013). Realizing Women's Right to Land and Other Productive Resources. <https://www.ohchr.org/documents/publications/realizingwomensright-stoland.pdf>

3 Republic of Kenya (2019). *National policy on Gender and Development*. Sessional Paper No. 02 of 2019

4 Kenya Land Alliance. 2018. About the women land rights project. https://kenyalandalliance.or.ke/index.php/welcome/women_land_property_rights

that provided for the recognition of spousal rights over matrimonial property and land as overriding rights over any registered land. This affects women's rights to matrimonial property. In addition, Article 43

of the Constitution provides for the right to accessible and adequate housing, with Article 21 requiring the government to take appropriate measures, including setting standards to ensure this right is achieved.

Findings and current situation

A study conducted by the Kenya Institute for Public Policy Research and Analysis (KIPPRA) reveals that in 2014,

**ONLY
38.7%
OF WOMEN AGED 15 - 49
OWNED LAND IN KENYA**



In 2022, the number of women with access to agricultural land (75 per cent) and non-agricultural land (93.3 per cent) declined, indicating a reduction in women's land ownership.⁵

The Constitution of Kenya, 2010 (Articles 40 and 60(f)) provides for the equal right to own property for all Kenyans. Similarly, the National Policy on Gender and Development (Sessional Paper No. 2,

2019) advocates integrating gender and women's inclusion in land and property decision-making.⁶ Despite these policies and frameworks, only 30% of women in Kenya own land. The Matrimonial Properties Act also contributes to the widening gap of women who own land in Kenya. In case of divorce, the Marriage Act requires evidence of equal contribution by both partners, which could be discriminatory to women.⁷

The government's initiation of the National Slum Upgrading and Prevention Policy is an effort to address the urban poor's homelessness and landlessness situation, including the provision of safe spaces for vulnerable groups such as women and girls. This process is guided by the National Housing Policy of 2004, the National Land Policy of 2009, the Constitution of Kenya (2010), and Kenya's Vision 2030, which aim to improve access to equal social and cultural rights for men and women.

Conclusions

Women's access to land and property in Kenya has been hindered by the patriarchal society that aimed to give men full access and control of land and other resources. Despite the existence of policies aimed at improving equal access to land and properties, there has been a challenge with the existing customary laws and clawback on the policies reversing the

gains that have been made. Statistics also point to decreased women's land ownership over the years. It is important to note that Women's access to land will improve their economic status, allowing them to participate in the development process of their communities, improve their livelihoods and food security.

Recommendations for the Government of Kenya

- The Government, through the Ministry of Lands and National Land Commission to support the creation of land cooperatives (with women included)

and women's groups/*chamas* to improve their negotiating power and access to land and other properties.⁸

5 Kenya Institute for Public Policy Research and Analysis (KIPPRA). 2024. Promoting Land Ownership among Women in Kenya. Accessed <https://kippra.or.ke/promoting-land-ownership-among-women-in-kenya/>

6 Ibid.

7 Ibid.

8 Kenya Institute for Public Policy Research and Analysis (KIPPRA). 2024. Promoting Land Ownership among Women in Kenya. Accessed <https://kippra.or.ke/promoting-land-ownership-among-women-in-kenya/>

- The Government should implement the two-thirds gender rule to increase leadership positions for women in land commissions and ministry.
- Conduct training and advocacy and awareness campaigns in counties and local communities to address practices that hinder women's land ownership, inform communities on women's rights regarding land and property ownership, and explain the legal processes of owning land in Kenya, including who should be on a title deed (in the case of a married couple). The government should also encourage couples who engage in customary marriages to register for formal marriage certificates issued by the government, to enable women to claim their land whenever there is need.⁹
- Review laws that hinder women from owning land, especially in the case of widows who choose to remarry.
- Enhance access to legal support to women seeking legal recourse from the courts e.g., by making legal fees more affordable.
- Improve access to financial resources for women to purchase and own land and other properties to boost their participation in economic activities.

Acknowledgements

The brief was developed under the overall guidance and leadership of Anna Mutavati-UN Women Country Representative to Kenya and Dan Bazira-UN Women Deputy Country Representative to Kenya.

It was developed by Diana Karua-International Consultant; Sebastian Gatimu-UN Women

Kenya Planning and Coordination Specialist; Jackline Kiambi-UN Women Kenya Planning and Coordination Programme Associate; Jack Onyisi Abebe-UN Women East and Southern Africa Regional Knowledge Management and Research Specialist and Wendy Akinyi-UN Women Consultant for Knowledge Management.



Credit photo : marco savi

⁹ Federation of Women Lawyers, Kenya (FIDA). Women's Land and Property Rights in Kenya. Training Handbook. Accessed <https://land.igad.int/index.php/documents-1/countries/kenya/gender-3/625-women-s-land-and-property-rights-in-kenya/file>



UN Women Kenya
UN Gigiri Complex, UN Avenue;
Block M, Ground Floor
P.O. Box 30218- 00100 Nairobi, Kenya
Tel: +254 20 762 4778

africa.unwomen.org

-  [unwomenafrica](https://www.facebook.com/unwomenafrica)
-  [unwomenafrica](https://twitter.com/unwomenafrica)
-  [unwomen](https://www.youtube.com/unwomen)
-  [unwomenafrica](https://www.instagram.com/unwomenafrica)