



The community land rights of women and youth in Tana River 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 Tana River 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 Tana River 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.

In this context, it was decided to research the communal land access rights of women, youth, and other marginalized or vulnerable groups in Tana River County. The assessment was carried out in April 2015 in five locations in Tana River: Mulanjo, Wayu, Gafuru, Onwardei, and Wenje locations.

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. The existing traditional land management structures in the community are considered effective, yet women have no control rights, and their access is through user rights via male relatives such as husbands and fathers. The lack of security of tenure and the gazettement of forests and ranches increase the risk of eviction.

Councils of elders were established 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 vulnerable groups (such as people with disabilities, HIV, etc.) are seldom involved in the elders' discussions on land-related matters.

To access community land for investment or any other business, people have to negotiate with the elders, in consultation with the chief and relevant government officials, and women are not allowed to participate in decision-making forums. Most conflicts in Tana River are related to disputes over grazing blocks and water resources (particularly

the seasonal rivers known as *lagas*) or are politically instigated (such as those occurring between the Orma and the Somali populations).

The community reported very little knowledge and awareness about the constitution and the legal frameworks related to equitable communal land governance.

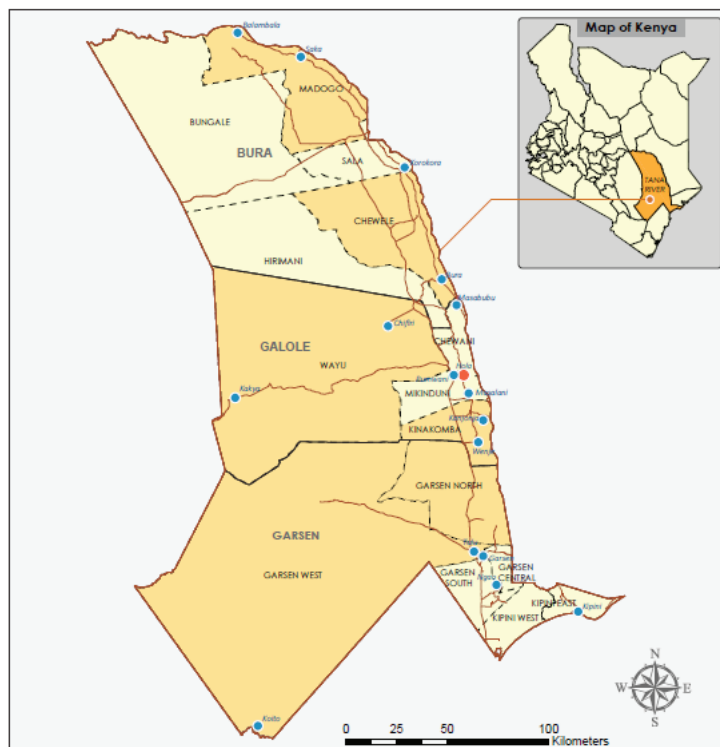
Factors affecting women's and youth's land access rights

Cultural beliefs and traditions that discriminate against women and youth (whether along economic, political, or legal lines) are a major impediment to access to community land. Most women and youth live below the poverty line and most of their attention is focused on how to meet the basic needs of their families. The cultural and traditional set-up of the communities does not allow women and youth to be part of the decision-making process.

In addition to these gender inequalities, there are few role models for women and youth. Unclear boundaries can create conflict that threatens women and youth. High illiteracy rates among



Photo credit: R. A. Ward.



Map: FAO Kenya, GIS Unit.

women, poverty, limited access to information, and inadequate knowledge on existing legal frameworks related to land exacerbate the situation. Corruption and lack of political good will also build barriers for women and youth.

Opportunities

Based on past experience and the local socio-economic context, there are a number of options to increase access to land for women and youth:

- Use women’s advocacy forums such as the coast-based advocacy group Sauti ya Kina Mama (“voice of the women”) and vernacular radio stations to disseminate information on land access rights.
- Work closely with religious leaders, county administrators, existing councils of elders, and women’s groups to raise awareness and disseminate information on land rights and the legislative framework in Kenya.

- Engage with civil society to support women’s and youth’s right to access community land.

Conclusion

Land is a key resource for ensuring sustainable and equitable livelihoods for all. The county study revealed that despite the existence of legal and policy frameworks that protect women in Kenya, women and youth are still disadvantaged in terms of access to and control of land. Gender inequality and sociocultural factors play a major role in the vulnerability of women and youth in their quest to access community land. The existing lack of political will needs to be addressed in order to increase women’s security of tenure. The current situation is influenced by culture and a status quo where men have the control and the final decision on land use.

Possible actions for government and relevant stakeholders

- Awareness creation (sensitization) by non-governmental organizations to raise awareness among community members about their rights and the importance of adhering to constitutional principles such as equal participation and consultation, involving both men and women
- Translation and contextualization of the constitution with the realities on the ground for the people of Tana River County
- Strengthening adult education to improve literacy levels
- Formation and strengthening of women's groups (Maendeleo ya Wanawake, Sauti ya Kina Mama, community forest associations, etc.) to empower the most vulnerable ones
- Mainstreaming gender and integrity in land governance to reduce corruption
- Proper land use planning and formation of self-help groups, associations, etc., for the sustainable management of resources
- Exposure visits to other communities where women have accessed land or have made strides in land access rights, in order to exchange ideas and learn from them
- Establishment of synergies with relevant county government offices such as the lands department and youth's, women's, and cultural departments, etc.
- Working with religious leaders and organizations to advocate for women's/youth's rights, particularly land rights
- Collaboration with local leaders to make them agents of change (Members of County Assemblies, Members of Parliament, etc.)
- Leverage what other non-governmental organizations are already doing in support of youth's and women's empowerment
- Capacity development of councils of elders on issues like arbitration and mediation skills, taking into account gender concerns and the empowerment of vulnerable women and youth
- Proper implementation and monitoring of the Community Land Act to benefit communities' youth and women and to ensure their right to land
- Advocating for women and youth to manage land and natural resources

About this policy brief

This policy brief draws on a situational assessment of community land access rights for women and youth in Tana River 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 Tana River 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.

