



FIDA KENYA

Promoting Gender Equality

National Shadow Report on Women Land Rights.

with the support of



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EUROPEAN UNION



National Shadow Report on Women Land Rights.

Prepared by



FIDA KENYA

Promoting Gender Equality

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LIST OF ABBREVIATIONS

AIDS	Acquired Immunodeficiency Syndrome
AU	African Union
ADR	Alternative Dispute Resolution
BPfA	Beijing Declaration and platform for Action
CSOs	Civil society organizations
CBO	Community Based Organization
CoK	Constitution of Kenya
CEDAW	Convention on the Elimination of all Forms of Discrimination
EAC	East African Community
FIDA-Kenya	Federation of Women Lawyers in Kenya
F&G	Framework and Guidelines on Land Policy in Africa
GBV	Gender Based Violence
HIV	Human Immunodeficiency Virus
IEC	Information, Education and Communication
ICESCR	International Convention on Economic Social and Cultural Rights
KLA	Kenya Land Alliance
KNCHR	Kenya National Commission on Human Rights
KII	Key Informant Interviews
LSLBIs	Large Scale Land Based Investments
NLC	National Land Commission
NGO	Non-governmental organization
PACJA	Pan African Climate Justice Alliance
PIL	Public Interest Litigation
RECs	Regional Economic Communities
SDGs	Sustainable Development Goals
UDHR	Universal Declaration of Human Rights
UDPK	United Disabled Persons of Kenya
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
VAG	Violence Against Women and Girls
VGGTs	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
WIDGRA	Women Land Rights for Inclusive Development and Growth in Africa
WHRDs	Women Human Rights Defenders
WLRs	Women and Land Rights

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Governmental entities working on Gender and Land rights including:

- The Kenya National Commission on Human Rights (KNCHR)
- The National Land Commission (NLC)

Non-Governmental entities working on Gender and Land rights including:

- FIDA-Kenya
- GROOTS Kenya
- The Pan African Climate Justice Alliance (PACJA)
- CARE International Kenya
- We Effect Kenya
- KELIN
- Siasa Place
- Youth Agenda
- The Kenya Land Alliance (KLA)
- The United Disabled Persons of Kenya (UDPK)

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Ann W. Ileri

Executive Director, FIDA-Kenya

EXECUTIVE SUMMARY

FIDA Kenya working in collaboration with the Oxfam Pan Africa Programme, commissioned an assessment under the **Women Land Rights for Inclusive Development and Growth in Africa (WIDGRA)** project that sought to study the status of women and land rights in Kenya. This report details the findings of the status of women and land rights in Kenya having analysed the four frameworks of the African Union: The Framework and Guidelines on Land Policy in Africa - (F&G), The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security- (VGGTs).

The Guiding Principles on Large Scale Land Based Investments and The Maputo Protocol- (Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa). This is approached by analyzing women and land rights provisions within the Kenyan law. A conclusion is made that although steps have been taken to advance the status of women and land rights in Kenya, a more concerted effort must be employed to achieve this goal of ensuring equality and inclusivity of Kenya's women in the topic of land rights.

Having engaged 11 respondents, a myriad of factors have been identified as obstacles that have stalled the achievement of WLRs in Kenya. These include: Patriarchy, the inferior status granted to women, information and knowledge gaps, a scarcity of resources to advance the discourse around WLRs, limited access to justice, gaps in the documentation and reporting of information and systematic challenges around processes as pertains to WLRs.

The report concludes by offering recommendations by the respondents as to the State in meeting its obligations in promoting and protecting women's land rights. The report classifies these recommendations as: Legal Based Approaches, Data and Information Based Approaches, Institutional and Structural Based Approaches, Outreach Based Interventions and Approaches, Stakeholder Based Approaches and lastly seeks to give recommendations that are premised on emerging issues given the state of women and land rights in Kenya.

BACKGROUND TO THE REPORT

Introduction

The Oxfam Pan Africa Programme is implementing a 3-year project on **Women Land Rights for Inclusive Development and Growth in Africa (WIDGRA)**.¹ This project has interventions targeting 8 countries in Africa. These countries are: Kenya, Tunisia, Ethiopia, Malawi, Togo, Cameroon, Mozambique and South Africa.

The overall objective of this project is to ensure women's access to and control over their land resources across Africa by supporting and enabling rural women's voices; while the specific objectives of this project are:

- I. To hold the governments in the target countries and the Regional Economic Communities (RECs) accountable on the implementation of relevant African Union (AU) women's land rights (WLR) instruments; and other relevant WLR policies and laws while monitoring the actions they take.
- II. To empower rural women's organizations to analyze, document and disseminate evidence on pronounced cases of missing WLR and action against the discriminatory land tenure systems and threats originating from Large Scale Land Based Investments (LSLBIs).
- III. Pan-African civil society is recognized for their leadership, knowledge and advocacy capacity on WLR by governments, RECs, AU and WLR experts. This objective aims to strengthen civil society, to monitor actions taken by governments in key countries, and Regional Economic Communities, and hold them accountable to implement relevant AU instruments. It further builds up the evidence base and facilitates the strengthening of women's voices at community².

It is for this reason that FIDA Kenya working in collaboration with the Oxfam Pan Africa Programme, commissioned an assessment under the **Women Land Rights for Inclusive Development and Growth in Africa (WIDGRA)** project that sought to study the status of women and land rights in Kenya. This project specifically seeks to examine the State of Kenya's implementation of the African Union's (AU's) Women and Land Rights (WLRs) instruments and other relevant WLRs laws and policies to evaluate progress in their implementation over the last decade³.

Upon completion of the **Women Land Rights for Inclusive Development and Growth in Africa (WIDGRA)** project, it is expected that the information gathered and assessments made in curated reports, will be instrumental in enabling civil society organizations (CSOs) engage at different levels on advocacy around the topic of

1 OXFAM, 'Scorecard 2019-Women Land Rights in Africa.' 2019. Accessible at <https://panafrica.oxfam.org/latest/blogs/women%E2%80%99s-land-rights-scorecard>

2 Annex A.2 Narrative Pan Africa AU CSO

3 FIDA Kenya, accessible at <https://www.fidakenya.org/about-us/>

women and land rights. Subsequently, it is expected that the information gathered will be a useful tool that will guide CSOs and other relevant actors in exerting pressure on duty bearers to take steps in implementing progressive legislative and policy frameworks in advocating for women's rights within the broader topic of land rights.

Purpose and Specific objectives of the assessment

In line with the mission and objectives of the Oxfam Pan Africa Project, FIDA Kenya and further reinforced by the purpose of the study, the specific objectives of this study were to:

1. Analyse the implementation of the four African Union women and land rights frameworks by Kenya,
2. Review previous national progress reports with recommendations made for Kenya,
3. Identify the main women and land rights issues within the sub areas of the frameworks,
4. Review the achievements, identify existing gaps and provide recommendations to the various issues touched upon on the area of women and land rights.

The four frameworks that underwent analysis in this assessment include:

1. The Framework and Guidelines on Land Policy in Africa - (F&G)
2. The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security- (VGGTs)
3. The Guiding Principles on Large Scale Land Based Investments
4. The Maputo Protocol- (Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa)

Methodology and Approach

This assessment adopted a mixed methodology approach where both primary and secondary methods were utilized in gathering information on the discourse around women and land rights in Kenya. At inception, a set of research objectives was agreed upon, which were then used as the basis on which the design, planning and implementation of the assessment was guided by. The methodology adopted constituted: the development of data collection tools, syncing both primary and secondary methods that collaboratively, were pivotal in gathering insights from various stakeholders on their thoughts on the status of women and land rights in Kenya.

The respondents for this assessment included:

Governmental entities working on Gender and Land rights including:

- The Kenya National Commission on Human Rights (KNCHR)
- The National Land Commission (NLC)

Non-Governmental entities working on Gender and Land rights including:

- GROOTS Kenya
- The Pan African Climate Justice Alliance (PACJA)
- CARE International Kenya
- We Effect Kenya
- KELIN
- Siasa Place
- Youth Agenda
- The Kenya Land Alliance (KLA)
- The United Disabled Persons of Kenya (UDPK)

The methodology used in analyzing information that was gathered (particularly in the presented questionnaires) relied on the theory of change for impact evaluation analogy, that assisted in generating final analyses as visually presented in the latter segment of this report. In an impact evaluation, a theory of change is useful for identifying the data that needs to be collected and how this data ought to be used and analyzed. It can also provide a framework for reporting.⁴Using this analogy as the basis for this study, the research team completed to fruition the assessment's objectives of: analyzing, reviewing gaps, achievements and offering recommendations in ensuring the promotion and protection of women's human rights given the situation of land in Kenya.

The Study Design

This assessment employed a multi-method participatory approach in retrieving and analyzing the data that was collected. This data formed the bulk of the information that informed the evaluation and analysis of collected insights from the select respondents. The selected respondents involved in this study participated through a qualitative approach that predominantly relied on: Key Informant Interviews (KII). Both state and non-state actors were engaged, for the purpose of this study.

In both the interview and research process, the assessment was approached in a method that thematically subdivided the topics of evaluation along various themes that highlight the status of women and land rights in Kenya. These identified themes formed the bedrock by which research questions were formed, whilst bearing in mind the vast scope of issues within the broader topic of WLRs. Additionally; these

⁴ <https://www.unicef-irc.org/publications/747-theory-of-change-methodological-briefs-impact-evaluation-no-2.html>

themes formed the basis, by which informants were interviewed. The findings from the desk review and interview processes were later converged to inform the overall findings of this report and assessment.

The component themes as such, outlined the following issues:

- **The Four African Union Frameworks-** From the outset, the research sought to understand what provisions the Framework and Guidelines on Land Policy in Africa, The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, The Guiding Principles on Large Scale Land Based Investments, and The Maputo Protocol, embody in seeking to offer protections for women in light of their land rights.
- **Laws, Legislature and Legal Policy-** Using the four frameworks as the basis of assessment, this theme sought to understand what laws and policies Kenya has put in place in a bid to translate these regional provisions at a country level. This section of the assessment precisely examined from a legal perspective: What laws are currently in existence to safeguard the issue of women and land, this being from a human rights perspective. Additionally, this theme looked into current laws and policies that may be maleficent, particularly seeking to understand how certain laws and policies must be restructured if efforts to combat negative and retrogressive stereotypes were to be addressed, as part of the process in advancing and promoting land rights for Kenya's women. Lastly, under this theme, the assessment focused on looking into the link between laws and the implementation of these laws, as two components within the WLRs discourse that are interlinked and interdependent, and upon which advocacy efforts ought to be structured upon.
- **Measures-** This theme sought to examine the actions being taken by both state and non-state actors in either promoting or limiting the enjoyment of women's right to land. The term measures was classified as any positive action(s) or inaction that may result in the protection and promotion or violation of WLRs, in light of the obligations presented to state and non-state actors in advancing WLRs, as enshrined in the four AU instruments. The term measures was translated to capture elements such as: gender perspectives (in theory and in practice as has been undertaken by relevant stakeholders), social and cultural patterns as perpetuated by state and non state actors in light of their WLRs obligations, to examining "measures" taken at national, regional and international levels that have either served as a deterrent or positive catalyst towards the enjoyment of women and land rights in Kenya.

- **Cross Cutting Themes-** Having engaged in extensive research on this topic, it was evident that there are certain themes and (or) terms and phrases that often recur in the discourse around women and land rights in the Kenyan and African context. Some of these recurring issues could be captured by phrases such as the “Right to Equality”, “Recognition of WLRs”, “Minorities and Marginalized groups”, “Gender perspectives”, “Patriarchy” etc. It was evident from the research that special attention was to be afforded to these terms as they brought out the dominant areas that would need to be examined, if an insightful and elaborate assessment of the topic was to be conducted. The above aforementioned terms are an overview and brief representation of the numerous recurring themes that were manifested in the course of conducting this assessment.
- **Recurring issues-** While the discourse has been shaped by recurrent themes and topics, this assessment also sought to take into consideration various themes that shape the conversation at a theoretical and practical perspective. These emerging themes have shaped the way WLRs is viewed by relevant stakeholders today, but are also shaping the trajectory the discourse on WLRs is expected to take given a rise and interplay of new factors that shape the enjoyment of WLRs in Kenya and Africa today. The assessment examined topics such as “The Sustainable Development Goals (SDGs)”, “Trans boundary matters”, to issues such as “Technology” linking all of this back to how these themes or topics will continue to have influence and impact on the efforts around WLRs.
- **Recommendations-** Lastly in charting ways forward to the topic of WLRs, this segment sought to provide suggestions and guiding steps as provided by the research, on what efforts can be applied to ensure the promotion and protection of women and land rights in Kenya.

Data Collection Methods

This assessment relied on two key data collection methods. These identified methods elaborately brought out the richness of the findings in the topic under consideration. The following methods were employed:

- Desk Reviews** – The research team reviewed in-depth documents and reports related to the project. This material assisted in providing essential background information that was instrumental to the latter steps of the assessment. An overview of some of the documents accessed for this study includes: Legal briefs and case law, scholarly articles, newspaper articles, reports, and policy briefs. Social media channels such as Twitter, Facebook and You Tube were also used to generate conversational insights on some of the ways the discussion around WLRs had been advanced by the various stakeholders. A general online search, supplemented by a database

search was conducted using search terms such as “women”, “land rights”, “AU instruments”, “AU recommendations”, “obligations”, “stake holder engagement”, “minorities”, “gains”, “gaps” among other words. Organizational reports on women and land rights issues were also obtained from the respondents, thus assisting in supplementing the research team’s findings.

- **Key Informant Interviews (KIIS)** - Key Informant Interviews were conducted to gather first-hand information from various stakeholders working on WLRs in the Kenyan context. The research team endeavored to engage both state and non-state actors in an effort to gain a holistic and balanced discussion on the WLRs discourse. These entities included, Governmental entities such as:

The Kenya National Commission on Human Rights (KNCHR), The National Land Commission (NLC) to Non-Governmental Organizations such as: GROOTS Kenya, The Pan African Climate Justice Alliance (PACJA), CARE International Kenya, We Effect Kenya, KELIN, Siasa Place, Youth Agenda, The Kenya Land Alliance (KLA), and The United Disabled Persons of Kenya (UDPK).

- **Mapping of Key Stakeholders-** In addition to those respondents involved on a first-hand basis, the assessment sought to map out key stakeholders working on women and land rights issues in Kenya. This was done by means of desk review, as well as by word of reference, from those partners and stakeholders that were spoken to in the course of this assessment.

The stakeholders were mapped based on the following:

- I. Geographical location- Through their base or geographic location, the research team sought to understand how these entities meet their organizational objectives in advocating for WLRs given their areas of jurisdiction. This geographical mapping was done based on the eight provinces that constitute Kenya.
- II. Identification of their mandates- The mapping exercise was further supplemented by looking into the specific mandates, functions and services of identified organizations, paying particular focus to the role they play in advocating for WLRs.

Ethical Considerations

This study is based on ethical consideration, ensuring to abide by all rules and regulations set in the process of gathering and generating findings from research activities. Administrative clearance was granted from all participating (persons and organizations) and additionally, informed consent was granted from all participants.

Data Management Plan

The Qualitative data gathered from key informant interviews was transcribed at an initial stage and then further underwent analysis using thematic templates, performed and transcribed by the research team. The interpretation of these results is presented in depth and reported into narrative style in the analysis and report's discussion chapters. The qualitative data presented in this report utilizes a thematic analysis approach, being careful to ensure that all data collected including notes and personal comments as expressed by the respondents is well captured within the report.

Data Analysis

The data captured from the literature review of retrieved resources, relevant to this study was critically analyzed. The analysis of literature was summarized, aggregated and classified and then analyzed and interpreted. This assessment's interview component was transcribed at the end of every day, in light of the interviews and conversations had in the process of conducting this assessment. The transcripts were analyzed using the aforementioned thematic framework (as previously enumerated) for qualitative data from the contributions gathered during the interview process.

Quality Assurance

The consultant guaranteed to administer quality work through the development of a well-described system of checks that ensured all quality control measures were adhered to in the course of conducting this assessment. This included taking measures such as: training of research assistants about the data collection processes and other ethical issues regarding the sensitive nature of collecting information from respondents. These processes also involved reviewing of study tools, pre-testing of tools (questionnaires), cross checking of completed tools (for accuracy, correctness, consistency and completeness) and data cleaning.

A SITUATION ANALYSIS OF THE STATE OF WOMEN AND LAND RIGHTS IN KENYA

Background

In spite of having a favorable legal framework, and in addition to great contributions that have been made by women in relation to land rights in Kenya, a complex mix of social, legal as well as cultural factors hinder the realization of women's land rights in the Kenyan context. Social injustices can be observed from certain existing legislative and customary norms, which have worked to ensure that equality and fairness in achieving women's land rights remains a fallacy. Among most Kenyan Communities, women's ownership to land has been hinged on women's relationship to men either as their husbands or caregivers. Women are merely granted the right to utilize land⁵. In the African traditional context male inheriting was based on the notion that sons remained with their family while daughters were married off and left the homestead. This practice was therefore meant to ensure that the property was maintained within the family lineage. In return such practices led to patriarchal traditions, which have resulted in the perpetuation of sexist attitudes and the practice of retrogressive customary practices that tend to favour male dominance over land and other resources. These stereotypes have birthed and generated, retrogressive socio-cultural and institutional dynamics that have had the effect of limiting the voice of women in the discourse of women and land rights.⁶

In addition, skewed implementation of the law has denied women effective inclusion in land governance and decision-making processes. In return, they are denied the right to possession, control, and enjoyment of land despite them having ownership of the land. Further those in possession of land have no legal claims to this land.⁷ Access, ownership and possession of land for many women in Kenya is further obscured by the fact that women provide the majority of the labor on land, however they are not the primary and legally identified owners of these same segments of land. This marginalization of women has often translated to insecurities in other aspects of women's lives. In Kenya it has been shown that different legal norms have been applied in advocating for women's land rights. For example, while the Constitution of Kenya (CoK) 2010 has been hailed as a progressive instrument in realizing women's ownership of land, the effect of these progressive provisions has been stalled by statutory and customary laws that deny women the right to own property. There exists a grey area between formal and

5 Kenya Land Alliance. 'Women's Land Rights in Settlement Schemes in Kenya: An analysis of Gender Disaggregated Data of Allocations in Select Settlement Schemes. [2019] pp2

6 Food and Agriculture Organization, 'The State of Food and Agriculture, Women in Agriculture: Closing the Gender Gap for Development.' [2011] pp23

7 Kenya Land Alliance, 'Women's Land Rights in Settlement Schemes in Kenya: An analysis of Gender Disaggregated Data of Allocations in Select Settlement Schemes.' [2019]pp2

informal laws that often frustrate the realization of women's land rights. For example, the Constitution is clear on the issue of equality of everyone before the law⁸ and the acceptance of customary law only if these laws are in accordance with the provisions of the Constitution⁹. The Constitution also makes the provision for the use of alternative dispute resolution mechanisms provided that they are consistent with the Constitution as well as with the principles of justice and morality¹⁰. Subsequently, when it comes to the implementation of women's land rights especially at a community level, informal law which is characterized by stereotypical norms and discrimination against women in relation to land prevails. The principles of equality and non-discrimination are disregarded. A Case in point is the **Rono v Rono**¹¹ case where the sons claimed a greater share of their deceased father's property. They relied on the Keiyo traditions, where girls had no right to inheritance of their father's estate disregarding the Constitutional provisions on equality. Though the court ruled according to the provisions of equality it is evident that there is a misapplication of formal law and the practice of informal law at the community level.

It has been widely accepted that there is indeed a need for women's land rights to be safeguarded and guaranteed, as ownership of land is a contributory factor towards their socio-economic empowerment. In addition there is a need to revise laws, cultural norms and other factors that affect implementation of the law, thereby posing a threat to women's security of tenure on land. The Special Rapporteur on the right to Adequate Housing (Former) Miloon Kothari noted that without security of tenure, women are disproportionately affected by forced evictions, domestic violence, discriminatory inheritance law, development projects and globalization policies that circumscribe access to productive land and natural resources.¹²

Various frameworks at the international, regional and national levels have sought to advocate for the land rights of women in Kenya and in Africa, as a whole. The four frameworks that evaluated in this study, as earlier established and that have sought to advance land rights at the regional level are: **the Framework and Guidelines on Land Policy in Africa, The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, The Guiding Principles on Large Scale Land Based Investments, and The Maputo Protocol**. While speaking to the specific theme of enhancing women's land rights, these frameworks elaborately explain the multifaceted and interdependent components that are vital in securing land rights. These frameworks and in particular the Maputo Protocol speaks of the right to food security, which can only be realized if States take appropriate and necessary action to ensure women have land as well

8 Art. 27 of the Constitution, 2010

9 Art. 2 Ibid

10 Art. 159 Ibid

11 Rono V Rono and another(2008) KLR

12UN women, "Realizing women's rights to land and other productive resource." [2013]pp2

as a means to cultivate this land¹³, thereby showing the substantive and facilitative character of land rights. These frameworks also proceed to provide and advocate for gender inclusive processes at all levels, processes that will seek to secure the participation of women at all levels of decision making.

As this report highlights, and as supported by the findings of this assessment, it is clear to all that the realization of women's land rights remains a great challenge in Kenya. Social injustices and non-implementation of the laws still pose a threat to a realization of women's land rights. In addition, retrogressive cultural norms that seek to discriminate and the practice of patriarchy, continue to serve as hindrances in the promotion and protection of women's land rights. This is irrespective of the gains that have been witnessed in the discourse over the last decade. It is not until women in Kenya and in Africa as a whole, are treated as equal beings, that this disparity can be effectively and efficiently remedied. It is therefore the prerogative of all stakeholders involved to ensure that all concerted efforts seek to ensure the promotion and protection of land rights for women both in paper and in practice.

¹³ African Union, The Protocol to the African charter on Human and People's Rights on the Rights of Women in Africa, Article 15

REVIEW OF THE LEGAL FRAMEWORK IN KENYA ON WOMEN LAND RIGHTS

A Situation Analysis

To safeguard women's land rights and to ensure that amongst other principles equality and non-discrimination prevail in law, various international frameworks, as well as regional legislations and other widely accepted best practices have come into force in an effort to safeguard women's land rights. These laws adopt principles such as equality and non-discrimination in all spheres of life, they speak to the eradication of retrogressive customs as well as offer solid support in ensuring women equal access to economic resources including land. At an international level, the Convention on the Elimination of all Forms of Discrimination (herein referred to as CEDAW)¹⁴, The Universal Declaration of Human Rights (herein referred to as UDHR)¹⁵ as well as the International Convention on Economic Social and Cultural Rights¹⁶ (herein referred to as ICESCR) have various provisions that seek to provide and safeguard women's land rights.

An elaboration of some of the regional legislations that protect women's land rights include the protocol to the African Charter on Human and Peoples' Rights of Women in Africa¹⁷ (herein referred to as the Maputo Protocol), the African Charter on Human and Peoples Rights¹⁸ (herein referred to as the Banjul Charter), the East African Community treaty (herein referred to as the EAC- Treaty) and the three other instruments under study in this assessment (F&G, VGGTs and the Guiding Principles on Large Scale Land Based Investments).

International Legislation And Best Practice

The Convention on the Elimination of Discrimination Against Women (CEDAW) makes the provision for the protection of women's land rights by:

- a) Urging State Parties to take measures in all spheres, in particular the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men¹⁹.
- b) Urges State Parties to take appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which

¹⁴ Convention on the Elimination of all Forms of Discrimination, enacted in 1981

¹⁵ Universal Declaration of Human Rights, adopted by the UN in 1948

¹⁶ International Convention of Human Rights adopted by the General Assembly in 1966

¹⁷ African Charter on Human and Peoples Rights of Women in Africa, adopted by the AU in 2003

¹⁸ African Charter on Human and Peoples Rights, enacted in 1986

¹⁹ Article 3 of CEDAW, 1981

are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women²⁰.

- c) Recommends States to take appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women that all participate in and benefit from rural development²¹.
- d) Recommends States to take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular to ensure, on a basis of equality of men and women inter-alia, the same rights in respect of ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration²².

Under the UDHR the specific provision that protects and safeguards women's land rights includes the provision that everyone is equal before the law and is entitled to equal protection of the law²³. It subsequently provides that everyone has the right to own property alone, as well as in association with others and further goes on to elaborate that no one is to be deprived arbitrarily of his or her property²⁴.

Another remarkable instrument safeguarding WLRs is the Beijing Declaration and platform for Action that was adopted by the UN's fourth World Conference on Women in 1995. The declaration has provisions that work towards removing all obstacles and hindrances towards the active participation of women in all spheres of public and private life. It ensures women's full and equal share and participation in economic, social, cultural and political pursuits²⁵. The Beijing Declaration calls on governments, civil society, and the private sector to take strategic actions within the identified twelve critical areas of concern for women globally. Amongst the 12 thematic topics elaborated on in the Beijing Platform of Action as relates to WLRs are those that elaborate on: the issue of women and the economy, the human rights of women and women and the environment²⁶. The various states undertook to ensure women equal access to economic resources including land as a means to enhance the empowerment of women in their countries²⁷.

20 Article 5(a) of Ibid

21 Article 14 of Ibid

22 Article 16 of CEDAW Ibid

23 Article 7 of UDHR, 1948

24 Article 17 of Ibid

25 United Nations, 'Beijing Declaration and platform for Action.' (1995) available at <http://www.genderequality.ie/en/GE/Pages/Beijingplatform>

26 Ibid

27 Ibid

Regional Legislations

Article 2(5)(6) of the Kenyan Constitution gives force to international and regional laws that are ratified by Kenya. Kenya ratified the Maputo protocol on the 6th of October 2010. Some of the principles captured by the Maputo protocol in reference to WLR include:

1. The Principle of Equality and Non-Discrimination

This provision states that States are mandated to combat all forms of discrimination against women through appropriate legislative institutional and other measures²⁸. The protocol enumerates that States are to abide by this principle by:

- a) Including in their current legislations including Constitutions, the principle of equality among men and women²⁹.
- b) Enacting and implementing relevant legislations, which embrace the equality of rights³⁰.
- c) Integrating a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life³¹
- d) Taking corrective and positive action in those areas where discrimination against women in law and in fact continues to exist³²;
- e) By supporting the local, national, regional and continental initiatives directed at eradicating all forms of discrimination against women³³.

These provisions are premised on the principles of equality of sexes, elimination of discrimination and the participation of women in all spheres of life. States are urged to ensure inclusivity and gender equality in legislations and policies. By adapting these provisions, States safeguard the land rights of women and enhance their inclusion on land governance issues in their countries. In addition, in adhering to these provisions States agree to take corrective measures to review laws that curb the advancement/actualization of their land rights. By doing this, States take a step in the realization and actualization of the land rights of women.

28 Article 2(1) of the Maputo protocol

29 Article 2(1)(a) Ibid

30 Article 2(1)(b) Ibid

31 Article 2(1)(c) Ibid

32 Article 2(1)(d) Ibid

33 Article 2(1)(e) Ibid

2. The Eradication of customs that are based on the idea of the inferiority of women³⁴

States ought to take measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.³⁵

3. The Equality of partners in marriage and even on dissolution of the marriage³⁶

This is premised on the concept of equality in the context of marriage. It reiterates the equality of women and men when it comes to property in that women enjoy equal rights same as men to an equitable share in property deriving from marriage.

4. The principle of Sustainable development.

The Protocol specifically provides that states must promote women's access to and control over productive resources such as land and further guarantee their right to property³⁷.

5. The principle of the Right to Inheritance.

The Protocol specifically provides that widows have a right to an equitable share in possession of their late husband's property. It also provides that women have a right to inherit in equitable shares their parent's property³⁸.

The Banjul charter gives recognition to the rights of women by stating that “every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status”³⁹. It goes further and states, “Every individual is equal before the law and is entitled to equal protection of the law”⁴⁰. Member States are urged to eliminate discrimination against women and ensure protection of the rights of women and children⁴¹. These highlighted clauses bring to light the fact that the Banjul Charter by extension, prohibits the discrimination against women, focusing even on those areas that have a bearing on the topic of women's property and land rights. The EAC Treaty recognizes gender equality, equal opportunities as well as, the recognition, promotion and protection of human

34 Article 5 Ibid

35 UN Office of the High Commissioner for Human Rights (OHCHR), 'Harmful traditional practices affecting the health of women and children' [1995] Available at <https://www.ohchr.org/Documents/Publications/FactSheet23en.pdf>

36 Article 6 Ibid

37 Article 19 Ibid

38 Article 21 Ibid

39 Article 2 of the ACHPR

40 Article 3 of the ACHPR

41 Article 8 of the ACHPR

and people's rights in accordance with the provisions of the Banjul charter, as some of its fundamental principles that are to govern the achievement of the objectives of the east African community by partner states⁴².

The Banjul charter and EAC treaty speak of the principles of equality and non-discrimination and urges States to implement the principles in their legislation. These principles are key to the advancement of women's land rights as they ensure the inclusiveness of women in all matters that relate to land in both the national level down to the community level. It also ensures that women are involved in decision-making thereby ensuring that they are able to protect their interest in land rights. Without inclusion and equality women are barred from safeguarding their interests and the stereotypical norms that are present in the system or culture prevail.

National Legislation and Best Practice

The National Land Policy 2009

This policy document is an anchor policy is an anchor of all other laws. The National Land Policy (2009) has elaborate provisions for gender equality in land ownership and management. It is guided by among others the principles of:

- a. Equitable access to land, and gender equity. This policy requires the government to put in place appropriate laws to ensure:
 - The effective protection of women's rights to land and related resources;
 - The annulment of bad laws that discriminate against women in relation to land;
 - The enforcement of existing laws and the establishment of a clear legislative framework to protect the rights of women in issues of inheritance to land and land-based resources;
 - The making of provisions for joint spousal registration and documentation of land rights and for joint spousal consent to land disposals, applicable for all forms of tenure;
 - The securing of inheritance rights of unmarried daughters in line with the practices of the respective communities;
 - The carrying out of public education campaigns to encourage the abandonment of cultural practices that prevent women from inheriting family land;
 - That the alienation of private rights to land takes into account all other legitimate rights held or claimed by other persons over the affected land, such as spouses and children;

⁴² Article 6(d) of the EAC treaty, 1999

- That private land is held, alienable and transmissible without discrimination on grounds of sex, ethnicity or geographical origin;
- The end to selling and mortgaging of family land without the involvement of the spouses, protection of the rights of widows, widowers and divorcees through the enactment of a law on co-ownership of matrimonial property;
- The land rights of women living with HIV and AIDS, including rural women, are not unfairly appropriated by others to the detriment of such persons and their families.

The principles in the land policy mirror the principles set out in the constitution that seek to ensure that women have access and are afforded their land rights. In addition it seeks to ensure that the right to gender equality and non-discrimination is enforced and that laws including customs that seek to deny women of their land rights are repealed.

From all the aforementioned legal instruments and policies, it is evident that as far as the enactment of legislations on WLRs is concerned, it is evident that Kenya has complied with the 4 AU frameworks in ensuring that women's land rights are protected and safeguarded as individuals and as a collective within the ambit of the law.

While the law currently exists, evidence on the ground suggests that the implementation of the said provisions is yet to be achieved, as women are still not guaranteed their land rights in practice. A further elaboration of this is provided in the discussion section of this report.

The Constitution of Kenya, 2010.

The 2010 Constitution of Kenya changed the discourse of land ownership in Kenya as it shifted the conversation to one that guarantees equality⁴³. The Constitution is a great achievement to Kenya and particularly the women of Kenya, as it incorporates gender sensitive language and contains express provisions and protections for women and land rights⁴⁴.

Article 2(5)(6) provides for the general international rules and laws and states that any treaty or convention ratified by Kenya forms part of the Law of Kenya. The Constitution considers customary law as a source of law so long as the applied customary laws are not inconsistent with the provisions of the Constitution⁴⁵. Kenya therefore considers customary law as good law provided it does not go against

⁴³ Paul Musangi, "Women land and Property Rights in Kenya." [2017] PP2

⁴⁴ Ibid

⁴⁵ Article 2(4) of the Constitution, 2010

the provisions of the Constitution or does not go against public morality. It therefore allows communities to be guided by customary law when it comes to issues of land. However, in doing so, the Constitution states that communities must ensure that they incorporate the values and provisions of the Constitution in their dealings, including gender equality and non-discrimination. The Constitution has also incorporated a myriad of national values that are to guide the citizens of Kenya and amongst some of these guiding principles are the principles of human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized⁴⁶. The National values enshrined in the constitution are meant to ensure that we are guided by those values to ensure good governance inclusivity of everyone as well as peace. In regard to women and land rights, the values mandate us to enhance equality, social justice as well as non-discrimination in all spheres to ensure that women enjoy the land rights guaranteed to them by the various legislations.

Subsequently the State and every State organ ought to observe, respect, protect, promote and fulfill the rights and fundamental freedoms in the Bill of rights⁴⁷. The Constitution also elaborates on the duty to address the needs of vulnerable groups within society. These groups include women, older members of society, persons with disabilities, children, and youth, members of minority or marginalized communities, and members of particular ethnic, religious or cultural communities⁴⁸. These provisions seek to ensure that the needs and rights of the marginalized and minority groups including women are respected, guaranteed and safeguarded by the various stakeholders. It ensures that, among other rights, their land rights are safeguarded and that the women are guaranteed the right to own, control, exclude, and possess their land in the country.

The Constitution makes provision for the prohibition against discrimination whether directly or indirectly on all grounds including sex, and further provides that all persons are equal before the law and are subsequently entitled to equal protection before the law. It states that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres⁴⁹. In addition, the Constitution safeguards the rights of individuals whether in association with others or alone to own and acquire property in Kenya⁵⁰. Similarly, it safeguards women's land rights by providing that land in Kenya is to be held, used and managed in a manner that is equitable, efficient, productive and sustainable. It ensures so by upholding various principles inter alia, the elimination of gender discrimination in law, customs and practices related to land and property in land⁵¹. It further makes a provision for the protection of women in marriages by providing

46 Article 10 Ibid

47 Article 21 (1) of the Constitution, 2010

48 Article 21 (3) Ibid

49 Article 27 Ibid

50 Article 40 Ibid

51 Article 60 Ibid

that parties to a marriage are entitled to equal rights at the time of the marriage, during the marriage and at the dissolution of the marriage⁵². The constitution provides for the right of access to information, which makes it a right for women to receive and be informed of the relevant information as regards their land from the various land registries and bodies⁵³. The right to access of information allows them to exclusively enjoy their land rights including the right to excluding trespassers and allows them to make pertinent decisions in regards to their land.

In regard to the justice system the Constitution allows for other persons such as non-governmental bodies to institute proceedings for the interest of the public⁵⁴. In addition, the constitution provides that legal technicalities ought not to hinder the administration of justice for the indigent women in pursuit of succession and division of matrimonial property⁵⁵. It further enshrines access to justice, as well as the fair administration of Justice for everyone⁵⁶. The provisions ensure that the rights of women are safeguarded in the legal system. It is also meant to ensure that the various enforcement agents including chiefs, Land registrars and police, ensure that women including the indigent are afforded a fair administration of justice in regard to their land issues. In addition the judiciary who are the administrators of justice are mandated to adhere to certain principles including: Justice is to be done to all, Justice is not to be delayed and justice is to be administered without undue regard to unprocedural technicality⁵⁷. Further, the judiciary is allowed to consider traditional resolution mechanisms provided they are not in contravention to the constitution, do not contravene the Bill of rights and are not repugnant to justice and morality⁵⁸. These provisions are meant to ensure that principles such as equality, non-discrimination and access to justice are afforded to women who appear in court and require the enforcement of their various land rights. The judiciary is mandated to ensure that the rights are safe guarded as in the Constitution and that retrogressive laws and precedents are declared void subsequently ensuring that women can comfortably enjoy their land rights to the exclusion of everyone.

The Land Act

With reference to provisions on WLRs, section 4(2) of the Land Act makes the provision that the land Commission and any State officer or public officer shall be guided by some values and principles among others, the elimination of gender discrimination in law, customs and practices related to land and property in land; non-discrimination and protection of the marginalized; and democracy, inclusiveness and participation of the people. Consequently, the Land Act seeks to secure the right of married women, by securing the matrimonial home from the

52 Article 45(3) Ibid

53 Article 35 Ibid

54 Article 22(1) Ibid

55 Ibid

56 Article 48 and 50 Ibid

57 Article 159 Ibid

58 Article 159(3) Ibid

sale and (or) disposition by a registered owner (usually the husband) without the knowledge or consent of the wife⁵⁹. It provides that a charge of a matrimonial home, shall be valid only if any document or form used in applying for such a charge, or used to grant the charge is executed by the chargor and any spouse of the chargor living in the matrimonial home, or there is evidence from the document that it has been assented to by all such persons⁶⁰.

The Land Registration Act

Section 31 of the land registration act (as amended in 2016) omitted section 93(3) of the land registration Act that regarded spousal interest as an overriding interest. An overriding interest is an interest to which a registered title is subject to, even though it does not appear in the title. There is therefore no requirement to obtain spousal consent for any dealing or disposition of interest in land except for consent of a spouse to charge over the matrimonial home under section 79(3) of the land Act and any requirement for such consent under the matrimonial property Act.⁶¹ This amendment now provides that if a spouse obtains interest on land during the subsistence of a marriage for the co -ownership and use of spouses, such property shall be deemed to be matrimonial property and shall be dealt with under the Matrimonial Property Act⁶². This effort, effectively reduced the protection of the rights of women to land, particularly in situations where their names (women's names) are not included in the title documents as joint-owners of the land as is predominantly the case in most African societies⁶³.

The Act also makes provision for tenancy in common arrangements where two or more people hold the property in equal undivided shares⁶⁴. Each tenant has a distinct share in the property, which has not yet been divided among the co tenants. The Act provides that if a land, lease or charge is owned in common, each tenant shall be entitled to an undivided share in the whole and on the death of a tenant, the deceased's share shall be treated as part of their estate⁶⁵. Tenancy in common advances women's land rights by protecting the interests of women who are co-owners of a property or parcel of land. It protects their interests in that the parties in the tenancy have a distinct share in the property, which has to be divided among the co-tenants. In addition, there is no right to survivorship, which means that when one tenant in common dies, their interests in land pass under his/her will or intestacy. This therefore ensures that the interest and land rights of women is protected even in their demise. It allows them to control their interest in land even when they are dead since it ensures that their land passes to their heirs.

59 Kenya Land Alliance, "women's land rights in settlement schemes in Kenya: An Analysis of Gender Disaggregated Data of Allocations in select Settlement Schemes." [July 2019] pp19

60 Section 79(3) of the Land Act, no 6 of 2012

61 ibid

62 Section 31 of the Land Registration Act, No 3 of 2012 (as amended in 2016

63 Section 23 Ibid

64 Part IX Ibid

65 Section 91(5) Ibid

The Community Land Act

The Community Land Act provides that in the performance of the functions and exercise of powers under this Act, every person dealing with community land shall be guided by the following Principles⁶⁶;

- a) The principles of land policy set out in Article 60 of the Constitution; and
- b) The national values and principles of governance set out in Article 10 of the Constitution

This Act reiterates article 40 of the Constitution, which states that everyone has the right to own and acquire land in Kenya⁶⁷.

In section 30, the Act provides that:

1. Every member of the community has the right to equal benefit from community land.
2. Equality includes full and equal enjoyment of rights of use and access.
3. Women, men, youth, minority, persons with disabilities and marginalized groups have the right to equal treatment in all dealings in community land.
4. A registered community shall not directly or indirectly discriminate against any member of the community on any ground including: race, gender, marital status, ethnic or social origin, color, age, disability, religion or culture.
5. For the avoidance of doubt, every man or woman married to a member of the community shall gain automatic membership of the community and such membership shall subsist until the spouses legally divorce and the woman remarries or the woman remarries after the death of a spouse.

All the aforementioned provisions have a bearing on the protection and promotion of WLRs in Kenya. They ensure that the principles of gender equality and non-discrimination are enhanced in community land and that women's interests and inputs are included in decisions that concern community land. By ensuring that women are included in the various decisions in regards to community land, communities become receptive to women's private ownership of land and support and protect them in the actualization of their land rights.

The Marriage Act

Regarding applicability on the issue of WLRs, section 3 of the Marriage Act, provides that parties to a marriage have equal rights and obligations at the time of the marriage, during the marriage and at the dissolution of the marriage. The marriage regimes directly affect the division of matrimonial property and possession of matrimonial property.

⁶⁶ Section 3 of the Community land Act, 2016

⁶⁷ Section 5 Ibid

The Matrimonial Property Act.

The Matrimonial Property Act defines contribution to mean both monetary and non-monetary contribution⁶⁸. On the issue of contribution, the Act goes ahead and makes the provision that ownership of matrimonial property vests in the spouses according to the contribution of either spouse towards its acquisition, and shall be divided between the spouses if they divorce or their marriage is otherwise dissolved⁶⁹. This section of the Act is seen to curtail on women's right to ownership of property after the dissolution of marriage, as it requires women to prove their share of contribution. This is in spite of the fact that the meaning of contribution has been expanded to include non-monetary contribution.

The Act also provides that despite any other law a married woman has the same right as a married man to inter alia, acquire, administer, hold, control, use and dispose of property whether movable or immovable⁷⁰. The Act retains spousal consent on the issue of matrimonial property and provides that an estate or interest in any matrimonial property shall not, during the subsistence of a monogamous marriage and without the consent of both spouses, be alienated in any form, whether by way of sale, gift, lease, mortgage or otherwise⁷¹. It consequently safeguards the right of married women by stating that the matrimonial home shall not be mortgaged or leased without the written and informed consent of both spouses⁷². The Act also allows separate ownership of property of spouses. It provides that marriage does not affect the ownership of property other than matrimonial property to which either spouse may be entitled, or affect the right of either spouse to acquire hold or dispose of any such property⁷³. The provision is subject to the Act and any agreement entered to by the parties before the marriage. Further the Act allows parties to an intended marriage to enter into an agreement before their marriage in order to determine their property rights; prenuptial agreements⁷⁴. These provisions protect married women's land rights as they may choose to enter into an agreement before marriage in order to ensure and secure their property in instances of divorce or demise. In addition the Act ensures that women's right to own land separately is protected even during the subsistence of the marriage.

68 Section 2 of the Matrimonial Property Act, 2013

69 Section 7 Ibid

70 Section 4 Ibid

71 Section 12(1) Ibid

72 Section 12(5) Ibid

73 Section 13 Ibid

74 Section 6(3) Ibid

DISCUSSION AND RESULTS OF THE ASSESSMENT

While women's right to land is protected under Kenya's national laws and policies as has been elaborated in the previous chapters, the practice is different. Reports continue to show that women remain disadvantaged and discriminated against ownership, control, governance and administration of land. Various factors can be attributed to this situation as has been proven in the former chapters of this report.

Inequality and discrimination has played a big role in the past as well as in the current regime in denying women access and control of land. In traditional African settings women are often considered to have secondary rights in that they can only access and own property based on their relationship with men. Customary law and norms were and are, still characterized by patriarchal relations which deny women the right to own or even inherit property especially land. The determination of what property women can own is often gendered and is evidenced by the research done by the Women and Law in East Africa Research Group on Inheritance Laws and Practices in the 1990's and the international Federation of Women Lawyers (FIDA-Kenya) in 2002⁷⁵.

History shows that in many traditional African settings, men owned land and livestock while women could only own movable assets such as cooking utensils and farming implements. Men could only distribute their property equally to their sons while daughters would often not inherit anything from their fathers. The rationale for this was that sons remained with their families while daughters got married and left their homestead thereby enjoying the property of their husbands. Even for those women who were unmarried and were well advanced in years their ownership in property especially land was still contested by the community as evidenced in the case of *Mary Rono v Jane Rono & another* ⁷⁶. Such customary practices entrenched in patrilineal systems advance patriarchal systems of governance. Patriarchy brings forth a myth of gender superiority that points towards unequal power relations hence making it difficult for women to own land.

The current legal regime is characterized by many laws that seek to enshrine gender equality and non-discrimination practices that were hindered by previous laws and customary norms. However, despite the positive steps by existing laws, enforcement remains a challenge. Many of those tasked with enforcing these laws are deeply embedded within the practice of patriarchal cultures hence failing to assist women in enforcing their rights including rights around land. Additionally, legal and policy barriers have played a role in curtailing the enjoyment of women's

⁷⁵ Kenya Land Alliance, 'Women's Land Rights in Settlement Schemes in Kenya: An analysis of Gender Disaggregated Data of Allocations in Select Settlement Schemes.' [2019] pp 8

⁷⁶ [2005] eKLR

land rights. Laws such as the succession Act which were enacted in 1981 have to date not been reviewed or repealed. Given the discriminatory and marginal status that has been granted to Kenya's women in light of their land rights, a section of the demographic are taking steps to ensure equality and equity in the ownership, management and administration of land. Through relevant actors and stakeholders, Kenya's women are advocating for the introduction and subsequent strengthening of legal provisions for their right to own, purchase and administer land. In matrimonial contexts, women have argued for a presumption of spousal co-ownership of matrimonial property and have made a call for the introduction of specific provisions that would ensure equality in ownership of land. Women have also taken steps to demand that laws regulating the registration of land be amended to simplify the procedures, thereby making land more accessible to women. This is just an overview of the myriad of problems and solutions being offered to ensure that there is equality for women as relates to the protection and promotion of their land rights.

This section of the report relays the major findings of the assessment. Through a statistical analysis, the major findings of the study have been relayed to show the various insights and inputs of the respondents, in light of the instrumental roles they as entities play in advocating for WLRs in Kenya.

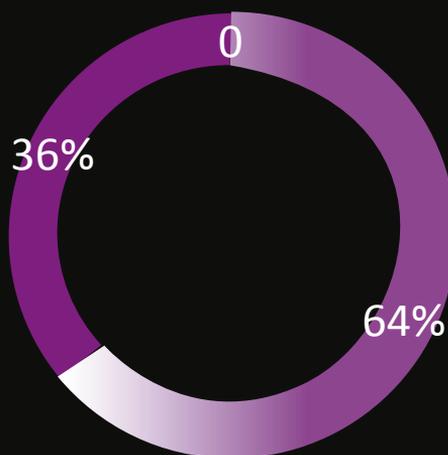
An examination of Methods Used to advocate for Women and Land Rights in Kenya

The first question posed to the respondent's sought to analyze the various advocacy methods these entities have used in trying to advocate for WLRs in Kenya. According to Advocacy Initiative, advocacy is all about giving a voice to or on behalf of an individual or a group (groups), in order to promote and achieve positive change⁷⁷. Out of all respondents engaged in this assessment it was identified that a striking majority of them used advocacy, what is regarded in the subsequent sections of this report as "advocacy generally" to advocate for the promotion and protection of the land rights of women in Kenya.

The graph below provides a numerical description of the assessments results.

⁷⁷ Advocacy Initiative, available at <http://www.advocacyinitiative.ie/what-advocacy>

Utilization of advocacy to push for Women and Lands Rights



- 7/11 of organizations cited using advocacy generally as a primary means in championing for WLRs
- 3/11 cited using other means as a primary mean on championing WLRs

From this assessment, it can be asserted that advocacy generally is a vital component in making relevant stakeholders aware of the role they ought to play in respecting, protecting and fulfilling women's rights as far as land issues are concerned. It can therefore be affirmed from this study that advocacy is a vital strategy in pushing for the implementation of the land rights of women in Kenya.

The research went a step further to investigate the different advocacy methods that were used on the ground to ensure visibility of WLRs issues. Questions were also posed to look into the different measures that could be used to create improvements in engagements around WLRs where gaps currently exist.

Out of the responses given, four out of the eleven responses received, cited using advocacy through building of partnerships and strengthening of partner's capabilities as an effective way of advancing WLRs in Kenya. These respondents specifically spoke of the importance of bridging technical and financial gaps of WLRs engagements at an organizational level. The technical challenges could be addressed through the provision of technical knowhow and the training of technical personnel. It was suggested that the financial barriers around implementing WLRs efforts could be met through the provision of funding for programmatic work that is currently being run by partners. These were regarded as two vital components through which capacities could be built thereby seeking to improve efforts

around WLRs. Advocacy by means of awareness creation and sensitization was also regarded as a top strategy used by partners in Kenya to actively advocate for WLRs. Thirdly, community mobilization was identified as an effective way of furthering efforts around WLRs. The table below provides a further elaboration of the responses received from the 11 respondents interviewed for the purpose of this assessment.

Advocacy methodology utilized to push for Women and Land Rights	Number of organizations employing described Strategy
Advocacy Generally	7/11
Advocacy through the Strengthening and Building of partners' capacities (i.e. the provision of Technical and Financial support)	4/11
Advocacy through Creation of Awareness and Sensitization (i.e. the Dissemination of IEC material, Media campaigns etc.)	4/11
Advocacy through Fostering and Generating partnerships on Women and Land Rights	3/11
Advocacy through Evidence Generation (i.e. Conducting studies on Women and Land Rights)	2/11
Advocacy through Conducting Legal and Policy Analyses on WLRs	2/11
Analysis through Litigation (i.e. Instituting cases at the Court level and utilization of Alternative Dispute Resolution mechanisms)	1/11

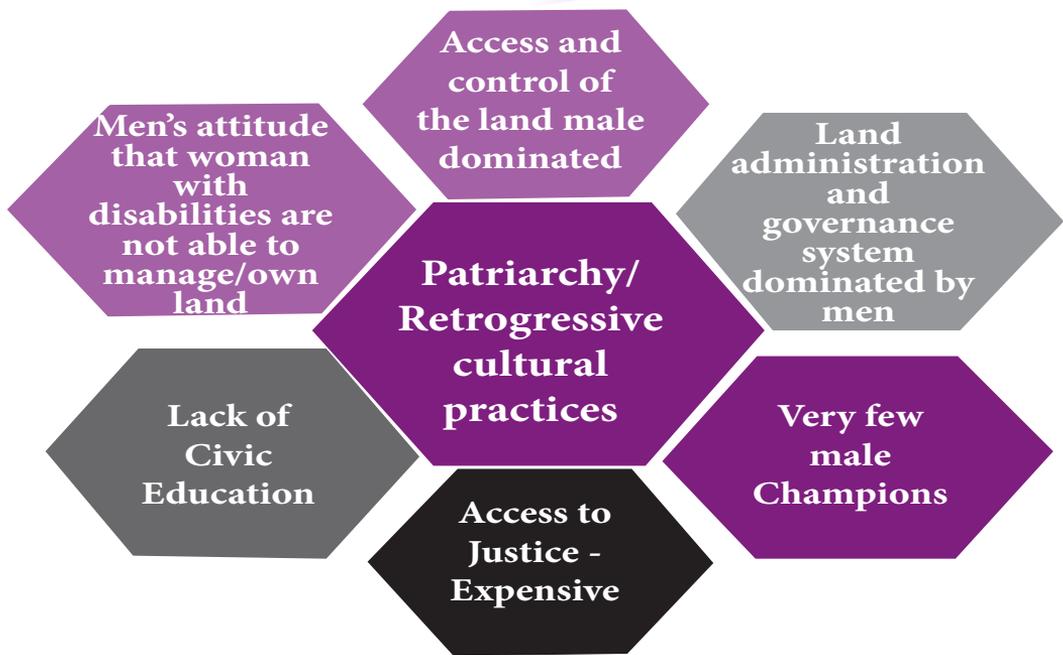
The table lists the advocacy strategies utilized by all respondents in light of the question posed

From the analysis above, it is evident that a majority of the respondents (7 out of 11 or 64% of respondents) used advocacy generally as a means of pushing for women's land rights. A deeper analysis reveals that advocacy through the strengthening and building of partners' capacities was the second most effective way of engaging in WLRs issues as was indicated by 4 out of 11 (36%) respondents. Another effective way of engaging in WLRs was through the creation of awareness and community sensitization through the dissemination of IEC material, and holding media campaigns, as was revealed by 4/11 of the respondents. 3 out of 11 (27%) respondents noted that fostering and generating partnerships on women and land rights is equally an important strategy in advocating for WLRs. 2 out of 11 (18%) of the respondents suggested that evidence generation through conducting of studies on women and land rights is also another strategy that ought to be employed in advocating for WLRs. Advocacy through the institution of cases at the court level

and through the utilization of ADR mechanism, although not as widely utilized as other methods was regarded as an important strategy in realizing WLRs.

An examination of efforts on Male inclusion in Promoting Women and Land Rights

It was interesting to note that the literature on the ground affirms the inclusion of men in the promotion of WLRs. While Kenya is progressively moving towards enhancing WLRs particularly in the law, the gaps that remain both in law but also in practice are mainly a manifestation of retrogressive cultural and social stereotypes that have been perpetuated in favour of men. Women are still denied the opportunity to partake in decisions that pertain to the use and control of land in Kenya. They barely have the chance, at a community level to determine the use of land despite the fact that women often expend their skills and labor on land. Land to a large extent is still owned and controlled by men as a result of embedded patriarchal ideologies developed by culture. This makes it hard for women to safeguard and protect their interests and right on land despite there being elaborate provisions that seek to enshrine gender equity and non-discrimination. In elaborating this point, the respondents spoke of different examples of how culture has historically been used to deny women their right to own land. The respondents highlighted the fact that from a young age, men and boys in communities are groomed to be land administrators, and often take on this role from male community members. Women and girls are often excluded from these discussions. This has resulted in a situation of oblivion where many women and girls in communities are unaware of their right to own land. The narrative of women getting married and eventually settling down in their own homes has often been used as a basis to deny women of their claims to ancestral land. It was interesting to note the double marginalization women face in the family context based on the premise that first, they are women and do not have equal rights to land and second, that it is presumed that by virtue of marriage, women will often be land owners wherever they settle. This seldom being the case. The subsequent table below provides a further description on the topic of male inclusion in efforts around WLRs.



The illustration above lists the specific responses provided by respondents in seeking to analyze the main challenges of male inclusion in the push for WLRs

Challenges of Male Inclusion in efforts around Women and Land Rights	Number of organization
Retrogressive Socio-Cultural Practices and Stereotypes	7/11
The inclusion of women on Women and Land Rights Discourse has been minimal	2/11
Male Domination of Access and Control to Land	1/11
Land Administration and Governance Systems dominated by men	1/11
Very few Male Champions	1/11
Access to Justice on WLRs- Expensive (Excludes many women)	1/11
Lack of Sensitization on the importance of Upholding Women and Land Rights	1/11

The table above lists all the challenges of men inclusion pushing for Women and Land Rights as cited by respondents with a view to determine which ones are common to more than one organization

11 out of 11 or 100% of the organizations interviewed indeed noted that there are challenges that hinder the inclusion of men in the realization of women and land rights. Furthermore, 100% of the organizations cited that patriarchy was the most pressing issue as far as the realization of women and land rights in Kenya is concerned, thereby suggesting that strategies must be employed to address this issue. 7 out of 11 of the respondents (64%) noted that retrogressive socio-cultural practices and stereotypes, backed by patriarchy also hinder the inclusion of men in promoting WLRs. 2 out of 11 (18%) of the respondents noted that the minimal inclusion of women in WLRs efforts has also been a challenge. Other challenges cited by respondents include: access and control of land is male dominated, land administration and governance systems are also male dominated, the existence of very few male champions, the high cost of accessing justice (which often excludes women), and the lack of civic education on the importance of upholding women and land rights.

An examination of pressing issues in ensuring the promotion and protection of Women and Land Rights in Kenya

The Inferior Status Granted to Women

The inferior status granted to women often perpetuated by retrogressive social and cultural practices as earlier elaborated were identified as a pressing issue in realizing WLRs in Kenya. Firstly, the respondents spoke of the general lack of recognition of women rights by the various stakeholders involved in WLRs efforts. These stakeholders involved persons at an individual level, and extended to entities such as organizations and governmental bodies that have been slow to address discrepancies around WLRs. The respondents also spoke of the gendered aspect in compensation issues around WLRs, particularly in the area of large-scale land based investments. One respondent spoke of how certain identified stakeholders particularly the State had continued to disenfranchise women in WLRs issues by not involving women in discussions around WLRs. There is lack of political will, which is evidenced, by the lack of implementation of the 2/3-gender rule in the various Institutions. The various governmental institutions especially those involved in land issues are still reluctant to include women in land administration issues. Most land registrars in Kenya are male. Consequently the government has failed to implement Article 2 of the Constitution on customs, which tend to infringe on the rights of women. It had been identified that in situations where communities were being offered reparations for violations they had suffered as a result of an encroachment of their land, most times the allocated compensation was often directed and handed over to male figures within the family and community level. While it is evident that in a community context it is women and children that bear the brunt, in cases of land encroachment, the manner in which compensation claims was handled only further brought out the fact that women's marginalization persists even when stakeholders are seeking to remedy the situation. Many times it is these stakeholders that contribute to the further disenfranchisement of women by being an overseer to a system and a process that serves to perpetuate existing social and structural cleavages that support the dominating role male figures play in land ownership, governance and administration processes.

Information and Knowledge Gap

The second pressing theme identified as revealed by respondents was the general lack of data and information on women and land rights in Kenya. On a general level it was identified that individuals and communities were oblivious to the situation of not only women and land rights, but also land rights as a general topic within the Kenyan context. The respondents spoke of an insufficient amount of written and recorded material regarding the documentation of WLRs. It was felt that even when text and material on WLRs was available, this information was scripted in such a technical manner that is often exclusionary of persons that do not necessarily have technical expertise on WLRs issues. Furthermore, it was suggested that publications on WLRs were only available on select databases and information portals thereby excluding a wide range of people from accessing this information.

Secondly, lack of civic education was identified as another problematic area of concern in light of efforts to promote women and land rights. The respondents identified "ignorance" or a low level of legal literacy as a problem that needed to be examined. It was explained that there was a general lack of knowledge regarding the land registration process particularly when women were concerned. There was also a lack of information by communities on how to institute claims and present cases of violations to the relevant bodies and authorities for redress. The relevant information on how to handle the claims and compensation process was also lacking in terms of its availability and suitability for those whom such information is targeted. The data and information gap was regarded as an area of the discourse that warranted much more effort and attention.

Scarcity of Resources

When it comes to the monitoring and implementation of activities and projects on the ground regarding WLRs, a section of the respondents expressed the fact that usually a scarcity of resources dedicated towards organizations efforts has often resulted in a dismal rate of implementation of projects on the ground. This is because partners are unable to mobilize efforts without resources to ensure the completion of projects. A lack of resources as cited, also placed a burden on projects longevity and sustainability as without funds project stakeholders are unable to plan long term activities that will ensure to fruition the goals and objectives of all stakeholders that are involved. Still on the issue of resources, (approaching it from the beneficiaries perspective), it was reported that while the main outcome in advocating for WLRs is to ensure at a basic level that women have access to land and its resources, there are instances where when this land has been allocated to its target beneficiaries, the state of the resource given begins to dilapidate. This is because there are expenses required to ensure that land is maintained and serviced to ensure the highest yield can be sown out of the allocated resource. A section of the respondents expressed the concern that there are numerous financial barriers in place that have often made it difficult for women to access capital, that will allow them to service land that is currently in their possession. This means that land that is allocated to a segment of the female population will often start to degenerate because of lack of the necessary capital to ensure its maintenance. Acknowledging the barriers particularly financial that exist, even when women are

able to access land, the respondents felt the need to express this grievance as an area of concern, bringing out the equity and equality angle of WLRs issues. They expressed the fact that efforts should go beyond a mere allocation and towards ensuring an equitable allocation of that same resource.

Limited Access to Justice

Another topic deemed as pressing and problematic in the discourse on WLRs was the justice component of land rights for women. At an initial level, it was argued by all of the respondents that lack of implementation of existing laws and legal policies have often made it difficult for Kenyan women to make an equal claim for their land rights as enshrined in the law. For example the non-implementation of the 2/3-gender rule in the various land Institutions makes it difficult for women to protect their interests in land.

While Kenyan law, was seen as a progressive tool in facilitating women in instituting claims towards their land rights, many of the respondents expressed the need to have the law curb those gaps that are often used to manipulate and deny women of their claim to land. Still on the issue of the law, all the respondents argued that inefficient implementation of WLRs provisions, further exacerbated the disparities on the ground and have proven to many that there is a hierarchical approach to the implementation of the law. This is manifested in the fact that many provisions in various laws and policies on WLRs have remained unimplemented for a long period of time, despite having been in existence for a significant period of time. For example the government has failed to implement Article 2 of the Constitution on customs, which tend to infringe on the rights of women. The State made steps by coming up with the taskforce on Alternative Justice System, which was to guide the state in the best practice on issues of culture.

However the taskforce has been slow in terms of reporting. An elaborate example of how implementation has failed to be effectively implemented on the ground is provided in a piece of research that was conducted by the Kenya Land Alliance in a report titled "Women's Land Rights in settlement schemes in Kenya: An analysis of Gender Disaggregated data of allocations in select settlement schemes. Using statistical information, the report demonstrates that although settlement schemes have been used to avail land to landless persons in Kenya, women whom are the target beneficiaries of these schemes unfortunately find that they are not adequately represented in getting a share of their claims to these settlement schemes.

The report shows that even though women are allocated land in these schemes, there is a need to up-scale their allocation, as they still constitute the most marginalized group of landless people in the country. However, the systems in place that seek to allocate this land are inefficiently being implemented thereby resulting in further marginalization of women, who should in fact as a constituent group, be a top beneficiary in this allocation.

A select group of respondents also felt that under the theme of access to justice, certain archaic and outdated laws have continued to marginalize women in as far as their land rights is concerned.

The law of succession Act for example, was brought to focus, as a law that ought to be amended in light of the provisions it contains that still perpetrate discrimination and negative stereotypes against women. It was noted that this law in particular has not been amended since its enactment in 1981. To further delve into its discriminatory provisions, it was noted that the act provides that, when a woman acquires property from her late husband, the widow will cease to hold a life interest on the property if she remarries. This was noted as an indeed archaic and discriminatory provision⁷⁸.

This was noted in the case of Douglas **Njuguna Muigai v John Bosco Maina Kariuki & another [2014] eKLR** where the court of appeal noted “...we are of the view that the provisions of Section 35(b) and 40 are discriminatory against Jerioth and the female gender. The Legislature should consider those sections for amendment. Our findings on this issue are not at all novel as shown below the State is obligated under Article 27 (b) of the Constitution to take such legislative measures. To illustrate that Section 35(1) (b) and the proviso thereto provides for a differential treatment of a widow and a widower, this is what it States;“(b) a life interest in the whole residual of the net intestate: provided that if the surviving spouse is a widow that interest shall determine upon re-marriage to any person.”

A plain reading of the above proviso is that a widower (a male) can remarry without losing the enjoyment of the ' life interest' of the spouse's estate while the widow (a female) loses her life interest upon re-marriage. It goes without saying that this is against the letter and spirit of the Constitution.

Other examples where the Act discriminates on women include;

- a) Exempts certain areas from application of the intestacy rules, leaving cases where one dies without a will to be subject to customary which in most cases is unfavorable to women. (Sec 32)
- b) Gives priority to fathers over mothers by expressly granting them precedence to inherit a deceased child's property whenever the intestate leaves no surviving spouse or children. (Sec 39(1))
- c) The Act makes the provision that in polygamous marriages, the husband inherits the full estate when each of his wives dies but his net estate when he dies is divided among his surviving wives and children. (Sec 35 and 40)

Another element that focused on the implementation aspect of the law, sought to analyze the term “legal mischief” which can be translated to symbolize how certain actions or inactions as provided within the law can result in a situation that

⁷⁸ Section 35(1)(b) of the Succession Act, 1981

has deleterious consequences on the enforcement of legal provisions on WLRs. A respondent cited that the Kenyan law has to some extent created a culture of impunity whereby individuals can go unpunished because the law protects their action/ inaction in certain identified scenarios. The respondent felt that there is a need for the relevant stakeholders to stop interpreting the law statically as this would create room for exemptions and exceptions whereby an action would have been taken. Subsequently the State should also repeal the laws and specific provisions in the various acts that hinder women from achieving their land rights. In particular, Sections 32, 35(1) (b), 39(1) and 40 of Succession Act. In doing this, the state would be in line with the international and regional legislations and in line with recommendations provided to them by the African Commission.

At an administrative level it was identified by a majority of the respondents, that the justice system is unfriendly towards the needs of many women pursuing land rights violations. The costs often involved in pursuing a case often make the court system an inaccessible option to many women that would like their grievances addressed through the court system. The duration involved in seeing a case to completion was also identified as a factor that at many times discourages women from pursuing justice through the court process. Many of the respondents expressed the need to have a gender responsive justice system that would address the cost and time barrier that often serves to deter women from pursuing their cases until completion.

Documentation and Reporting of Information

While the lack of information is regarded as pressing and problematic as identified in an earlier segment of this report, the issue of documentation and reporting of gathered information was cited to be a point in need of attention.

Owing to the fact that Government is unable to produce its own data and information on the status of women and land rights (given technological and administrative challenges), many respondents cited that partners particularly non-governmental organizations were often called on to generate information on WLRs. While many of these partners take great pride in producing content and providing an elaboration of the same, they felt that the State reporting process was to a degree de-legitimized by the States' inability to produce its own analysis and assessment of WLRs issues. A section of the respondents also stated that the manner in which the State's reports were produced, would also bring rise to the credibility of the content of such reports. While partners are important entities in generating information on progress in the WLRs discourse, it was felt that many times these entities have their own goals, and objectives they would like to advance. Relying on their information as such as a primary resource for State reporting would interfere with the quality of information presented, given individual biases.

Systematic Challenges

Closely related to the other elements brought out in previous sections, the respondents cited that the lack of economic empowerment of women was an inhibiting factor resulting in negative implications for women's security of tenure in as far as land ownership is concerned. The issue of low representation of women not only at land governing bodies, but in leadership positions in the country generally

was reported as a limiting factor in ensuring the protection and promotion of land rights for Kenya's women. While enhancing conversation around WLRs is important in advancing the discourse, it was felt that having women in leadership would symbolically assist in passing the message that women too can provide leadership in various sectors including that of land. The respondents felt that having women in leadership positions would serve as a measure that would further drive other women lead in efforts in advancing their representation in the topic of WLRs.

The Extractives Industry

It was made evident that the mining industry in Kenya depends a lot on land, for which it would be impossible for the sector and industry to thrive. A claim was made by a certain section of the respondents that while women tend to contribute to most of the labor and tend to do most of the hard work in mining; most times the spoils from this activity are distributed in an unequal portion. In the process of revenue sharing, it was reported that almost none of the proceeds usually go to women as beneficiaries. This discrepancy is further perpetuated by the fact that most entities involved, often pay compensation to male figures as title deeds are often in the names of male persons. This was portrayed as a rather sad situation as the women involved in mining, rarely get to enjoy the benefits from their hard work.

The mining industry as a LSLBI was also regarded as a capital-intensive industry that most times was seen as a high-risk activity for women, owing to the fact that women involved in the activity are seldom equipped with protective gear. In identifying the risks presented to women, the respondents expressed the need to have this addressed as an area of urgent concern in light of the challenges it presents to women.

The table below provides a summary of the most pressing issues in WLRs as elaborated by the respondents.

Theme	Most pressing WLR Issues
<p>Inferior Status Granted to women (Patriarchy and retrogressive cultural and social practices)</p>	<ul style="list-style-type: none"> • Lack of recognition of Women and Land Rights • Gendered aspect of compensation in LSLBIs • Changing perceptions with regards to the status of women vis a vis land rights is difficult • Property ownership Women and Land Rights Security of Tenure for land vis a vis women's economic empowerment

Access to information	<ul style="list-style-type: none"> • Lack of access to information and knowledge in general • Lack of civic education (Lack of knowledge on registration and resettlement, Lack of education on what to do with compensation money etc.) • Lack of awareness raising on land ownership rights of marginalized women (such as women with disabilities)
Resources	<ul style="list-style-type: none"> • Lack of affordable capital for developing land owned by women. • Lack of resources to pursue work around Women and Land Rights
Access to Justice	<ul style="list-style-type: none"> • It is time consuming and costly • Gaps in the law- Evictions, Systematic challenges • Disregard of the Law/ No implementation
Documentation of Information	<ul style="list-style-type: none"> • Lack of Data, on the government's side, they rely on its generation from NGO Partners • Inefficiency in Reporting- Kenya is good at reporting but the content is questionable
Systematic Challenges	<ul style="list-style-type: none"> • Ownership of land is in the State's hand therefore relocation can happen abruptly • Property ownership Women and Land Rights; Security of Tenure for land vis a vis women's economic empowerment • Systematic challenges when it comes to evictions • Low women representation to support the development of policies that will protect the rights of young women to own land
The extractives industry	<ul style="list-style-type: none"> • Looking at the mining industry and how it has negative health implications on Women and Land Rights, extractives programme • Sharing of spoils from mining activities or land activities, titles are in men's names therefore spoils do not get to women • Financial vs. legal battles, those who have money win the war particularly in the extractives industry

Responses regarding most pressing WLR Issues

Probing Questions

In an effort to supplement on the questions that formed the basis of the discussion, additional questions were posed to the respondents and a further examination of the topic was conducted. This was in an effort to gain additional insights on the status of WLRs, tying all this information back to the thematic areas of study that formed the basis of the research.

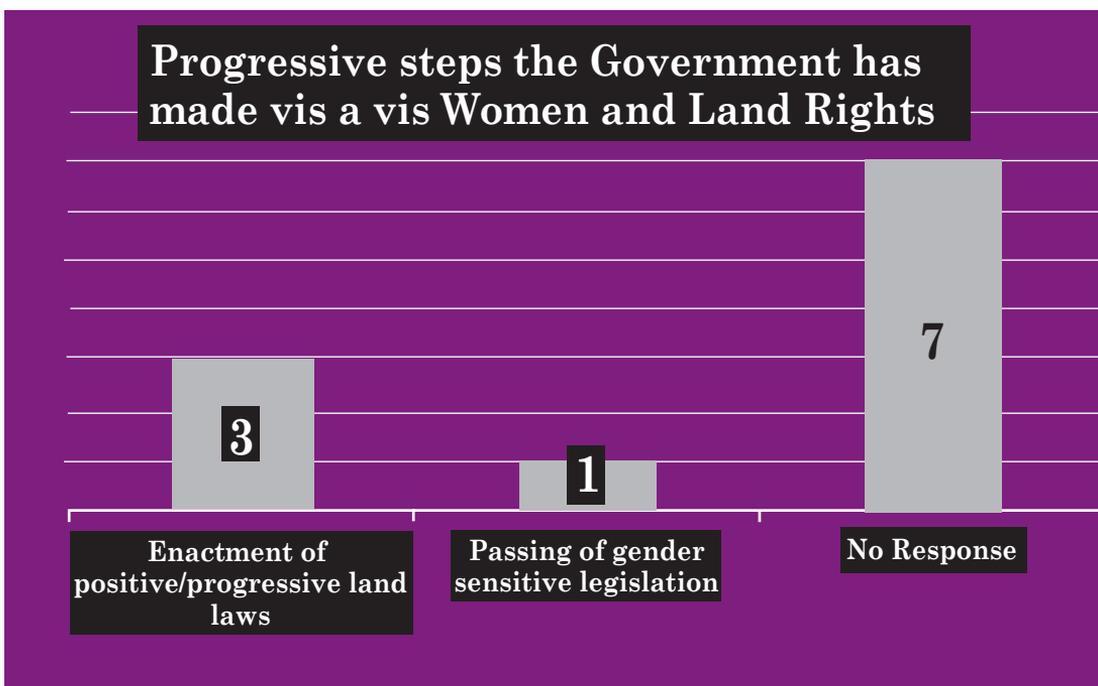
Government Based Interventions (Stakeholder)

While the role of stakeholders particularly the Government has been analyzed as elaborated in previous sections, this section particularly sought to gain a statistical representation of how the respondents felt the government was complying in regards to the role it plays in respecting, protecting and fulfilling women's land rights. As such the questions asked were:

- **Do you believe the Government has taken progressive steps in ensuring women are afforded their land rights?**

11 out of 11 respondents (100%) said that the government has made progressive steps in affording women their land rights.

For those that responded "YES", a further explanation was provided to elaborate on how they felt the government was promoting women and land rights in Kenya. The two graphs below provide a summary of the responses provided.



Elaboration of the steps made by the Government in affording women their land rights

Progressive steps made by the government in affording Women and Land Rights	No. of organizations
Enactment of positive/progressive land laws Generally	3/11
Passing of gender sensitive legislation	1/11
No response	7/11

This table provides an elaboration of responses given in listing the progressive steps taken by government to afford women their land rights

The data in the table above shows that 3 out of 11 (27%) of the respondents suggested that the Government of Kenya has made progressive steps in affording women their land rights through the enactment of positive legislation around land laws. 1 out of 11 (9%) of the respondents suggested that the passing of gender sensitive legislation is indeed a progressive step from the Government's end in promoting and protection women's land rights. This is an indication that the Government has made deliberate efforts to afford women and land Rights. 7/11 of the respondents did not respond to this prompt, as they were not aware of progressive steps the Government had made to ensure WLRs. Their lack of responses is also an indication of the respondents' need to abstain from responding to the question posed.

- **Does the Government need to be held accountable in promoting and protecting women's land right?**

9 out of 11 of the respondents (82%) said that the Government should be held accountable in efforts around affording women their land rights. None of respondents gave "No" as a response to this prompt. 2 out of 11 of the respondents (18%) did not respond to the question posed. This information is elaborated in the graph below.

Does Government need to be held accountable in affording Women and Land Rights?



Does the Government need to be held accountable in affording women their land rights?

Regarding how the Government should be held to account, the table below provided an elaboration of the responses provided:

How Government should be held to account in affording Women and Land Rights	No. of organizations
Government must step up when it comes to Implementation of Women and Land Rights through the application of the law	6/11
Conducting civic education	2/11
Government must address poor governance and administration systems and offer support accordingly	1/11
Government must generate good political will amongst all stakeholders involved	1/11
Government must generate credible and legitimate information for Reports	1/11
Government must work towards ensuring equal and accountable treatment of all	1/11
Better applicability of the law	1/11

The table details the responses given to how the Government should be held to account in affording women their land rights

From the responses above, it is clear that the responses given suggest that the Government must step up when it comes to the implementation of WLRs provisions through proper application of the law as was indicated by 6 out of 11 respondents (55%). 2 out of 11 or 18% of respondents noted that conducting civic education was critical, through seeking to particularly change cultural beliefs that tend to discredit and marginalize women when it comes to land ownership. The other responses touched upon the issues of: addressing poor governance and administration systems and offering support to stakeholders, the generation of political goodwill amongst all stakeholders involved, the generation of credible and legitimate information for reports and ensuring equal and accountable treatment for all investors in WLRs.

Other Stakeholder Interventions

While the role of other stakeholder's particularly Non-Governmental actors has been analyzed as elaborated in previous sections, this section particularly sought to gain a statistical representation of how the respondents felt NGOs and other partners were fairing with regards to the role they play in respecting, protecting and fulfilling women's land rights. As such the questions posed to them were:

- **What progressive steps have been taken by organizations (including your own entity) to ensure that the rights of women to land in Kenya are respected, protected and fulfilled?**

Progressive steps taken by organizations to ensure women are afforded their land rights	No. of organizations
Utilization of advocacy strategies at a general	8/11
Strengthening the capacity of CSO/ CBOS/ Local Actors	3/11
Working in partnerships to support <ul style="list-style-type: none"> - Implementation of Women and Land Rights - Develop integrated programs 	2/11
Actively practicing gender main-streaming through; <ul style="list-style-type: none"> - Inclusion of women representation both in staffing and governance - Ensuring that on matters of allocation of land, a percentage is given to women as vulnerable groups 	2/11
Ensuring proper and equitable compensation processes for women who have had their WLR rights violated.	1/11

This table provides an elaboration of the responses given by respondents regarding the steps they have taken to ensure women are afforded their land rights

From the analysis above, majority of the respondents (8 Out of 11 or 73%) suggested that advocacy in general is an effective strategy employed by organizations in ensuring that women are afforded their land rights. The organizations sampled have conducted advocacy around WLRs in the following ways: through undertaking public awareness and community sensitization, through conducting civic education, through pushing for the inclusion of women in various land administrative offices and through creating awareness on the rights of women minority women. 3 out of 11 respondents (27%) indicated that they have strengthened the capacity of CSOs, CBOs and other local actors, while 2 out of 11 (18%) indicated to have been actively practicing gender mainstreaming. Other steps taken by the organizations sampled to ensure women are afforded their land rights include; ensuring proper and equitable compensation processes for women who have had their WLR rights violated.

- **Provide suggestions on measures that can be taken to ensure better synergies of partners working on women and land rights?**

The table below gives an elaboration of the responses received on suggestions made to ensure a better synergy of partners working on WLRs.

Suggested measures of steps partners can take to ensure better synergies when working on Women and Land Rights	No. of Organizations
Have a coordinated and complementary working approach through: <ul style="list-style-type: none"> • Developing joint status reports • Developing a common coordinating mechanism, (have an online portal for reporting progress and highlighting issues of concern) • Formation of a community to help in the reporting process • Developing the practice of peer learning, modeling and shared resource utilization • Accompanying each other on missions to the field (CSO and Government bodies) to ensure accountability and better harnessing of efforts on the ground • Share knowledge, discuss progress and challenges, Joint awareness creation, Joint strategies 	8/11
Conducting and generating quality and conclusive research on women and land rights	2/11
Funding of consortiums engaging in Women and Land Rights	1/11
Introduce specific projects on Women and Land Rights at an organizational level	1/11

The table above shows all the responses given by respondents giving suggestions on what can be done to ensure better synergies of partners in reporting on Women and Land Rights

The table below gives an elaboration of the responses received on suggestions made to ensure a better synergy of partners on the reporting process for WLRs.

Theme	Suggested measures of what can be done to ensure better synergies of partners in reporting on Women and Land Rights
Coordination and complementarity	<ul style="list-style-type: none"> • Development of joint status reports • Development of an online portal for reporting • Formation of a community to help in reporting • Peer learning and modeling • Shared resource utilization for efficiency and to harness skills for greater impact • Holding joint field missions between CSOs and government Holding regular meetings and forums for experience sharing • Coming up with joint advocacy plans. • Share knowledge, discuss progress and challenges, Joint awareness creation, Joint strategies
Evidence generation	<ul style="list-style-type: none"> • Gathering of conclusive data for PIL and prompting Government to implement Women and Land Rights • Conducting quality and conclusive research on Women and Land Rights
Resourcing	<ul style="list-style-type: none"> • Funding of consortiums engaging in Women and Land Rights
Specialization	<ul style="list-style-type: none"> • Focus on specific areas of Women and Land Rights by CSOs

The table elaborates on responses given by respondents suggesting on what measures can be effected to ensure better synergies of partners in reporting on WLRs

From the first table, it is clear that having a coordinated and complementary approach between all stakeholders involved is the best strategy in ensuring better synergies of partners working on WLRs as noted by 8 out of 11 respondents (73%). Respondents further stated that evidence generation through conducting quality and conclusive research on Women and Land Rights is a good strategy in ensuring better synergies of partners working on WLRs. Other strategies include: funding of consortiums engaging in WLRs and specialization the approach taken on WLRs work. This complementary approach ought to be replicated in the reporting process, as is well elaborated in the second table above.

Legal Framework Interventions

While the role of the law and other legal interventions, has been analyzed as elaborated in previous sections, this section particularly sought to gain a statistical representation of what further measures can be put in place to ensure that existing laws are better improved, thereby effectively addressing WLRs issues in Kenya.

- **Provide an elaboration of laws or legal policies that have been progressive in enhancing women's land rights in Kenya**

Name of Law or Legal Policy	No. Of organizations
The Constitution of Kenya 2010	11/11
Land Act 2014	4/11
Matrimonial property Act	3/11
National Land Commission Act	2/11
Community Land Act	1/11
Policies around constitution of land boards	1/11
Article 6 of the United Nations Convention on the Rights of Persons with Disabilities. (UNCRPD)	1/11

The table above shows all the responses given by respondents regarding the progressive laws/policies Kenya has on Women and Land Rights

The Constitution of Kenya 2010 was cited as the most progressive instrument in advocating for women and land Rights with all respondents affirming this claim. The respondents further noted that all other progressive laws and policies indicated above, with the exception of the UNCRPD, have emanated from the Constitution of Kenya. These include; The Land Act 2014 (36%), Matrimonial property Act (27%), National Land Commission Act (18%), Community Land Act, policies around the constitution of Land Boards and Article 6 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

- **Provide an elaboration of what laws or pieces of legislation need to be reviewed in order to effectively afford women their land rights**

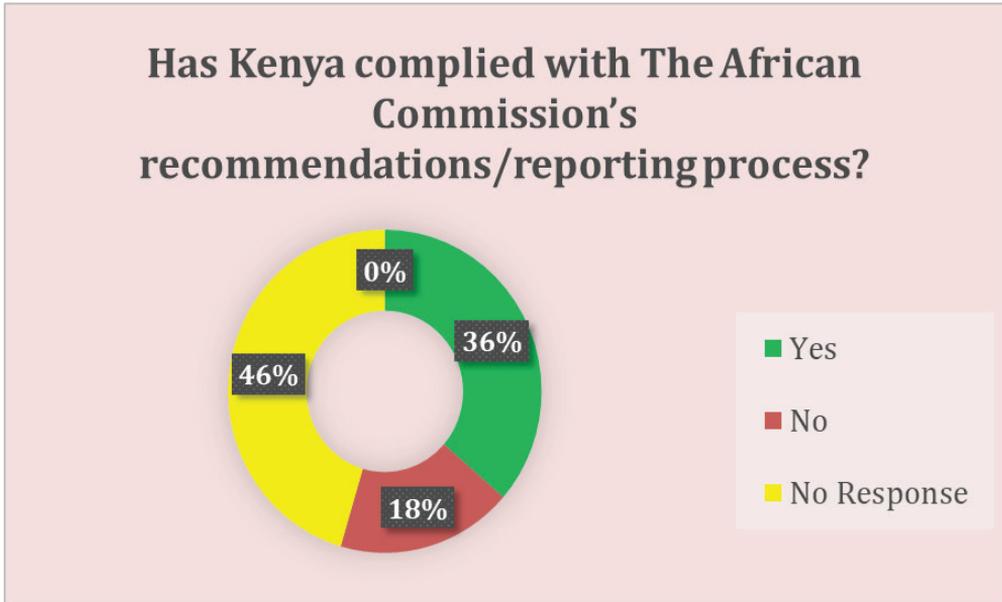
Laws/policies / pieces of legislation that need review	No. Of organizations
Matrimonial Property Act	4/11
Community Land Act	3/11

The table above shows all the responses regarding the laws/policies/pieces of legislation on Women and Land Rights that should undergo review

The above two laws were cited as containing provisions that had a retrogressive element in ensuring WLRs were protected. The respondents thereby suggested that these three laws/policies ought to be reviewed if our laws were to have a positive effect in affording women their land rights.

The Reporting Process

- Has Kenya complied with the Recommendations provided in the first and second cycle of the reporting process of the African Commission on Human and People's Rights



The chart above shows the responses provided on whether Kenya has complied with The African commission's recommendations/reporting process

4 out of 11 (36%) of respondents indicated that Kenya has complied with The African commission's recommendations, 46% did not respond to the above question posed while the remaining 18% were of the opinion that the Government has not complied with the African commission's recommendations.

The no responses signify that the respondents were not in a position to comment on the state's efforts in fulfilling the recommendations given by the African Commission. The no response is also an indication that certain respondents were not aware of the reporting process through which States report on challenges and progress made, in light of their human rights obligations.

An Assessment of Local Complaint Mechanism and the Institution of Cases

- **Would you say that local complaint mechanisms have been sufficient in addressing the violations that Kenyan women face in their land rights?**

The table below provided an in-depth overview of the responses received by the respondents, in the assessment's efforts to gauge the effectiveness of local complaint mechanisms.

Assessment of local mechanisms	Description
Positive responses	<ul style="list-style-type: none"> • The setting up and operationalization of the NLC and the County Land Boards has been deemed as an effective step in advancing WLRs at a local level. • At a local level, devolution has made it easier to deal with certain women and land rights issues. Devolution as a system should complement National and County mechanisms to address Women and Land Rights issues. • The establishment of NGECC has been viewed as a positive local mechanism that is useful in addressing equality issues including issues on WLRs. • The fact that it is very rare that cases will move from the Magistrate Court to the Supreme Court and not obtain a relief on the issue presented is regarded as a positive step for WLRs. • At a local level, it has been suggested that ADR mechanisms has enable those affected by various WLRs violations to go to the nearest structural organization to launch a complaint and thereby seek justice. • Entities such as the NLC are applauded for having tribunals that have legislative powers, thereby legitimizing their decisions but also enabling the litigation of WLRs at a local level.

<p>Negative responses</p>	<ul style="list-style-type: none"> • Few women are involved at the decision making level in institutional and organizational entities working on WLRs. An example was given that most land registrars in Kenya are male. • Gender main-streaming is yet to be effectively implemented at a national level. As such the African Court is preferred when it comes to redressing human rights violations that have a gender component to them. • Corruption as a practice is heavily infiltrated in local justice systems. • Local mechanisms tend to be embedded in local practices, which are very patriarchal. Our system is yet to abandon patriarchy and agree to fully and equally afford women their rights. • Local mechanisms are inaccessible, and when accessible, they are inefficient and ill equipped in addressing WLRs matters. • Compliance and Implementation challenges. Local systems have been slow in implementing and complying with court decisions. For this reason the African Court is seen as preferable. • Reporting issues –It was noted that the state has made commendable steps by coming up with the taskforce on Alternative Justice System, which was to guide the state in the best practice on issues of culture. While this is a positive step, it is reported that the taskforce has failed in terms of reporting.
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An Assessment of the Effectiveness of local mechanisms in addressing WLRs violations

- **Have you instituted any cases on behalf of women in a bid to enhance their land rights**



The graph above provides an elaboration of whether the respondents have instituted cases on behalf of women in a bid to enhance their land rights

From the analysis, only 2 out of 11 (18%) respondents indicated to have instituted cases on behalf of women in a bid to enhance their land rights. 3 out of 11 (27%) respondents had not instituted cases. 3 out of the 11 (27%) had instituted cases on behalf of women, however not directly. 3 out of the 11 respondents (27%) did not respond to this either because their mandates do not touch on the legislative element of women and land rights or they had limited capacity to institute cases.

- Below are further remarks from the responses given:

Yes. In 2019, we instituted 40 Succession cases, 20 land cases, 2 PIL cases and 600 cases in the local community mechanisms.

None directly. However we have supported WHRDs working on litigation matters on land and funded CSO advocating for Women and Land Rights

None directly. However we have supported local partners in their projects to do so (In Tanzania)

None directly. However we have been involved in Alternative Dispute resolution mechanisms

Responses given by organizations providing an indication and description of cases instituted on behalf of women in a bid to enhance their land rights

Organizational Interventions in Promoting WLRs

This part of the assessment sought to gain perspective on the tangible efforts being taken by the respondents, at an organizational level to advocate for WLRs.

Interventions by organizations to support minority women enjoy their Women and Land Rights	No. of organizations
Fostering partnerships amongst stakeholders both CSOs and Government (through creating rapport with policy makers, working with government, working with other organizations, supporting networking and alliance building)	5
Using advocacy approaches (provision of civic education, running media and social media campaigns, educating women on their rights)	4
Provision of Technical and financial support to CSOs working on Women and Land Rights	2
Preparing written submissions on amendments of policies and legislation.	1
Having Programmatic Interventions (Conducting multidimensional poverty analysis to identify indigent groups that are likely to be left out in development programmes, Devising systematic ways of identifying minority and marginalized women in target communities)	2

Description of *interventions done at an organizational level by respondents to advocate for WLRs.*

The table below provides an elaboration of efforts being taken to combat retrogressive cultural practices at an organizational, as described by the respondents

Steps taken by organizations to ensure better protection from retrogressive cultural practices	No of organizations
Awareness creation and sensitization	3
Use of tools like Social Accountability Analysis	1
Deliberate support and involvement of Women and Land Rights organizations	1
Men to Women Empowerment Programme	1

Steps taken by organizations to ensure better protection from retrogressive cultural practices

The table below provided an elaboration of steps a section of the respondents are taking to promote accountability, sensitization, peer learning and the application of the rule of law in WLRs. This table essentially seeks to provide an evaluation of best practice given existing efforts at an organizational level to advocate for WLRs.

Theme	Best Practices can be replicated
Promoting accountability	<ul style="list-style-type: none"> • One of the respondents's elaborated on how their work around WLRs has focused on asking the tough questions. They have focused on asking these questions in an effort to ensure equality and representation of women in land tribunals. They have taken to task the composition of such bodies by asking questions of how many women are shareholders, how many women are represented in tribunals, and how many of them are involved in the decision-making at an executive level. • In efforts around promoting accountability, they have also sought to make women aware of the financial benefits and claims they are entitled to around various WLRs processes.
Sensitization	<ul style="list-style-type: none"> • On sensitization efforts, one of the respondents spoke of how they have come up with programs that encourage the involvement of men in WLRs efforts. One of this is their 'Men in Women Empowerment Program' where men are made to understand the concept of women rights. This program has assisted in gaining support on women's rights, thereby reducing patriarchal resistance to women's rights endeavors. • Another respondent spoke of having formed Watchdog groups and a group of community paralegals to ensure that there is teaching at the grass roots level, in an effort to ensure a shift on the minds of the people.
Application of the law	<ul style="list-style-type: none"> • One of the respondents cited that they recognize that women form the primary of agricultural farmers and the majority users of land yet they are not the landowners legally; titles are held the males due to cultural practices. It is with this in mind that this respondent has channeled its energy to ensure that women are allocated land as a special group in order to enable them to have that security that comes with property ownership.
Peer learning	<ul style="list-style-type: none"> • This respondent cited having taken efforts to locate specific best practicing communities who recognize and allocate land rights to women. The methods used are then evaluated and integrated into thinking solutions on how communities can be educated to grant equal rights to women.

A Discussion on Emerging Issues

- **What is the linkage between Women and Land Rights, Kenya's Vision 2030 and the Sustainable Development Goals?**

Organization	Linkage between Vision 2030, 2063, SDGs and Women and Land Rights
WLR001	They all speak about empowering women
WLR008	They are all about improving on development standards, specifically the economic development of a people.
WLR005	They bring out the issue of land titling in regards to the disparities in WLRs.
WLR007	They make the linkage of how land can be used to generate income.
WLR011	They bring out how land can be utilized to bring an end to poverty. They bring out the fact that land is an important means of production

Linkage between Vision 2030, 2063, SDGs and Women and Land Rights

All respondents (10 out of 10 or 100%) said that all the aforementioned development programmes (Vision 2030, Agenda 2063, the SDGs and instruments on Women and Land Rights) seek to empower women and to bring out the economic nature of empowerment. They further noted that these instruments stressed the importance of "leaving no one behind" in matters of economic empowerment. The table further elaborates each of the individual responses given by the respondents.

What do you think the implications for women and the realization of their land rights will be in light of the ongoing Mau forest evictions?

Category	Theme	Implications of Mau evictions and link on Women and Land Rights
Positive implications	Provides an opportunity for national and regional level advocacy and revision of laws and policies on land	<ul style="list-style-type: none"> • The Mau Forest evictions, presents an opportunity to create awareness on land issues, particularly giving a platform for the masses to be educated on the rights of minority and marginalized communities. • The Mau Forest evictions, presents an opportunity for relevant stakeholders to review Women and Land Rights policies particularly as regards evictions. These policies ought to stop placing the burden on victims by devising remedies that will revert the focus to land violation "enablers".

Negative implications	Human rights violations and discrimination	<ul style="list-style-type: none"> • The Mau Forest evictions will lead to increased VAW/G s and GBV, in light of inhumane and forceful conditions in which women will be ejected from the land. • The evictions will result in a lack of access to education for women, as communities will be evicted. • Brings out some of the social ills plagued by the country – such as class vs. politics, as far as land issues is concerned in Kenya
	Increased poverty levels	<ul style="list-style-type: none"> • The evictions will result in the ultimate destruction of property leading to increased dependency, increase in poverty and social desperation. • Will lead to the inability of women to produce enough food for their families and the community • Will lead to further marginalization of women particularly in the compensation process. (Land Titles are not possessed by women)

The table above gives an elaboration of responses given to implications for women and the realization of their land rights will be in light of the ongoing Mau forest evictions

RECOMMENDATIONS AND CONCLUSIONS

The findings from this assessment have indeed asserted that while the State of Kenya has made progressive steps in ensuring the promotion and protection of women's land rights, the situation will remain at a dismal level, if targeted and strategic efforts are abandoned in efforts that will seek to improve the discourse on women and land rights. A majority of the respondents that contributed to this assessment affirmed that indeed Kenya has the requisite measures in place (particularly from a legislative level) that would steer the country in a positive direction. At the same time, the respondents emphasized that a number of challenges would have to be addressed, if the country were to offer solutions that would remedy the situation at hand.

Promotion of Legal Based Approaches

As earlier alluded to, it is evident that at a national level, there are sufficient legal policies and frameworks in place that have sought to advocate for WLRs. The Constitution of Kenya 2010 in particular, has been hailed as an instrument from which other progressive legislative frameworks on WLRs have emanated.

The following summary of recommendations provided sum up the insights received by respondents on the topic of how legal based approaches can be further strengthened to ensure a better protection of land rights for Kenya's women.

- I. **A Review and Restructuring of current Legal frameworks-** The general feeling from most respondents was that Kenya has sufficient laws in place to advocate for WLRs. At the same time, it was also suggested by a section of the respondents that more efforts could be put in place to build on the current legal framework. For example, a significant portion of the respondents emphasized that there was a need to review the Matrimonial Property Act. At an inception level, it was stated that the Act was instrumental in granting women in Kenya many of their rights as far as property issues in the context of marriage is concerned. However, the respondents elaborated on the fact that this piece of legislation is still highly retrogressive, in light of the provision it makes for women to prove their contributed share of property in marriage. Many times this being tangibly difficult to assess and prove as contributions transcend property of a monetary value. A majority of the respondents as such, echoed the sentiment that such archaic provisions within the Kenyan legal framework ought to be reviewed and consequently revamped to reflect the current provisions of equality as set out in the Constitution of Kenya.
- II. **Building on the Culture of Litigation -** A section of the respondents made the case for the importance of taking interest and building on the culture of litigation. Litigation it was stated is vital in solving cases of an individual level. At the same time, it was stated that litigation is also an important mechanism in bringing awareness and realizing justice to all other cases of violations regarding WLRs through the practice of strategic litigation.

Using litigation, as mechanism would serve to educate, create awareness but also institute justice for many women whose rights have been violated. Respondents also spoke of the need to have accessible legal and justice systems, if litigation was to be widely accepted and widely used by those whose rights have been violated. The respondents spoke of the need to have accessible legal systems. Access here having a bearing on the “time” and “cost” implications that litigation often entails.

- III. **Utilizing Alternative Dispute Resolution Mechanisms** - Lastly, a section of the respondents made the recommendation that the State must take measures that would seek to recognize, document and implement women and land rights decisions that have emanated through decisions of Alternative Dispute Resolution (ADR) Mechanisms. This would assist in creating awareness of legal measures that can be taken, away from the conventional court processes. This measure would also serve as a gesture in backing decisions by ADR mechanisms, by reiterating that resolutions through ADR hold an equal measure.

Data and Information Based Approaches

Evidence from this assessment revealed that while calls could be made seeking for greater action in efforts on the ground to ensure the promotion of women's land rights, this would in fact be a futile effort if steps were not being taken to efficiently document gains and gaps on the ground. From the literature review and from the insights gathered the following were the recommendations made:

- I. **Actions must Complement Existing Information** - Respondents suggested that all actions being taken at all levels must be backed by existing data and information. It was suggested that data and information is the yardstick that would assess and guide the country in charting ways forward to the challenges at hand. Data and information would serve as the basis through which interventions on the ground would be made. Thirdly, data and information would serve as a useful means in educating beneficiaries (women) regarding their rights but it would also assist in evaluating entry points through which strategic interventions could be made to effect positive change on the subject of women and land rights. Having data and information of a credible and accessible nature was emphasized, as a useful tool in advocacy processes around the discourse on WLRs.
- II. **Localizing data and information** - The respondents made the claim that an effective advocacy method; in channeling information from centrally generated systems, should work towards localizing this same information. A section of the respondents suggested that a system ought to be employed where data and information around WLRs could be shared from a national level to a county level. This would ensure the dispersal of knowledge to all relevant stakeholders.
- III. **Digitization of Records** - A section of respondents suggested that the digitization of records would greatly assist in the reporting process. For one, digitization of records would enhance accessibility of existing data and information, thereby incentivizing efforts of partners working on WLRs in

contributing to the state reporting process.

Institutional and Structural Based Approaches

The evidence and information gathered from the assessment touched upon the need to ensure capacity development at an institutional level. It also spoke of the importance of technical support such as ensuring funding towards purposes geared towards the realization of WLRs. As such, the following recommendations were made:

- I. **Training of Technical Staff and Personnel** - Respondents acknowledged the need to ensure that technical staff and all personnel working on WLRs were well training on the substantive and procedural elements around the work and discourse on WLRs.
- II. **Having Strategic Plans around WLRs Efforts** - Within the mandates of organizations working on WLRs issues, a section of the respondents made a call for the need to have strategic plans and work plans that would ensure WLRs issues received the due attention deserved in organizational work plans. It was suggested that this would seek to avoid the dilution of WLRs as a thematic topic and area of focus, that is often has to compete against other organizational efforts, needs and priorities.

Outreach Based Interventions and Approaches

Within this subject, it was expressed by the respondents that tackling violations around WLRs should not be approached from a stand-alone perspective. Addressing violations on WLRs cannot be effectively addressed if actions were only taken by a single actor. A concerted, multi stakeholder effort was asserted to be the most feasible and effective way of addressing concerns around WLRs. The following is a summary of recommendations made:

- I. **Engaging in Public Campaigns** - A section of respondents stressed the need to engage in public campaigns around WLRs. This would help bring the topic of WLRs to the spotlight. It would also help in creating awareness and generating goodwill. Consequently, it would be a channel through which opportunities for stakeholder engagement could be harnessed.
- II. **Engaging Men in the Conversation** - Patriarchy perpetuated through negative cultural and social practices was cited by all respondents as one of the greatest challenge in affording Kenya's women their land rights. In providing solutions to this, many respondents emphasized the need to engage men and boys in efforts around sensitizing communities on the need to grant equal status and equal rights to women and girls. This could be realized through engaging in dialogues or by appointing male champions that could assist in sensitizing and educating on the importance of equality at the grass roots level.
- III. **Implementing Activities on WLRs through an Inter-sectional Approach** - While women are a marginalized group, the theory of inter-sectionality reveals that a section of women are subjected to double marginalization that is perpetuated based on intrinsic qualities women possess. Within the Kenyan context, it was identified that women with disabilities, older women,

widows, women from minority communities and young women, are often marginalized and excluded from processes that would grant them access to equal land rights. Acknowledging this discrepancy, respondents urged and firmly made a call for the inclusion of women from marginalized backgrounds in all issues that constitute their right to individually and collectively own land.

Stakeholder Based Approaches

- I. **Advocating for the Importance of Recognizing WLRs for all** - To begin with, while it was recognized that the ownership (or lack of ownership thereof) of land was not a new concept in the land rights discourse, a majority of the respondents expressed the fact that many persons and communities within the African context had failed to recognize the concept of land rights for women. While land rights is a sensitive discussion, lack of recognition of women's land rights overtly brings out the gendered aspect of land ownership. This lack of recognition of WLRs particularly brings to focus, the inferior status granted to women in land ownership processes. As a first step, the respondents highlighted the need of African countries as a block (from the regional level) to take a stance in promoting the recognition of land rights for women. This would result in a top down approach that would be instrumental in sensitizing and creating awareness on the importance of affording equal and full rights to Kenyan and African women.
- II. **Amplification of the Topic of WLRs** - The respondents made a call for the need of the African Union to amplify discussions around women and land rights at all levels. They asserted that this would create a chain process that would ensure that resolutions that are created at the regional level are translated to national processes and mechanisms.
- III. **Creation of Regional Networks** - The respondents stressed the need to create regional networks (Trans-border networks) that would fully be building on the efforts of existing regional networks. These networks would assist in documenting, sharing strategies and best practices that could strengthen efforts around WLRs.
- IV. **Strategically working in Partnerships** - While building of partnerships was regarded as a useful mechanism in advancing efforts around WLRs, the respondents stressed the importance of having partners contribute towards efforts at the inception of projects. This would ensure that a common goal and a common agenda would be well agreed upon at the inception of projects. They further stressed the fact that having partnerships right from inception would culminate in less duplication of work and efforts. It would also reduce the sense of competition amongst the various partners working on WLRs as they would all be involved in working towards the same objectives right from the inception. Such partnerships would also help in creating discussion around project deliverables, while subsequently allowing partners to devise follow up mechanisms in light of the common goals and objectives that would have been agreed upon.

- V. **Having intergenerational dialogues** - A section of the respondents expressed the need to have intergenerational dialogues. While the law makes the assertion that women must be entitled to just and fair processes in the division of land and land resources, many times the division of these resources is embedded within cultural customs. According to the respondents, intergenerational dialogues would provide an avenue through which wisdom on land and its processes could be shared between the older and younger generations. This would create an avenue for generations to discuss strategies that work or have failed to work in as far as land distribution is concerned.
- VI. **Using Regional Male Champions** - The respondent's spoke of the need to utilize regional male champions whole like their counterparts at the national level, could also play an instrumental role in advocating for WLRs in the Africa region.
- VII. **Directly Engaging Women** - A section of the respondents emphasized the need of having women take leading roles in generating the spoils from the oil, mining and extractives industry. Having women at the center stage would contribute symbolically in showing that indeed women can take the lead in matters on WLRs.

Approaches to Recurring Issues

- I. **Ensuring the Financing of Climate Change Activities** - A section of the respondents recommended that Government and other relevant actors should take steps to ensure the financing of climate change activities. It is women and children who often bear the brunt when catastrophes strike. It is therefore of importance that Government take the necessary steps within its plans to ensure that the effects of climate change are reversed. This is in light of the detrimental effects climate change has in affecting the survival and well being of women populations.
- II. **Pursuing Economic Empowerment**- Still on the point of climate change, a section of respondents suggested that it would be unwise to talk about adaptation and mitigation processes without talking about the economic empowerment of people (particularly the economic empowerment of women). The respondents recommended that Governments should take initial measures to curb those activities that would led to negative effects for the environments- through the economic empowerment of its people (women). The respondents suggested that ecological and economical solutions must be jointly adopted in addressing the land rights issues we are compounded with today.
- III. **Making use of Traditional Adjudication Systems** - On adjudicating issues on WLRs for indigenous persons, a section of respondents asserted that the council of elders ought to be utilized as a redress mechanism, suggesting that they would be in a better position to resolve land issues of at a rural level, especially those that touch upon the rights of indigenous women.

Category	Recommendation
Legal Based Recommendations	<ul style="list-style-type: none"> • Build on the culture of litigation, and make it accessible and affordable to all • Implement, Review the Law and Build on current Laws and Legislation • Implement and document ADR decisions
Data and Information Based Recommendations	<ul style="list-style-type: none"> • Actions on WLRs must Complement Existing Information • Localize Data and Information • Digitize Records
Institutional and Structural Based Recommendations	<ul style="list-style-type: none"> • Train Technical Staff and Personnel • Have Strategic Plans around WLRs Efforts
Outreach Based Interventions and Recommendations	<ul style="list-style-type: none"> • Engage in Public Campaigns • Engage Men in the Conversation • Implement Activities on WLRs through an Inter-sectional Approach
Stakeholder Based Recommendations	<ul style="list-style-type: none"> • Advocate for the Importance of Recognizing WLRs for all <ul style="list-style-type: none"> • Amplify the Topic of WLRs • Create Regional Networks • Strategically work in Partnerships • Have Intergenerational Dialogues • Use Regional Male Champions • Directly Engage Women
Recommendations to Emerging Issues	<ul style="list-style-type: none"> • Ensure the Financing of Climate Change Activities • Pursue Economic Empowerment • Make use of Non-Conventional Adjudication Systems

Recommendations with regards to the achievement of women land rights

Concluding Remarks

While recommendations based on the scope of respondents work were offered, the process was concluded by seeking to receive insights from respondents that were not necessarily captured in the themes focused upon in the course of this assessment. An overview of the sentiments received:

- I. Expressed delight and happiness for being involved in such a project and initiative. One respondent expressed gratitude to the Oxfam Pan Africa Project and FIDA Kenya for endeavoring on such an initiative. This respondent remarked that they have previously never been involved in a conversation around women and land rights. They hoped that whatever insights would be generated from this assessment would be shared with policy makers, thereby shaping the interventions made as regards WLRs.
- II. Another respondent suggested that it is their hope that the findings from this assessment would be used for implementation purposes. This information, she asserted, could perhaps be utilized to influence a bill on WLRs. The respondent urged the two entities involved in commissioning this study, to thereby act accordingly in light of the comments they have received from this assessment. Still on the matter of implementation, one respondent asserted that the Ogiek's decision of the African Commission is yet to be enforced at a local level. The necessary steps must therefore be taken to ensure that the court is not left lagging behind in the enforcement of WLRs for indigenous persons.
- III. A common concluding sentiment by all respondents was, WLRs should receive the attention it deserves. Public campaigns as earlier alluded to should be utilized in generating goodwill and support around the topic of WLRs, as creating awareness would enable all stakeholders to know how best to contribute to advancing WLRs.

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Appendices

Guiding Questions for Key Informants

Government Entities Sample

PARTNER QUESTIONNAIRE

General information

Name of contact person:.....

Address of organization:.....

Email Address of contact person:.....

Status of organization (NGO, Governmental entity etc.):.....

Primary mission and objective of organization?.....

Number of years in existence?.....

Is the organization in existence pursuant to legislation? If yes kindly elaborate.

Assessment Questions

1. What methodology does (Name of Entity) utilize as a government entity in advocating for women's land rights?
2. Are there any challenges you have faced as an organization, in the inclusion of men (in your mission to realize women's empowerment, particularly in the realization of WLRs). Kindly elaborate.
3. As a government entity, what would you say are the most pressing themes as far as women and land rights is concerned?
4. In your perspective has the Government of Kenya made progressive steps in affording women their land rights? Do they need to be held accountable?
5. From your assessment as a government entity, would you comment on the progressive steps (your entity) is taking to ensure that women are afforded their land rights? (Is this a stand-alone approach or other partners/ agents involved? Can you elaborate on any projects the government of Kenya generally is pursuing to ensure WLRs (projects, initiatives etc.)
6. Can you kindly give a suggestion of what can be done to ensure better synergies of partners in reporting on WLRs?
7. What laws or legislations and or policy (ies) are progressive in enhancing women's land rights, according to your experience on the ground and on general knowledge having worked on WLRs?

8. From both your organizational and individual perspective, what laws or pieces of legislation need to be reviewed in order to effectively afford women their land rights?
9. Are you conversant with the African Commission on Human rights report, taking note of the WLRs recommendations that were made in the last two reporting cycles? In your perspective, has Kenya complied with the recommendations that they were given by the Commission?
10. Given your assessment of local complaint mechanisms, would you say that local systems have been sufficient in addressing the violations that Kenyan women face in the pursuit of their land rights? The Endorois had to seek justice, at a regional level (African commission on human and people's rights). What does this say about local complaint systems? Would you kindly elaborate?
11. Have you instituted any cases on behalf of women in a bid to enhance their land rights?
12. What interventions have been done from (name of entity) to ensure that minority women are enjoying their WLRs (indigenous women, IDPs, young women, women that are living with disabilities)
13. Customary practices of male superiority especially in the owning of land are deep rooted at grass roots level. Are there any steps you have taken in ensuring better protection of WLR to ensure that women are not subjected to the customary practice of being subjected to the superior right of male family members? If yes, please elaborate.
14. What are your recommendations in regards to the achievement of women land rights?
15. What suggestions would you give to ensure that there is more stakeholder involvement at a national and regional level, in efforts seeking to protect and promote women and land rights?
16. In your assessment what is the linkage between WLRs, Kenya's vision 2030 and the Sustainable Development Goals? Kindly elaborate.
17. What do you think the implications for women and the realization of their land rights will be in light of the ongoing Mau forest evictions.
18. Any concluding remarks, thoughts, or observations you would like to share in light of the session we have just had?

-----THANK YOU-----

Non-Governmental Organizations Sample

PARTNER QUESTIONNAIRE

General information

Name of contact person:.....

Address of organization:.....

Email Address of contact person:.....

Status of organization (NGO, Governmental entity etc.):.....

Primary mission and objective of organization?.....

Number of years in existence?.....

Is the organization in existence pursuant to legislation? If yes kindly elaborate.

.....

Assessment Questions

1. What methodology does (Name of Entity) utilize as a government entity in advocating for women's land rights?
2. Are there any challenges you have faced as an organization, in the inclusion of men (in your mission to realize women's empowerment, particularly in the realization of WLRs). Kindly elaborate.
3. How does advocating for environmental and climate justice help in the achievement of women's land Rights? Kindly provide a nexus on this.
4. In your perspective has the Government of Kenya made progressive steps in affording women their land rights? Do they need to be held accountable?
5. From your assessment, would you comment on the progressive steps (your entity) is taking to ensure that women are afforded their land rights? (Is this a stand-alone approach or other partners/ agents involved? Can you elaborate on any projects the government of Kenya generally is pursuing to ensure WLRs (projects, initiatives etc.)
6. Based on your equitable use principle, do women enjoy the benefits of natural resources in an equal proportion to men? Do your target beneficiaries (communities) understand or have knowledge that women also have a share to such benefits?
7. What laws or legislations and or policy (ies) are progressive in enhancing women's land rights, according to your experience on the ground and on general knowledge having worked on WLRs?

8. From both your organizational and individual perspective, what laws or pieces of legislation need to be reviewed in order to effectively afford women their land rights?
9. Are you conversant with the African Commission on Human rights report, taking note of the WLRs recommendations that were made in the last two reporting cycles? In your perspective, has Kenya complied with the recommendations that they were given by the Commission?
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-----THANK YOU-----



Amboseli Road, off Gitanga Rd., Lavington, Nairobi, Kenya
P.O. Box 46324-000100 Nairobi, Kenya • Mobile: 0722 509760
Email: info@fidakenya.org

KISUMU OFFICE: Off Awuor Otiende Road, Milimani Estate, Kisumu
P.O Box 19219-40123 Kisumu Tel: 0724 256658
Email: ajkisumu@fidakenya.org

MOMBASA OFFICE: Off Links Road, 3rd street behind Links plaza (behind Riyadh towers) - Nyali
P.O. Box 80687 - 8010 Mombasa Mobile: 0724 256659
Email: ajmombasa@fidakenya.org

 www.fidakenya.org

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