

Men and women's participation in resolution of land based conflicts in Mt. Elgon Region, Kenya

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Summary

In Kenya, the land system is defined by the Kenyan Constitution (2010), the Land Registration Act and the Land Act. Land is classified to public land, community land and private land. Community land is held by communities on the basis of ethnicity, culture, or similar community interest. The Mt. Elgon region in Bungoma County, western Kenya, which was the focal point of this thesis provides a unique view of how this evolution of law and policy has been reviewed and implemented in a rural agro-area where many still cling to gender and social cultural norms; thus, providing the parameters for the study to assess the effectiveness of the implementation of these rights in light of the role women play. With the promulgation of the Constitution of Kenya (2010), the country has undergone significant policy and legislative changes aimed at providing an equal footing for men and women in the access, use and ownership of land. It is against this background that the research was carried out to assess the gender policies and laws, gender empowerment programs on women's access to property rights and participation in the resolution of land based conflicts in the Mt. Elgon region. This summary provides a snapshot of five key questions undertaken to respond to the overall objective and remedies to challenges facing gender equality in the Mt. Elgon region, in Bungoma County, Kenya.

The study revealed that Kenya has gone a long way in ratifying international and regional gender equality frameworks and adopting national policies to advance gender equality across the country system. The thesis established that despite the increasing involvement of women in the resolution of land based conflicts, their participation remained skewed to male advantage. Women were still relegated to lower positions of decision making. They neither participate in conflict resolution on equal footing with men nor do they have equal power of decision making as men. Harmful traditional beliefs and cultural practices continue to influence the role gender plays in the access women and men have to land use and property rights and the resolution of their related conflicts.

The findings revealed that despite the existence of gender policies and laws at both national and county levels, gender equality still has a long way to go in the Mt. Elgon region. The adoption of such policies and laws is yet to yield the expected results as enforcement is lacking. Furthermore, at the community level long standing gender and social norms and beliefs impede women's agency to take an active voice and role in demanding their rights to contribute to discourses on their access to, use of, property rights over, and ownership of land. Inadequate technical capacity and lack of a strong political goodwill coupled with insufficient operational budget as well as lack of staffing largely contribute to ineffectiveness of gender policies and laws in Kenya. Therefore, the level of success experienced depends on enforcing these policies and laws towards ushering communities into embracing gender justice, in the place of harmful traditional practices that are skewed towards gender discrimination. While the community in the Mt. Elgon region acknowledges the importance and relevance of programs, the thesis findings revealed that from the perspective of the resolution of land based conflicts at the clan level, gender empowerment programs are yet to achieve gender equality, as women participation is still minimal. In fact, the clan system is still male dominated even though in a few cases women are given an opportunity give their opinions. In the cultural context of the Mt. Elgon region, this in itself is an important step towards a paradigm shift for women to be active contributors and participants in the resolution of land based conflicts.

The findings revealed a need to adopt a holistic approach that would entail a combination of different strategies in order to achieve favourable outcomes. These include parliament adopting the two-thirds gender rule and supporting its full implementation by government agencies at national, county and sub-county level, the need for continued commitment by the Ministry of Gender to ensure that there is continuous gender mainstreaming across the country in general and Mt. Elgon in particular. Moreover, there is a need for the Government to empower both

men, women and the local community in general on crosscutting issues including conflict resolution mechanisms, gender issues and educate the community on the need to put an end to long standing cultural practices. Besides, government should spearhead the setting up of county peace committees that are gender inclusive to enhance gender sensitization and awareness.

Finally, as portrayed in Chapter six, the researcher sought to understand the roles of both formal and informal mechanisms in resolving land conflicts in Kenya. In other words, the research in depth looked at the merits of such systems, and their shortcomings before providing necessary recommendations that bridge the gap toward quick and sustainable resolution of land conflicts. The thesis revealed that the Kenya justice system is a pluralistic judicial operative that recognizes the coexistence of alternative dispute resolution and alternative justice systems within and alongside the formal justice system. ADR mechanisms offer different advantages compared to the formal court system, including effective and efficient use of resources such as time and money. They reduce the time taken to resolve disputes, particularly in tribunals and traditional and alternative justice systems. Further, they diminish the backlog of cases experienced by the courts. The findings confirmed that the adoption of these two systems of justice in Kenya like in many other countries offers a symbiotic relationship and equitable value of both justice systems.

To conclude, achieving gender equality passes through the adoption of laws, policies, and legal frameworks on one hand and full implementation of the same supported by the political will to do so on the other hand. Whether in Kenya or across the globe, both formal and informal education is critical to empower women so that they can take the centre stage toward gender equality.