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A POLICY PAPER ON LAND RIGHTS TO WOMEN IN TANZANIA “ARDHI YANGU, MAISHA YANGU”

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INTRODUCTION

Land is often considered the most essential asset in rural areas because it is the foundation for agricultural production. Several studies indicate that strengthening property rights for women provides benefits, not just in terms of equity but also in potential efficiency (Moyo, 2017; Urassa, 2022; Genicot & Hernandez-de-Benito, 2022). However, despite being heavily involved in agricultural production, women in most of Sub-Saharan Africa own little land¹. The paper studies the extent of women's land rights in rural Tanzania and how patrilineal norms affect them. The report uses a unique dataset (Village Institutions and Land Rights in Tanzania, VILART) to study women's land property rights and village institutions in 45 villages distributed evenly across three regions in Tanzania (Katavi, Kigoma and Mwanza). A sample of 912 respondents was randomly chosen across all villages.

International Property Right Index (IPRI) score for Tanzania is 4.58 out of 10, and the SIGI value is 43.6 %out of 100. This indicates that the country has not reached 50% of global and coun-

try gender indices. Moreover, the IPRI ranking shows that Tanzania ranks 79th in IPRI rankings out of 129 countries; this suggests that gender inequality still exists where inequality is seen in violence against women, access to agriculture and home ownership, female genital mutilation practices and inequality when deciding to enter marriages. Therefore, despite legal reforms in the country, gender inequality persists. Women's collective action and empowerment initiatives have emerged as powerful catalysts for change in Africa and the world. Grassroots organisations, women's rights movements, and civil society efforts have raised awareness, built networks, and advocated for policy reforms to advance women's land rights. Additionally, enforcing women's rights to avert any possibility of dispossession is also being pursued.

It is argued in this paper that the legal reforms and the current legal structures that guarantee the protection of land rights to women and other disadvantaged minorities are inadequate mechanisms to achieve the same

¹Genicot, G. & Hernandez-de-Benito, M. (2022). Women's land rights and village institutions in Tanzania. *World Development*, 153(105811), 1-31.



because active government engagement of civil society and communities are not explicitly ingrained in the land laws; and where it is, there are grey areas on whose responsibility it is. The laws presume that women and society are capable and well-empowered in advocacy skills, literacy, finance and courage to fight for their rights, which is not the case. The policy response is highly needed along this dimension. Such responses could involve promoting women's leadership, providing legal literacy, and strengthening women's participation in decision-making processes. These are crucial for sustained progress towards attaining equal rights to land ownership across the globe. Advocacy efforts and further research are needed to interrogate the contemporary matters regarding women, and their empowerment in political and economic spheres to enable them to acquire the necessary financial muscle to own land for their development.

Addressing women's land rights in Tanzania requires a comprehensive approach involv-

ing legal reforms coupled with policy-initiated awareness campaigns, capacity building, and active involvement of civil society organisations. Additionally, providing education and training opportunities and promoting women's leadership in land governance are crucial steps towards achieving gender equality on land matters in Tanzania. The existing structures that require women's presence in various decision-making organs from the village level to the national level do not ensure that women's and other marginalised groups' issues are taken aboard. Explicitly requiring all decision-making organs to overtly discuss women and minority land rights for the validity of any decision should be ingrained in Tanzania's land laws. Therefore, this paper draws some experience from both developed and developing countries to identify a women's land rights policy gap in Tanzania's legal framework. Through previous research works, it is sought that countries with such policy gaps can effectively bridge through dedicated government engagement with civil society and the community at large.

METHODOLOGY

This study is desktop research that has reviewed the current legal framework in Tanzania regarding women's access to land. Research works in Tanzania and outside Tanzania have also been utilised to ground the study on gender issues. Document reviews have been used to understand (1) women's property rights and their purpose in the economic development of Tanzania, (2) the local laws guiding property ownership, (3) guidelines and regulations on the same, and (4) studies and research on property ownership among women in Tanzania. Key documents reviewed include the 2022 Economic Freedom Report and Property Rights Report, The National Land Policy 1995, The Land Act No. 4 and Village Land Act No. 5 of 1999, Village Land (Regulation) Act 2001, Guidelines for Participatory Village Land Use Management in Tanzania (1998), Guidelines for Adjudication of Village Land, Land Acquisition Act 1967, Local Government (Urban Authority) Act 1982, The Land (Conditions of Rights of Occupancy) Regulations 2001, and the Marriage Act. Different research papers on "Property Rights of Women in Tanzania" and abroad were also covered.

Table 1 provides a summary of the research approach where the different documents were

reviewed. The main assumption is that at the apex, the Constitution of the land must recognise the equality of men and women in access to land and that women's rights are well enshrined as human rights. After that, every law or policy must adhere to the tone set by the Constitution. For each document, Table 1 provides the expectations regarding a gender-sensitive legal framework on the land matter. Local and ratified laws were assessed based on the criteria stipulated in Table One to identify the legal framework gap.

National land policy and international law provide a framework for addressing women's rights in national laws. As such, they should declare, stipulate, guarantee, prioritise, or assign responsibility to different organs of the country. Below are the various implementation laws, including those directly related to land matters and associated regulations asserting women's rights in other areas related to land access and control. At the lowest level are operational guidelines and procedures, often in the form of regulation, which need to implement and monitor the law's implementation. This hierarchy is expected to be observed in the legal framework, and when missing, there is a policy gap that requires policy response.

POLICY DOCUMENTS	WOMEN'S LAND RIGHTS ISSUE						DISPOSITION
	CUSTOMARY LAWS	RIGHT TO OWN LAND	DISPOSSESSION	INHERITANCE	WOMEN DECISION MAKING	CO-OCCUPANCY ²	
THE SUPREME LAW	Asserts Non-discriminatory	Asserts Universality	Asserts Prompt, adequate and fair	Asserts Non-discrimination	Declares women to be part of any decision-making body	Recognise equality of rights among occupants	Affirm the right to dispose of the rightful owner
RATIFIED INTERNATIONAL LAWS	Declare the relevancy of	Declare equal access to land	Declare application of international standards	Stipulate equal opportunities	Require women's inclusion in decision bodies	Stipulate the rights of co-occupants	Require the implementation of all rights
NATIONAL POLICY ON LAND AND RELATED MATTERS	Assign responsibility to monitor customary laws	Prioritise gender equality to access land	Devise mechanisms to ensure it is prompt, adequate and fair	Guarantee equal opportunity in inheriting land	Assign responsibility to raise gender issues in decision bodies	Assign respective rights among occupants	Assign respective rights among parties to any disposition
LAND ADJUDICATION LAWS	Adjudicate customary rights based on non-discriminatory customs	Adjudicate ownership rights	Resolve conflict during compulsory acquisition	Resolve conflict during inheritance	Observe the composition and inclusion of all gender in adjudication committees	Observe co-occupancy rights during adjudication	Observe disposition rights during adjudication
JUDICIAL PROCEEDINGS LAWS	Ignore discriminatory customs	The rule in favour of rightful holders regardless of gender	Resolve compensation disputes fairly	Resolve inheritance disputes fairly	Uphold the validity of the composition of decision-making organs	Resolve co-occupancy disputes fairly	Resolve disposition disputes fairly
LAND REGISTRATION LAWS	Enforce the application of relevant customs	Allocate land in non-discriminatory manner	Compensate rightful holder fairly, promptly and adequately	Monitor actors on implementation of inheritance laws	Monitor active participation	Register all the rightful holders	Register rightful dispositions accordingly
APPLICATION OF FOREIGN LAWS	NA	Allow in case of gaps in land ownership laws	Allow in case of gaps in land disposition laws	Allow in case of gaps in land inheritance laws	Allow in case of gaps in women participation on land matters in local laws	Allow in case of gaps in co-occupancy laws	Allow in case of gaps in land disposition laws

Table 1: Analytical Framework

²Section 159 (1) states that co-occupancy means the occupation of land held for a right of occupancy or a lease by two or more undivided shares and may be either joint occupancy or occupancy in common.

CONCERNS ON GENDER AND LAND RIGHTS

Land rights are an overlapping “bundle” of rights rather than complete and exclusive ownership, including resource control (FAO, 2002; Meinzen-Dick & Pradhan, 2002). Many combinations of such rights can broadly be grouped into three types: the right to use, control, and transfer property. It includes exclusive possession of the property, the right to manage the property, the right to income emanating from the property, the right to capital, i.e. the power to alienate, consume or destroy the property, and the right to security (Honore, 1961). Gender issues include differences in socially constructed roles, opportunities associated with being a man or a woman, and interactions with social relations between men and women. Gender determines what is expected, permitted and valued in a woman or a man in a determined context. Equal gender rights are now regarded as human rights. Gender differentiation and disparities, however, have existed for a very long time in many societies and are observed when women often face discrimination in formal, customary and informal systems of property rights. This section draws some experience from Latin America, Africa, Asia and Europe on land rights for women to inform policy actions or responses required in Tanzania. This contextual analysis aims to explore the key factors influencing women’s land rights in different countries, thus, highlighting the implications of these challenges

on gender equality and development in those countries and Tanzania.

A CONTEXTUAL ANALYSIS OF WOMEN'S LAND RIGHTS OUTSIDE AFRICA

Women’s rights are a concern not only to developing countries of Africa but also to many other countries of the global south. Historical factors have significantly shaped women’s land rights in developing countries of the global south—colonial legacies and feudal systems in the past marginalised women’s land access, perpetuating persistent disparities. Additionally, partition-related displacement and migration have disrupted women’s land ownership and created barriers to their rightful inheritance. In Latin American countries, the government response to gender disparities in countries such as Bolivia, Colombia, Nicaragua, Mexico, and Brazil has been legal reforms and plans at the national level to address land tenure and access rights for women in rural and indigenous territories³. However, the successes and failures of women’s ownership and access rights differ within and across countries and among indigenous and rural groups. Although progress has been made in recognising women’s land rights in South American countries, legal frameworks often fail to provide adequate protection and enforcement mechanisms. Laws that grant

³P. Bose et al. (2017). Women’s rights to land and communal forest tenure: A way forward for research and policy agenda in Latin America. *Women’s Studies International Forum* 65 (2017) 53–59.

equal land rights are frequently undermined by deeply entrenched cultural norms and discriminatory practices. Additionally, the lack of effective implementation and awareness of existing laws further hinders women's ability to assert their land rights.

Deep ingrained patriarchal norms influence South American societies, which perpetuate gender-based discrimination. Traditional gender roles, reinforced by cultural practices, limit women's participation in decision-making processes related to land ownership and management. Social stigma, lack of education, and limited access to resources also restrict women's agency in asserting their land rights. Similarly, indigenous communities have a common and sometimes valid fear of additional stigmatisation⁴. Indigenous women in South America face compounded challenges due to their marginalised status within gender and ethnic hierarchies. The struggle for indigenous land rights intersects with women's land rights, as these women often face dual forms of discrimination. Their exclusion from decision-making processes and limited resource access further perpetuate their socio-economic disadvantage.

A similar women's land rights situation has been observed in Asian countries such as India and Pakistan, where complex socio-cultural and legal dynamics have persisted for a long time. The patriarchal norms prevalent in both countries, historical factors, and discriminatory laws have contributed to the marginalisation of women in terms of land ownership and access.

Traditional standards dictate that men are the primary landowners and decision-makers, while women's roles are often limited to domestic spheres. These societal expectations, coupled with stereotypes and gender roles, restrict women's agency and hinder their ability to assert their land rights. In India, women have the legal right to own and inherit land⁵. Still, cultural and social norms, caste, region, and discriminatory practices often limit women's access to land.

In India and Pakistan, progress in recognising women's land rights through legal reforms has been notable. However, challenges remain in the implementation and enforcement of these laws. Evidence suggests that inheritance laws often favour male heirs, and customary practices continue to override legal provisions, leading to the exclusion of women from land ownership. In many cases, male primogeniture or patrilineal inheritance systems prevail, excluding women from inheriting or claiming land. In some cases, legal frameworks designed to protect women's land rights are poorly understood or inadequately enforced, further exacerbating the issue. Similarly, customary practices and social pressure often discourage women from asserting their rights, perpetuating gender disparities in land ownership.

Women in India and Pakistan who assert their land rights often face violence, harassment, and social stigma. Female landowners and those attempting to challenge traditional power structures are vulnerable to intimidation and threats from influential interest groups. Such violence and discrimination deter women from actively

⁴Rauna Kuokkanen (2015) Gendered Violence and Politics in Indigenous Communities, *International Feminist Journal of Politics*, 17:2, 271-288, DOI: 10.1080/14616742.2014.901816.

⁵Agarwal, B. (2018). Does women's land ownership promote their empowerment? Empirical evidence from India. *Land Economics*, 94(4), 469-488.

participating in land-related matters and hinder their progress towards achieving equality⁶. The silencing and dismissal of gendered violence can be attributed to various factors, ranging from the internalisation and acceptance of patriarchal and colonial norms to the fear of further stigmatising indigenous peoples⁷. When individuals internalise and adopt patriarchal and colonial standards, women are often viewed as secondary citizens, and their suffering is considered less significant compared to family ties, reputation, and honour⁸. The issue is compounded by the fact that these colonial norms are sometimes ingrained as indigenous traditions and are used against female victims of violence in the name of culture⁹. This includes victim-blaming, shaming, demands for cultural authenticity, and disciplinary actions.

Taking Scandinavian countries, including Denmark, Norway, Sweden, Finland, and Iceland, as a case for developed economies, it is well known that these countries have progressed in social policies and gender equality and have made notable advancements in women's land rights. Their legal frameworks generally promote gender-neutral land ownership rights, guaranteeing equal access to land for women. Land laws and inheritance regulations have undergone significant reforms to

eliminate gender-based discrimination, ensuring women's rights to own, inherit, and manage land on par with men. Access to resources and education have played a crucial role in women's land rights, where equal access to education has further empowered women to assert their land rights more effectively¹⁰.

While Scandinavian societies have made significant progress in dismantling traditional gender norms, cultural factors influence women's land rights¹¹. Deeply ingrained stereotypes, such as the notion of women as primary caregivers, can still result in women having less land access than men¹². A persistent gender pay gap also poses challenges for women's land rights¹³. Lower wages and income disparities can affect women's abilities to afford and acquire land. The economic implications of the gender pay gap can limit women's opportunities for investment in land, constraining their long-term financial security and economic empowerment¹⁴. Furthermore, traditional expectations of women as caregivers and homemakers can spare their time and resources to engage in land-related activities. Balancing work, family responsibilities and land management can pose additional challenges for women, affecting their active participation in land decision-making.

⁶Rauna Kuokkanen (2015) Gendered Violence and Politics in Indigenous Communities, *International Feminist Journal of Politics*, 17:2, 271-288, DOI: 10.1080/14616742.2014.901816.

⁷*Ibid.*

⁸*Ibid.*

⁹*Ibid.*

¹⁰Hansen, K.V., Osterud, G., & Grim, V. (2018). "Land Was One of the Greatest Gifts": Women's Landownership in Dakota Indian, Immigrant Scandinavian, and African American Communities. *Great Plains Quarterly* 38(3), 251-272. [doi:10.1353/gpq.2018.0041](https://doi.org/10.1353/gpq.2018.0041).

¹¹Hansen, K.V., Osterud, G., & Grim, V. (2018). "Land Was One of the Greatest Gifts": Women's Landownership in Dakota Indian, Immigrant Scandinavian, and African American Communities. *Great Plains Quarterly* 38(3), 251-272. [doi:10.1353/gpq.2018.0041](https://doi.org/10.1353/gpq.2018.0041).

¹²*Ibid.*

¹³Christofides, L. N., Polycarpou, A., & Vrachimis, K. (2013). Gender wage gaps, 'sticky floors' and 'glass ceilings' in Europe. *Labour Economics*, 21, 86-102.

¹⁴*Ibid.*

Although access to education has significantly improved access to land by women in Scandinavian countries, women from marginalised communities, including immigrants and indigenous populations, still face additional barriers due to language, cultural differences, and limited access to resources, thus hindering their ability to exercise their land rights.

Scandinavian countries have made significant progress in women's political representation and participation¹⁵. Having a higher number of women in political decision-making positions has had a positive impact on women's land rights¹⁶. Models at various levels of governance ensures that women's perspectives and concerns are adequately addressed in land-related policies and decision-making processes. Although such participation only is not necessarily effective in elucidating women's and gender issues. Empowerment and support systems are critical in advancing women's land rights. Scandinavian countries have established robust social welfare systems, providing financial assistance, training, and networking opportunities for women in land-related activities. Access to credit, mentorship programs, and entrepreneurship support can contribute to women's successful land ownership and management.

AFRICAN CONTEXT OF WOMEN'S LAND RIGHTS

Women's land rights in Africa have been a subject of ongoing concern due to deeply rooted socio-cultural norms, discriminatory

practices, and legal gaps. Land, a critical resource for livelihoods and socio-economic development, remains largely inaccessible to women across the continent. Weak governance structures and institutional barriers contribute to the marginalisation of women in land ownership. Limited access to justice, corruption, and bureaucratic hurdles hinder women asserting their land rights and seeking redress for violations. Additionally, the lack of gender-sensitive land administration systems and insufficient gender-disaggregated data further obstruct progress towards gender equality in land tenure. Customary land tenure systems prevalent in many African countries often disadvantage women. These systems are often rooted in patriarchal norms and grant land rights based on patrilineal inheritance, excluding women from land ownership. Customary practices, such as male primogeniture, limit women's ability to inherit or claim land, perpetuating gender disparities in access and control.

Customary land tenure is a foundation of land ownership in rural areas of sub-Saharan countries and most developing countries. According to (Urassa, 2022), Africa contains approximately 3 billion hectares of land, excluding water bodies. Customary land tenure covers 2.2 billion hectares supporting 650 million livelihoods of rural dwellers, which is expected to reach 1.3 billion by 2050¹⁷. Customary land tenure practices differ from one society to another but share some common characteristics. An essential element of typical tenure is the essence of customs and

¹⁵Hughes, M. M., & Paxton, P. (2018). The political representation of women over time. In *The Palgrave handbook of women's political rights* (pp. 33-51). London: Palgrave Macmillan UK.

¹⁶Odeny, M. (2013, April). Improving Access to Land and strengthening Women's land rights in Africa. In *Annual World Bank conference on land and poverty*, The World Bank, Washington, DC.



traditions of different communities governed by customary laws.

While many African countries have enacted laws to protect women's land rights, implementation and enforcement remain challenging. Men remain central heirs and holders of property rights in patrilineal communities under customary land tenure systems and in formalised property relations (statutory land system). However, many governments in African countries (Tanzania in the 1990s, Uganda, Malawi, Mali, South Africa, Zambia, Kenya, Rwanda and Mozambique) have carried out land law reforms—for example, Constitution, land policy, or land legislation—to address gender imbalances (Moyo, 2017). Inconsistencies between statutory and

customary laws and limited awareness and resources still undermine the effectiveness of any legal protections.

Furthermore, weak legal frameworks often fail to address discriminatory practices and provide adequate remedies for women whose land rights are violated. In Senegal, for instance, a quota of at least 10% is non-formally allocated, that is to say, outside any legislation, to women's groups in the Senegal River Valley¹⁸. The proviso is that the women must be in groups to benefit. It should be noted that enforcing a quota for women is a request from the African Union that advocates a rate of at least 30% but leaves each country free to adapt it as it sees fit¹⁹. Mali, for example, has passed a law setting a quota of

¹⁷Wily, L. (2017). Wily, L. (2017). Customary tenure:remaking property for the 21st century. In. In M. Graziadei., & L. Smith., *Comparative property law, Gobar perspective* (pp. 458-477). UK: Edward Elgar.

¹⁸IPAR (2020) Women's Access to Land in Senegal:Some Lessons from the Baseline Study. IDRC Grant/ Subvention du CRDI: 108695-001-Promotion of inclusive land governance to improve women's land rights in Senegal.

¹⁹*Ibid.*



15% for women, while in Senegal, land reform has remained silent on the issue²⁰.

Women's limited access to land has significant economic implications for their well-being and empowerment²¹. Land ownership is closely tied to income generation, food security, and access to credit and financial resources. Women's exclusion from land ownership restricts their economic opportunities, perpetuates poverty cycles, and hampers their ability to invest in sustainable agriculture and business ventures. In the face of climate change and increasing competition for land, women are particularly vulnerable to land dispossession. Land grabbing, large-scale investments, and resource extraction projects often displace communities,

disproportionately affecting women who rely on land for their livelihoods. Limited recognition of women's land rights exacerbates their vulnerability and marginalisation in these contexts.

Like other developing countries of Latin America and Asia, women advocating for their land rights in Africa face various forms of violence, including physical, verbal, and psychological abuse²². Cultural norms, traditional power structures, and unequal power dynamics contribute to the perpetuation of gender-based violence²³. Fear of reprisals, stigmatisation, and lack of institutional support often discourage women from asserting their land rights and participating in land-related decision-making processes²⁴.

²⁰*Ibid.*

²¹Odeny, M. (2013, April). Improving Access to Land and strengthening Women's land rights in Africa. In *Annual World Bank conference on land and poverty*, The World Bank, Washington, D.C.

²²*Ibid.*

²³*Ibid.*

²⁴*Ibid.*

THE TANZANIA LEGAL FRAMEWORK AND POLICY GAPS

Gender and land rights issues in Tanzania are well stipulated in the Constitution of the United Republic of Tanzania of 1977 as Amended from time to time: The National Land Policy of 1995, Land Act No 4 and 5 of 1999, Marriage Act 1971 (Cap 29), the Marriage Act of 1971, Local Customary Law, Magistrate Courts Act of 1984, the Restatement of Islamic Law Act of 1964, the Village Land Regulation of 2001 [GN 86], as well as different regulations and guidelines governing rural women's land rights. Local Customary Law is the system of law most criticised on inheritance issues. Most Customary Law is not documented, and their survival has to be substantiated. Local Customary Law to land and inheritance in Tanzania is governed by various legislations, including declarations such as the Judicature and Application of Laws Act RE of 2002 (JALA), the Probate Administration Act RE 2002, The Holy Quran, and the Local Customary Law Declaration Order No. 4 GN 436 of 1963 RE 2002 (LCL Order). Customary inheritance laws are relevant to natives of patrilineal societies, constituting 80% of Tanzania's communities (Moyo, 2017). Tanzania has also ratified several international instruments on gender.

RELEVANT INTERNATIONAL LAWS

The legal framework guiding land matters in Tanzania also constitutes international law. Tanzania ratified the Universal Declaration of Human Rights (UDHR) of 1948, which in Article 1 provides that all human beings are born free and equal in dignity and rights. Article 2 provides

that everyone is entitled to all the rights and freedoms outlined in this Declaration, without distinction of any kind, such as sexual orientation. Ratification resulted in the inclusion of human rights components in the Constitution of the United Republic of Tanzania of 1977, as Amended from time to time. Human rights are Constitutional rights in Tanzania, including rights to work, education, equality before the law, life, personal freedom, personal security, freedom of expression, freedom of religion, freedom of association and participation in public affairs.

On a similar note, the United Nations' Fourth Conference on Women in Beijing, 4-15th September 1995, states that human rights are women's rights and women's rights are human rights. Alternatively, Article 12 of the Constitution of the United Republic of Tanzania of 1977 states that; all human beings are born free and equal. Furthermore, Article 13(1) states that all people are equal before the law and are entitled, without discrimination, to protection and equality before the law.

International conventions on gender that are applicable in Tanzania are the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the African Charter of Human and Peoples' Rights (1981). Similarly, Tanzania ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979) in 1985, the Protocol to the African Charter on Human and Peoples' Rights on

the Rights of Women in Africa (Maputo Protocol), 2003, and the SADC Protocol on Gender Equality, 2008 (Duncan, 2014; MCDGC, 2012)²⁵. It has also ratified the African Protocol on the Rights of Women, which officially went into effect in 2005, an additional protocol to the African Charter of Human and Peoples' Rights²⁶.

Article 1 UDHR emphasises the rights of all individuals as they are freely born and equal in dignity and privileges. The rule to remove bias, entrenched in CEDAW and the African Protocol on the Rights of Women, operates in both public and private spheres, cutting across market, national and household land dealings. The African Charter on Human and Peoples' Rights declares in its preamble that "*Freedom, Equality, Justice and Dignity are indispensable goals for the attainment of the lawful ambitions of the African people.*" The Charter also insists on protecting women's rights from discriminatory practices in Article 18(3). Women's Rights Protocols is a significant move towards securing and uplifting women's rights in Africa. It is the first international law instrument to condemn violence against women, whether private or public²⁷. Women have the privilege to become heirs and possess property as provided in Articles 2 (elimination of discrimination); 6 (on marriage); 7 (separation, divorce and annulment of marriage); and 21 (right to inheritance). The African Protocol on Women's Rights further validates the rule of non-favouritism regarding land and food security under Article 19(c).

Moreover, Article 14 CEDAW corresponds to Article 19(c) of the African Protocol on the Rights of Women, requiring Member States to deal with particular hindrances identified by rural women.

²⁵(Chan, Kamugisha, Kesi, & Mavenjina, 2016, p. 13).

²⁶(Moyo, 2017, p. 67)

²⁷(Equality now 2011; Njoroge 2005)

²⁸(Chan, Kamugisha, Kesi, & Mavenjina, 2016, p. 13).

Article 16 CEDAW compels the parties to institute equal property rights for women concerning matrimony, separation and grief. Affirmative action measures promoted women's representation in decision-making positions in the public sector and Parliament at both national and local levels (Duncan, 2014; MCDGC, 2012) and developed a National Strategy for Gender Development in 2005 (MCDGC)²⁸.

STATUTORY PROVISION ON WOMEN'S LAND RIGHTS

Tanzania has made substantial progress in affirming its position concerning principles of good governance in the land sector. The enactment of various regulations and laws such as the twin Land Acts of 1999 (URT, 1999b; URT, 1999a), the Local Government (District Authorities) Act (URT, 1982b), the Courts Acts (URT, 2002) and other related laws alludes to this fact. These laws and regulations explicitly state their respective objectives and mandate land governance. Both the Land Act, No. 4 1999, and the Village Land Act, No. 5 1999, define three categories of land: general land, reserved land, and village land (Sulle, 2015). The occupancy rights can be granted on public and village land in terms of Certificate of Rights of Occupancy (CRO) and Certificate of Customary Rights of Occupancy (CCRO), respectively (Larsson, 2006). All urban areas fall under general land except those stipulated by laws as reserved or considered hazardous land. The same is governed by The Land Act No. 4 of 1999 and put under the control and jurisdiction of the commissioner for lands (URT (a) 1999). Several statutory provisions pertain to gender issues in the various laws in Tanzania, as summarised in Table 2.

POLICY DOCUMENTS	WOMEN'S LAND RIGHTS ISSUE					DISPOSITION
	CUSTOMARY LAWS	RIGHT TO OWN LAND	DISPOSSESSION	INHERITANCE	WOMEN DECISION MAKING	
CONSTITUTION OF THE UNITED REPUBLIC OF TANZANIA OF 1977		Article 24 (1) Every person is entitled to own property.	Article 24 (2) Without due process of the law for fair and adequate compensation (Restricted).	Article 24 (1) -ibid-	Article (66).b Women members of Parliament being not less than 30% of all the members by Article 78, based on the proportion of vote.	
THE NATIONAL LAND POLICY OF 1995	Para 4:2:5 Recognises discrimination against women. Para 2.1 Promote an equitable distribution of land and access to land by all citizens.	Para 4:2:6 Women are entitled to acquire land in their rights, including being allocated. Para 4.2.4 (i) All citizens shall have equal and equitable access to land.	Para 4.1.1 (i) d Total, fair and prompt compensation shall be paid when the land is acquired. Para 4.1.1 (i) c The rights and interests of citizens shall not be taken without due process of law.	Para 4.2.6 Customs that are not contrary to the Constitution and not repugnant to natural justice principles continue to apply. Matrimonial ownership of land is not subject to legislation.		

Table 2: Summary of Laws Related to Gender in Tanzania and the Policy Gap

²⁹Section 159 (1) states that co-occupancy means the occupation of land held for a right of occupancy or a lease by two or more undivided shares and may be either joint occupancy or occupancy in common.

POLICY DOCUMENTS	WOMEN'S LAND RIGHTS ISSUE					DISPOSITION	
	CUSTOMARY LAWS	RIGHT TO OWN LAND	DISPOSSESSION	INHERITANCE	WOMEN DECISION MAKING		CO-OCCUPANCY ²⁹
LAND ACT NO 4 OF 1999	<p>Sections 61 to 166</p> <p>Customary laws to guide dispositions of customary rights of occupancy.</p> <p>Section 115, -(1)</p> <p>The creation and operation of customary mortgages shall be in accordance with the customary law applicable to the land.</p>	<p>Section 3(2)</p> <p>Women's land rights receive the same treatment as those of men.</p> <p>Section 161 (1)</p> <p>Spouse's co-occupation land is jointly owned by presumption. Spouses may explicitly state in the certificate of title otherwise (own name or occupiers in common). Generally, registration is common.</p>	<p>Section 3 (1) (g)</p> <p>To pay total, fair and prompt compensation to any person whose right of occupancy or long-standing occupation or customary use of land is revoked or otherwise interferes with</p>	<p>Implied equal treatment in inheritance</p> <p>Implied equal treatment in matrimonial property.</p> <p>Section 159 (4)</p> <p>Joint occupancy inheritance is valid only to the surviving occupiers.</p>	<p>Implied equal treatment in decision making.</p> <p>Section 17</p> <p>National Land Advisory Council appointment of members (7-11 regard to ensuring a fair balance of men and women.</p>	<p>Implied equal treatment in co-occupancy.</p> <p>Section 159 (4)</p> <p>Joint occupancy disposition is valid only if done by ALL occupiers.</p> <p>Section 160 (1)</p> <p>Each co-occupier is entitled to receive a copy of the certificate of title of that right of occupancy.</p>	<p>Section 61(1-3)³⁰</p> <p>All dispositions except those under customary laws are subject to the Land Act.</p> <p>Section 112 (2-3)³¹</p> <p>A mortgage is subject to consent.</p> <p>Section 114 (1)</p> <p>All documents about a mortgage must be signed by spouses or spouses of the mortgagor living in that matrimonial home.</p> <p>Section 159 (4)</p> <p>Joint occupancy transfer inter vivo is valid only to the surviving occupiers.</p>

³⁰Disposition means any sale, mortgage, transfer, grant, exchange, lease, assignment, surrender, or disclaimer and includes the creation of an easement, a usufructuary right, or other servitude of any other interest in the right of occupancy or a lease. It also includes any other act by an occupier of a right of occupancy or a lease whereby his rights over that right of occupancy or a lease are affected and an agreement to undertake any dispositions.

³¹Section 112 (1) of the Land Act provides for the power of an occupier of land in creating mortgages (URT, 2004; URT, 1999).

POLICY DOCUMENTS	WOMEN'S LAND RIGHTS ISSUE					DISPOSITION
	CUSTOMARY LAWS	RIGHT TO OWN LAND	DISPOSSESSION	INHERITANCE	WOMEN DECISION MAKING	
VILLAGE LAND ACT NO 5 OF 1999	<p>Section 20 (2) Discriminatory practices not applicable.</p>	<p>Section 3 (2) -ibid- section 2 3(2) c Land allocation by the VLC has special regard in respect of the equality of all persons.</p> <p>Section 23(2)(c) and section 57(2) Equal treatment of women in the application of the customary right of occupancy by both the village council and the adjudication committee.</p> <p>Section 22(1) Divorced/ single women (not than two years) can apply for a customary right of occupancy.</p>	<p>Section 3 (1) h Allow dispossession with compensation but is silent on the distribution of the compensation between spouses or dependants of spouses.</p>	<p>Section 3(2) -ibid- The law is not explicit on inheritance.</p>	<p>Section 3(2) -ibid- Of the seven members of the Village Council, at least three must be female.</p> <p>Section 53 (2) Of the nine members of the village adjudication committee, four shall be women (quorum of 5. 2 must be women).</p>	<p>Section 33(1) (d) Village Council to consider women's rights when granting rights of disposition</p> <p>Section 35(1)(2). Surrender of customary rights that inflict women negatively not allowed</p> <p>Section 36. A spouse to have priority of re-granted or surrendering the customary right of occupancy.</p>

POLICY DOCUMENTS	WOMEN'S LAND RIGHTS ISSUE					DISPOSITION
	CUSTOMARY LAWS	RIGHT TO OWN LAND	DISPOSSESSION	INHERITANCE	WOMEN DECISION MAKING	
LAND ALLOCATION (ALLOCATION COMMITTEES) REGULATIONS 2001 ³²		Regulation 4 (e) Land allocation committees to allocate land by considering gender balance and marginalised groups.			Regulation 4 (A) (v) Land allocation committees to consist of two councillors, one of whom, is a woman.	
LAND DISPUTES SETTLEMENTS (COURTS) ACT OF 2002	Section 114 (2) (a) Customary laws applicable in the division of matrimonial assets during separation or divorce. Section 13(3) The Tribunal shall, in performing its function of mediation, have regard to any customary principles of mediation.				Section 5(1) Of the seven members of the Village Council, at least three must be female. Section 11 4 to 8 members of the Ward Tribunal, women should not be less than 3. Section 14-(1) The Tribunal shall, in all matters of mediation, consists of three members, at least one of whom shall be a woman.	

³²Made under sections 12 and 179 of the Land Act No 4.

POLICY DOCUMENTS	WOMEN'S LAND RIGHTS ISSUE					DISPOSITION
	CUSTOMARY LAWS	RIGHT TO OWN LAND	DISPOSSESSION	INHERITANCE	WOMEN DECISION MAKING	
MARRIAGE ACT OF 1971	<p>Section 114 (2) (a) Customary laws applicable in the division of matrimonial assets during separation or divorce.</p>	<p>Section 56 Married women can acquire, hold and dispose of property, and shall have the right to sue and the same liability to be sued in contract, tort or otherwise.</p> <p>Section 57 Wives to one husband enjoy equal rights, are subject to similar liabilities and have equal legal status.</p>	<p>Section 114 (1-3) The power of the court to order the division of matrimonial assets (restricts dispossession).</p>	<p>Section 68 Forced marriage of widows terminated.</p>	<p>Section 103 (1) Every Marriage Conciliation Board shall consist of a Chairman and not less than two and not more than five other members.</p> <p>Section 102-104 The law is silent on women's representation in Marriage Conciliation Boards.</p>	<p>Section 60 (b) Jointly registered property presumed to have equal interest between spouses (rebuttable).</p> <p>Section 56 Women spouses can also have the right to dispose of property like men.</p> <p>Section 59 Disposition without the spouse's consent is restricted.</p>
THE MAGISTRATES COURTS ACT NO. 2 OF 1984	<p>Section 18 (2) Recognises the applicability of customary law during the administration, distribution or succession of the estate (restricts the applicability of Islamic law in primary court).</p>					

APPLICABLE CUSTOMARY LAWS IN TANZANIA

Customary laws to land are widely used in rural areas where customary tenure operates and most Tanzanians are located. The practices differ between patrilineal and matrilineal societies, respectively. The customary land laws are relatively stronger in patrilineal societies than in matrilineal societies³³. The customary tenure system uses traditional norms in exercising access and administration of land. It consists of standards, rules, taboos and enforcement procedures vested in identified customary authority such as traditional chiefs and elders (e.g., in Ghana, Zambia, and Malawi) or elected Vice Chairs (VCs) in the case of Tanzania³⁴. Customary land tenure systems are indigenous, not imported from other countries, and are rooted and maintained at the community level, neither occurring nor provided through government means such as statutes or statutory land tenure³⁵. They are unrecorded laws and based on localised systems and rules; they are both regional and inter-ethnic and provide differentiated entitlements of access to different social groups based on social status such as age, gender and other aspects³⁶.

LOCAL CUSTOMARY LAW DECLARATION ORDER NO. 4³⁷

The Local Customary Law Declaration (LCLD) Order of 1963 was an endeavour to codify customs and practices of patrilineal commu-

nities to consider individual matters in areas such as inheritance in mainland Tanzania. The LCLD Order concerns patrilineal ethnic groups, which rules were not mandatory because they depended on adoption by the relevant District Councils. The authorities are applicable only to patrilineal communities, as matrilineal communities in mainland Tanzania are excluded. Matrilineal societies are exempted from these rules as customary law in such communities needs approval before the court as a question of fact (James & Fimbo, 1973). After that, most District Councils adopted the rules with very few modifications.

The Government Notice (GN 436) allows male sons to inherit, but rarely is an elder daughter allowed to inherit clan land without male relatives. Inheritance of estate has three ranks: the first rank is for the first son who receives a bigger share than the other, the second rank is for other sons, and the third rank is for daughters. Also, the mode of inheritance varies with age, with older people getting more than younger ones. A widows has the right to choose any relative of her deceased husband to re-marry, which determines the residence status. Customary laws not only forbid women from inheriting clan land but also restrict them from administering the estate, where the administrator is chosen from the husband's clan as provided in the second schedule of the Government Notice GN 436. Uniform customary law procedures are outlined in Section 12 of JALA (see below).

³³(Moyo, 2017; Grigsby, 2004)

³⁴(Moyo, 2017)

³⁵(Moyo, 2017; Wily, 2008; Grigsby, 2004)

³⁶(Moyo, 2017)

³⁷GN 436 of 1963 R.E 2002

THE JUDICATURE AND APPLICATION OF LAWS ACT (JALA) RE OF 2002

The applicability of Customary Law Act No. 55 of 1963 is stipulated in section 11 (1-5) of JALA. The law applies to a specific area on different aspects, including matters of a civil nature between community members; it deals with procedures on the administration of an estate (house and land) under customary laws upon the death of the owner (succession to a person). However, it does not restrict the application of Islamic law for Muslims in the country. Section 11(1) (c) (ii) states that nothing in this subsection shall preclude any court from applying the rules of Islamic law in matters of marriage, divorce, guardianship, inheritance, waqf and similar issues about members of a community which follow that law. Section 11 (2) states that a person who becomes a community member by adopting a way of life shall not cease to be a member in his absence. Section 11 (3) provides that the court shall apply the customary law prevailing within the area of its local jurisdiction and shall not apply any rule or practice of customary law which is abolished, prohibited, punishable, declared unlawful expressed or implied, disapplied or superseded by any written law. Section 11 (4) provides that rules of customary law and Islamic law shall not apply regarding any matter provided for in the Law of Marriage Act of 1971.

Section 12 (of JALA) empowers the Minister responsible for Local Government to make declarations and modifications of customary law in a particular local area or council. The customary law provides that the estate of a member of a tribe shall be administered according to the law of that tribe unless the deceased at any time professed Islam; and the court, having jurisdiction over the estate, is contented that the deceased formed any oral/written declaration or Act or manner of life indicated that

they anticipated the estate to be administered wholly or partly under that law. Therefore, unless a contrary intention appears, the administration of the estate of a deceased member of an ethnic group will follow customary law. Customary law is applicable in specific areas. Therefore it follows that a series of codifications were undertaken. Thus, the Minister passed the Local Customary Law Declaration Order in 1964 for the administration of estates and inheritance in general.

Sections 9 and 14 of JALA apply and recognise the applicability of the United Kingdom Acts subject to the exceptions, adaptations and modifications set out therein as amended before the twenty-second day of July 1920 and Indians Acts as was in force on 1st December 1920. The second schedule of JALA outlines the Indian Acts applied in Tanzania, such as The Indian Succession Act of 1865 and the Hindu Wills Act of 1870. The Indian Succession Act of 1865 applies to all Intestate or Testamentary Succession cases. However, this law is rarely applied despite its gender-neutral nature (Ezer, 2002).

In mainland Tanzania, Section 11(1)(c)(ii) JALA provides for the applicability of Islamic law in matrimony, separation, custody, bequest, waqf and similar matters for those community members who pursue that faith. Enforcement of Islamic Law in mainland Tanzania is granted about issues of succession where the parties are of the Islamic faith, as seen from several pieces of legislation, including the Succession (Non-Christian Asiatic) Act/Ordinance (Cap. 112/ Cap 28 RE 2002) Section 6 (1), The Probate and Administration of Estates Act Cap 352 RE 2002) Section 88(1)(a), The Judicature and Application of Laws Ordinance (Cap.358 RE 2002) Section 11, The Magistrates Courts Act No. 2 of 1984 Section 18, The Law of Marriage Act No. 5 of 1971, The

Restatement of Islamic Law Act of 1964, and Subsidiary legislation GN.222 of 1967.

INDIAN SUCCESSION ACT OF 1865

The law was enacted in favour of British citizens in India who were neither Muslim nor Hindu. It also does not apply to Muhammadan, Buddhist, Sikh or Jaina. Part V (Section 29-35) of the Act provides intestate succession for widows, widows, lineal descendants, or kindred. Under this Act, widows have the same rights as widowers. If only the deceased's spouse survives, the spouse receives the entire estate. Suppose any of the deceased's lineal descendants (children, grandchildren, etc.) persist. In that case, the spouse receives one-third of the property, and the remainder is divided equally among the lineal descendants in the applicable class. If there are no lineal descendants, but the deceased is survived by others "who are of kindred," such as brothers and sisters, the spouse receives half of the estate, and the brothers and sisters split the remaining half into equal shares. Men and women of the same relationship as the deceased receive equal property shares without regard to gender.

THE HINDU WILLS ACT OF 1870

The Hindu Wills Act of 1870, as provided in the second schedule of JALA, addresses inheritance in favour of Hindus but does not apply to Christians, Muslims, British Indians, and all those not bound by the Indian Succession Act of 1865. The Act addresses the procedures and matters related to wills and legitimacy under the Hindu faith.

APPLICATION OF ISLAMIC LAW

Islamic law is central to the customary law of many countries and is a way of determining how

property rights (land and housing) are distributed. The Restatement of Islamic Law Act of 1964 provides for the applicability of Islamic law in matters of marriage, succession and divorce. Section 4 of the Act states that for the avoidance of doubts, it is as a result of this declared that the provisions of any relevant statement published under this Act shall apply to the cases and matters in which Islamic Law at the appropriate school applies by the Marriage, Successions and Divorce [Non-Christian Asiatic] ordinance.

Inheritance under the Quran

...that you get one-half of what your wives leave behind if they had no children. If they had children, you get one-fourth of what they leave. After fulfilling any bequest and paying off debts. Equally, they get one-fourth of what you leave behind, if you have no children. If you have children, they get one-eighth of what you leave. After fulfilling any bequest and paying off debts. If a man or woman leaves neither parents nor children, but has a brother or sister, each of them gets one-sixth. If there are more siblings, they share one-third. After fulfilling any bequest and paying off debts, without any prejudice. This is a will from Allah. Allah is Knowing and Clement.

Chapter (Suras) 4 (12) Quran

While women are allowed to own and inherit land, housing, and property, they are not given the same rights as men under Islamic law (UNCHS, 1999; Moyo, 2017). Islamic inheritance law demonstrates an advantaged arrangement for men concerning land as seen by the portions widows and daughters receive. Chapter (Suras) 4(1-12) of the Holy Quran (an -Nisa') instructs about inheritance. It states that the male receives the equivalent of the share of two

Divorce under the Quran

Chapter (Suras) 65 (1) divorce (at-Talaq) states that O Prophet! If any of you divorce women, divorce them during their period of purity, and calculate their terms. And be pious before Al-lah, your Lord. And do not evict them from their homes, nor shall they leave, unless they have committed proven adultery (Quran, nd). Section 65(6) states that allow them to reside where you reside, according to your means, and do not harass them to make things difficult for them. Section 65 (7) states that the wealthy shall spend according to their means, and those whose resources are restricted shall spend according to what Allah has given them. Allah never burdens a soul beyond what he has given it. Allah will bring ease after hardship. **This implies that the Holy Quran has given more discretion to men on the division of matrimonial properties.** Even though women can be offered possessions and inheritance privileges under Islamic law, social norms can force women to surrender such privileges (UNCHS, 1999; USAID, 2008).

Chapter (Suras) 65 (1) Quran

females. If they are daughters, more than two, they get two-thirds of what he leaves. If there is only one, she gets one-half (Quran, nd). A widow is allowed to have a fixed share of one-eighth of her late husband's estate if they had children (not necessarily by her) and one-fourth if they had no children. In cases of multiple widows, they split that share. A widower in a comparable circumstance would get twice as much: one-fourth if he and his deceased wife had children, and one-half if they were childless. Daughters take over a flat portion of one-half of the estate if the deceased had no sons. In a situation with more than one daughter, they share two-thirds of the estate. If there are sons, they will be the first heirs, and daughters will be given only half of the son's shares. As for the parents, each gets one-sixth of what he leaves if he has children. If he had no children, and his parents inherited from him, his mother gets one-third. If he has siblings, his mother gets one-sixth after fulfilling any bequest and paying off debts. Your

parents and children do not know which are closer to you in welfare. This is Al-lah's Law. Allah is Knowing and Judicious.

APPLICATION OF THE PROBATE AND ADMINISTRATION OF ESTATES ACT RE 2002

The Probate and Administration of Estates Act RE 2002 provides the statutory basis for an Islamic succession law in cases of specified natives and how much is to be assessed. Section 88 (1) (a) stipulates that the estate of a member of a tribe shall be administered according to the law of that tribe unless the deceased at any time professed Islam, and the court exercising jurisdiction over his estate is satisfied from the written or oral declarations of the deceased or his acts or manner of life that the deceased intended his estate to be administered, either wholly or in part, according to Islamic law; in which case the estate shall be issued, either wholly or in interest as the case may be, accord-

ing to that law. Section 88(1) (b) the estate of a Swahili shall be administered according to Islamic law unless the court exercising jurisdiction over his estate is satisfied from the written or oral declarations of the deceased or his acts or manner of life that he intended his estate to be administered, either wholly or in part, according to any customary law; in which case the estate shall be issued, either wholly or in part, as the case may be according to that customary law.

APPLICATION OF THE SUCCESSION (NON-CHRISTIAN ASIATICS) ACT [CAP 112]

The Succession (Non-Christian Asiatics) Act provides for inheritance procedures among *Non-Christian Asiatics*. Section 6 (1) of the Act

states that subject to the provisions of this Act or any other Act or applied Act for the time being in force in Mainland Tanzania, the succession to the movable property in Mainland Tanzania of a deceased Non-Christian Asiatic who at the time of death is domiciled in Mainland Tanzania and to the immovable property in Mainland Tanzania of such a Non-Christian Asiatic whether or not domiciled in Mainland Tanzania at death, shall be regulated by the law of the religion professed by that Non-Christian Asiatic at death. This Act protects the rights of the deceased person when that person has been excommunicated, renounced or excluded from the communion of any religion or has been deprived of caste. Generally, this section addresses the Islamic faith.



EMPERICAL EVIDENCE ON GENDER AND LAND RIGHTS IN TANZANIA

Gender and land rights issues in Tanzania were previously under-researched, however in the last two decades, several studies have been carried out. These include: (Moyo, 2017; Urassa, 2022; USAID, 2008; Genicot & Hernandez-de-Benito, 2022; Genicot & Hernandez-de-Benito, 2022; NBS, 2021; Killian & Hyle, 2020; NBS, 2021). A study conducted in selected villages in Mkuranga and Kisarawe districts in Tanzania found that women had limited awareness of land laws and legal redress for land ownership disputes³⁸. Clan elders played a significant role in resolving land-related conflicts, and women expressed fears about seeking remedial measures when denied the right to farm on clan land³⁹. However, the study also highlighted the empowering role of the matrilineal land tenure system in empowering women to own and control agricultural land⁴⁰.

Moyo (2017) observed that illiteracy, lack of awareness, and insufficient resources limit women when accessing land rights. The study further revealed that at the family level, daughters and women are underprivileged of any right to possess land through inheritance due to discriminatory practices towards women.

The central problem was discrimination, inequalities, and denial of access to land to disadvantaged groups which resulted in powerlessness among rural women .

At the family level, daughters and women are underprivileged of any right to possess land through inheritance due to discriminatory practices towards women.

Based on the traditions and customs of various Kinga ethnic groups, it is believed that daughters and women will be married to other families from which they will then gain access to land. This assumption is not correct because married women also face discrimination during inheritance when their husbands pass away.

Source: A study on women's access to land was conducted in the Makete district (Moyo, 2017).

³⁸Kongela (2020). Gender Equality in Ownership of Agricultural Land in Rural Tanzania. Does Matrilineal Tenure System Matter? *African Journal on Land Policy and Geospatial Sciences* ISSN:2657-2664, Vol.3 No.3 (September 2020).

³⁹*Ibid.*

⁴⁰*Ibid.*

Intermarriage contributes to the loss of property rights in the case of divorce or the death of a husband, particularly in a matrilineal society. Low levels of income and education limit rural women to access land. The study further reveals that joint titles facilitate the involvement of women in land use decision-making as well as claim property rights when the husband dies. However, joint title does not guarantee a positive outcome for some women, due to unending indirect [GBV] gender-based violence.

Source: A study of changing customary land tenure regimes in Tanzania case studies of rural areas of the Morogoro and Kyela districts (Urassa, 2022).

Married women usually have no exclusive right to own land and are just assigned land strictly for crop cultivation (usufruct rights). As a result, their constitutional rights are threatened. Different scenarios contribute to discrimination in land resources, such as customary tenure alongside statutory tenure, lack of understanding about women's property rights by both women and men, outdated customs and conflicting interests in laws. Customary tenure evolves as society moves from communal to individual property rights regimes. Similarly, multi-cultural practices have influenced land transfer practices, affecting social relations in matrilineal and patrilineal communities (Urassa, 2022).

Urassa (2022) indicated that despite the existence of laws on gender equality, still, the applicability of laws is questionable. Land disputes persist among households in both matrilineal and patrilineal communities. Moreover, even though dispute resolution machinery allows people to present their land-related claims, the resolutions reached mainly depended on the parties' knowledge of the legal procedures. The study recommended a review of policies and programmes, collaboration with non-governmental organisations (NGOs), women's empow-

erment and a programme aimed at changing community attitudes.

The findings indicate that married women in rural Tanzania still own little land without their husbands and have limited rights over the jointly owned land. In Tanzania, an inherent tension lies in acknowledging customary laws that openly discriminate against women and statutory regulations that establish equal rights for men and women. Customary patrilineal practices persist in rural Tanzania, and mainly it is observed that firstborn sons are expected to inherit more land than firstborn daughters, and widows' inheritance rights are affected by the gender of their children. Women's security of tenure in case of divorce or inheritance is still delicate. There are partial property rights such as the right to keep the land only until re-marriage or the right to cultivate it while alive but not to sell it (usufruct), as opposed to expecting women to have full ownership.

Furthermore, it is observed that village leaders of both genders hold more liberal views on women's land rights than household members but fall short of the gender-neutral standard maintained by the statutory law. This result is



more likely to play a role in the persistence of discriminatory practices. And since male and female members of the village institutions share

similar views on women's land rights, increasing the gender quotas is unlikely to lessen women's discrimination.

The Right to Forest Resources

Participatory forest management (PFM) initiatives have not fully reached rural women who are still not well-represented and sufficiently equipped to participate in public decision-making. As a consequence, these women are marginalized. Following the Forest Policy (1998) and Forest Act (2002), Tanzanian villages can establish Village Land Forest Reserves and manage and utilize natural resources for the benefit of the community. The success of decentralized forest governance depends on the interplay between power, authority and social relations. This is determined by the capacity of communities to participate and by the government's responsiveness to the people's voices. Based on this case study, women do not have equal opportunities to raise their voices as men, and women are marginalized in the decisions made about forest management and in the distribution of benefits from the natural resources with which their communities are endowed. This has policy implications in the sense that processes and structures of decentralized forest governance seem unable to address the needs of women.

Source: Women's marginalization in participatory forest management: in Liwale district Lind Region (Killian & Hyle, 2020).

Customs and Precarious Women's Rights

Customary patrilineal practices persist in rural Tanzania; particularly it is observed that firstborn sons are expected to inherit more land than firstborn daughters, and widows' inheritance rights are affected by the gender of their children. Women's security of tenure in case of divorce or inheritance is still delicate. There are partial property rights such as the right to keep the land only until re-marriage, or the right to cultivate it while alive but not to sell it (usufruct), as opposed to expecting women to full ownership.

Source: A study of women's land rights and village institutions in rural villages in Katavi, Kigoma and Mwanza in Tanzania was conducted by (Genicot & Hernandez-de-Benito, 2022).

CONCLUSION

The existing literature suggests that gender concern is an area of global concern though it tends to be more severe in the global south. In Scandinavian countries, it is notable that, despite their reputation for gender equality, challenges persist in ensuring equal access to and ownership of land for women. Furthermore, this paper has reviewed different legislation relating to gender and land rights. The law covers matters such as equality before the law, women's access to land, the disposition of matrimonial property, the involvement of women in decision-making, the rights and liability of married women, and Customary and Islamic perspectives on marriage, inheritance and divorce. Fear of reprisals, stigmatisation, and lack of institutional support often discourage women from asserting their land rights and participating in land-related decision-making processes in Tanzania⁴¹. Among the remedies to the situation include: (1) an increase in awareness campaigns and education that enhance and build the capacity of rural people on property rights, (2) amendment and repeal of outdated laws, especially customary laws that are discriminatory and contradict the Constitution and ratified international treaties, and (3) women's support initiatives, behavioural changes, women's empowerment, group networking, and forming community-based organisations.

⁴¹*ibid.*

The basic findings from the review, in comparison to international considerations, have revealed the following:

- » Addressing women's land rights across the globe requires concerted efforts from governments, civil society organisations, and the broader community. Comprehensive approaches should include legal reforms, awareness campaigns, capacity building, and the promotion of women's leadership in land governance. Ensuring equal inheritance rights, enhancing legal literacy, and supporting women to assert their land rights are essential steps toward achieving gender equality and inclusive development. All these are not well enshrined in the various statutes in Tanzania.
- » The Constitution of Tanzania states that all are equal before the law. However, it also states clearly that the court must consider the customs of the parties involved in matters concerning family situations and marriages. For instance, the Village Land Act No. 5 of 1999 never explicitly addressed the question of inheritance. This legal vacuum leaves enormous room for local judges and village institutions to interpret.
- » The denial or limited access to land rights significantly affects women's economic

empowerment in different countries. Furthermore, land ownership is intricately linked to income generation, food security, and overall economic development. With restricted access to land, women often face barriers to accessing credit, agricultural inputs, and market opportunities. Access to formal agricultural credit is another important aspect of women's land rights. Studies have shown that access to credit can be influenced by factors such as caste, which are still prevalent in developed and developing countries⁴². For example, women's access to credit is crucial for investment in land and agricultural activities as a means of empowerment. This perpetuates a cycle of poverty and economic dependency, hindering their overall well-being and socio-economic advancement.

- » Although compensation laws explicitly require fair, prompt and adequate compensation during the dispossession of land, there is little clarity on the distribution of such compensation in case claimants are more than one. The situation becomes critical when women are part of the beneficiaries alongside their male counterparts.
- » Registration of clan or family land in rural areas must only be under the communal ownership of all line or family members. Thus, women are part of the community of their respective families. In societies where women are considered not members of their families simply because they are married elsewhere, they must have the right to revert and reclaim their family rights when they decide to return to their homeland. Here the law needs to stipulate that the rights to family land shall follow lineal descendants regardless of whether

they are women or men given the succession tree of that family.

- » The existing structures that require women's presence in various decision-making organs from the village level to the national level do not ensure that women's and other marginalised groups' issues are taken aboard. Explicitly requiring all decision-making organs to overtly discuss women and minority land rights for the validity of any decision should be ingrained in Tanzania's land laws.
- » Elsewhere, women advocating for their land rights, that is, in South America, India and Pakistan, frequently face violence, harassment, and discrimination. Powerful interest groups often target activists who challenge traditional power structures and advocate for gender equality. Intimidation tactics and gender-based violence aim to silence women's voices and discourage their participation in land-related movements and initiatives. These observations though not explicit in Tanzania, researches around these kinds of infliction on women are still rare. Armed with concrete research findings, advocating for active government engagement in civil society could be possible.
- » Since the Tanzania education system was and is not tailored to inculcate the culture of legally claiming one's rights, it has been challenging for both men and women to attempt to assert their rights once violated. Civic education and natural justice must be exposed to children from childhood. The rights to property and other civil rights should be part of the education policy agenda. This will foster an enhanced possibility of women

⁴²Kumar, S. M. (2013). Does access to formal agricultural credit depend on caste? *World Development*, 43, 315-328.

asserting their land rights through legal means.

However, the current legal framework has not accommodated all the above areas of critical challenges. Policymakers are therefore advised to reflect upon these recommendations and consider their incorporation into the existing law.

To elucidate the magnitude of these challenges, a countrywide survey is critical because taking action and implementing some changes in the rules may have a long-term impact on the country. As such, a clear case needs to be built as to the magnitude of the deficiencies and whether real gain to the nation is expected by implementation or taking them as a policy challenge.

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