

Harvesting Equality

Gender, Governance, Stewardship, and
Decolonial Futures in Kenyan Agriculture



J Osogo Ambani & Melissa Mungai (eds)

Harvesting Equality: Gender, Governance, Stewardship, and Decolonial
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List of acronyms

2010 Constitution	Constitution of Kenya, 2010
5DE	Five domains of empowerment
ADP	Annual Development Plans
ADR	Alternative dispute resolution
AFAA	Agriculture and Food Authority Act No. 13 of 2013
AFF	African Feminist Forum
ASDS	Agricultural Sector Development Strategy
ASTGS	Agricultural Sector Transformation and Growth Strategy
AU	African Union
CA	County Assembly
CEC	County Executive Committee
CECM	County Executive Committee Member
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
Charter of Feminist Principles	Charter of Feminist Principles for African Feminists
CIDP	County Integrated Development Plan
CKRC	Constitution of Kenya Review Commission
Commission	East Africa Royal Commission

CREAW	Centre for Rights Education and Awareness
EIA	Environmental impact assessment
ELC	Environment and Land Court
EMCA	Environment Management and Coordination Act (No 8 of 1999)
FAO	Food and Agriculture Organisation
GAIINS	Gender-sensitive Agricultural Index-based Insurance
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
IBEAC	Imperial British East African Company
ICT	Information and Communication Technology
IDLO	International Development Law Organisation
IEBC	Independent Electoral Boundary Commission
IMF	International Monetary Fund
IPU	Inter-Parliamentary Union
KANU	Kenya African National Union
KOF	Konjunkturforschungsstelle
M&E	Monitoring and evaluation
Maputo Protocol	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
MCA	Members of County Assembly
MSME	Micro Small and Medium Enterprise

NALEP	National Agriculture and Livestock Extension Programme
NASA	National Aeronautics and Space Administration
NASEP	National Agricultural Sector Extension Policy
NEMA	National Environment Management Authority
NET	National Environment Tribunal
NGEC	National Gender and Equality Commission
NGO	Non-governmental organisation
PBB	Programme Based Budget
RCMRD	Regional Centre for Mapping of Resources for Development
SACCO	Savings and credit cooperative
SAP	Structural Adjustment Programme
SDG	Sustainable Development Goal
UN	United Nations
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
USAID	United States Agency for International Development
WEAI	Women's Empowerment in Agriculture Index
WEE	Women economic empowerment

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Foreword

Agriculture has long been the backbone of Kenya's economy, sustaining the livelihoods of millions and forming the bedrock of food security for the nation. In this vital sector, women play an indispensable role. Across the rural landscapes of Kenya, as in much of Africa, women are the unsung heroes of agricultural production. They not only feed their families through small-scale farming but also contribute significantly to cash crop agriculture, often shouldering much of the labour involved in planting, cultivating, harvesting, storing, marketing, and distributing produce. Studies estimate that women provide between 40% and 65% of Kenya's agricultural labour, making their contributions not just important but essential. Without their labour, the agricultural sector would face an unthinkable crisis.

Yet, despite this monumental contribution, rural women in agriculture face a litany of challenges that undermine their efforts and deny them their rightful recognition. These challenges are not incidental but systemic, rooted in historical structures of patriarchy and capitalism that were deeply entrenched during the colonial era and persist to this day. While they are central to agricultural productivity, women are often excluded from policy-making processes that directly impact their livelihoods. Land ownership remains a significant barrier, with women rarely owning the land they till and often lacking secure tenure or control over the yields of their labour.

Further compounding these issues is the lack of access to critical agricultural knowledge, technology, and services. Many women lack the technical skills and training required for modern, efficient farming and are deprived of vital information on issues such as climate change, soil health, and agricultural innovations. Access to financial resources remains another significant hurdle; women frequently face difficulties in securing credit that is affordable and tailored to their needs. This, in turn, affects their ability to procure essential farm inputs such as seeds, fertilisers, pesticides, and modern farming tools like tractors.

The marginalisation of women in agriculture is not just a loss for women—it is a loss for the nation. Kenya’s agricultural sector, and by extension its economy and food security, cannot reach its full potential while the contributions of its most essential labour force remain undervalued and unsupported. Addressing these challenges is not only a matter of justice but also an urgent economic and social imperative.

This book seeks to shine a light on these critical issues, offering a comprehensive examination of the barriers women face in agriculture and the systemic inequalities that perpetuate their marginalisation. More importantly, it advocates for solutions—policy changes, institutional reforms, and shifts in societal attitudes—that can empower women and unlock their full potential in agriculture. By addressing these structural injustices, we can not only improve the lives of millions of rural women but also strengthen Kenya’s agricultural sector and enhance its resilience in an increasingly unpredictable world.

As you turn these pages, you will find a compelling analysis of the intersections of gender, agriculture, and systemic inequality, as well as an urgent call to action. May this book inspire policymakers, scholars, and development practitioners to reimagine agriculture in Kenya as a more inclusive, equitable, and sustainable sector—one that recognises and rewards the indispensable contributions of women. For, in empowering women, we empower an entire nation.

Harriette Chiggai,

*Special Advisor on Women's Rights to the President of the Republic
of Kenya*

CHAPTER 1

An epistemic 'imposition' of decolonial ecofeminisms on women and agriculture in Kenya

.....
Melissa Mungai

Introduction

A lot has been written about the colonial epoch. Part of what has dominated those discussions is the ends of the colonial epoch, which included: to service the industrial project back in Europe. It is also acknowledged widely that colonialism had a civilising mission besides the economic agenda. However, this 'dual mandate'¹ was not obvious to the ordinary native all at once. What the native experienced were fundamental usurpations that sounded not so serious at the beginning. Through conquest, treaties, and related understandings, the colonisers first sought to acquire power, and, closely related to it, land. The colonists took vast and the most fertile lands that would soon be called 'white highlands' and relegated the Africans to the reserves. They also introduced a system of adjudication where even the reduced land in the reserves was now assigned to the male heads of the households formally. By one fell swoop, what had been communal invariably was now both individualised and gendered.

To attract workers to the white highlands, the colonisers introduced taxes and the concept of currency. To pay tax, most natives found that they had to work for the coloniser, who had the monopoly of currency. The result was cultural and gender alienation where strong men left the native reserves for the white highlands and urban areas

¹ Frederick Lugard, *The dual mandate in British Tropical Africa*, William Blackwood and Sons, London, 1922, 606-621.

leaving women, children, and the elderly in the reserves. As if to cement the alienation, the colonists imposed travel restrictions through systems such as *Kipande* in Kenya, which ensured that the natives had difficulties crossing the white highlands or to other areas without permission.

Agriculture in the white highlands was mainly cash crop farming and science and machines were gradually incorporated. Government provision in the nature of roads, electricity and security were extended to the white highlands. Yet the native reserves had no similar rights, whether in terms of use of science or government services. Agriculture in the native reserves was mostly manual, traditional (not modern) and restricted, including the type of farming practices.

The result was always a dichotomy of some sort on the basis of race and gender. The idea that it is men who leave for the urban areas and white highlands, that it is men who have access to the new currencies, that it is men who own land, that it is men who are educated in agricultural methods however rudimentary, has origins in the scheme above. This book is about women and agriculture in the context (or creed) I have just described. It enters the discussion through the strand of feminist theory known as ecofeminism.

Decolonial feminism

There are so many strands of feminist theory. I want to make the case for a particular strand of feminist theory to undergird this book, that is, ecofeminism as espoused by Maria Mies and Vandana Shiva back in the 1990s.² Before this, we have to situate the strand in its wider context, that is, decolonial feminism, as espoused by a number of feminist scholars who were displeased with the legacies of colonisation in their immediate realities, more so the process of theorising and practising feminist thought. Decolonial feminism was birthed during

² Françoise d'Eaubonne is considered the pioneer of ecofeminism through her scholarship and activism in the early 70s. Read more here, Iris Dezelle, 'Françoise d'Eaubonne's Ecofeminism: An overlooked Left Wing perspective' *Books & Ideas*, 22 March 2021, available at <<https://booksandideas.net/Francoise-d-Eaubonne-s-Ecofeminism>> on 3 November 2024.

the 'epistemic period' known as the 'decolonial turn', coined by Nelson Maldonado-Torres, who described it as follows:

... decolonial turn has long existed in different ways, opposing what could be called the colonising turn in Western thought, by what I mean the paradigm of discovery and newness that also included the gradual propagation of capitalism, racism, the modern/gender system... Decolonial thinking has existed since the very inception of modern forms of colonisation—that is, since at least the late fifteenth and early sixteenth centuries—and, to that extent, a certain decolonial turn has existed as well, but the more massive and possibly more profound shift away from modernisation towards decoloniality as an unfinished project took place in the twentieth century and is still unfolding now.³

Therefore, decolonial feminism is among the ways, discourses or disciplines of understanding that the decolonial turn, which in any case 'does not refer to a single theoretical school, but rather points to a family of diverse positions that share a view of coloniality as a fundamental problem in the modern (as well as postmodern and information) age, and of decolonisation or decoloniality as a necessary task that remains unfinished'.⁴ Maria Lugones chimes in with her contribution noting, 'I call the analysis of racialised, capitalist, gender oppression "the coloniality of gender". I call the possibility of overcoming the coloniality of gender decolonial feminism'.⁵

Defining the subject, that is the 'colonised woman', is a key aspect of decolonial feminism. The first premise is understanding how the colonial project's dual mandate imposed the same dualities in understanding the colonised woman to secure the Western man's economic interest and his civilising mission in the colonies. Lugones explains that coloniality birthed a gender framework that produced dichotomous hierarchies to define the woman such as 'human versus

³ Nelson Maldonado-Torres, 'Thinking through the decolonial turn: Post-continental interventions in theory, philosophy, and critique—An introduction' 1(2) *Transmodernity: Journal of Peripheral Cultural Production of the Luso-Hispanic World* (2011) 1-2.

⁴ Maldonado-Torres, 'Thinking through the decolonial turn', 2.

⁵ Maria Lugones, 'Toward decolonial feminism' 25(4) *Hypatia* (Fall 2010) 747.

non-human'; 'civilised men as fully human verses not-human-as-not-men ('colonised men') and not-human-as-not-women ('colonised women').⁶ Consequently, within the coloniality of gender the 'colonised woman is an empty category', she is erased from memory, history or even existence, and therefore, 'no women are colonised; no colonised females are women'.⁷

Another key aspect acknowledges the civilising mission's capitalistic undertones in imposing damnation on the economic life of the colonised woman. By instrumentalising her nature, thereby dehumanising her, the colonised woman lost 'senses of self, her relation to the spirit world, to land, to knowledge of planting, to the very fabric of their conception of reality, identity, and social, ecological, and cosmological organisation'.⁸

If decolonial feminism is in opposition to colonial feminism, then it follows that today's unfinished project of moulding the decolonised woman cannot be understood as described above. Besides, the colonial project:

... encountered complex cultural, political, economic, and religious beings: selves in complex relations to the cosmos, to other selves, to generation, to the earth, to living beings, to the inorganic, in production; selves whose erotic, aesthetic, and linguistic expressivity, whose knowledges, senses of space, longings, practices, institutions, and forms of government were not to be simply replaced but met, understood, and entered into in tense, violent, risky crossings and dialogues and negotiations that never happened.⁹

We find a replication of the dualities in the theorisation of African feminisms during the decolonial turn; that on one hand, there is subjugation of the woman through the colonial project and on the other, liberation through the decolonial project. This adheres to Lugones prescription that: 'Coloniality creates a colonial difference where we

⁶ Lugones, 'Toward decolonial feminism', 744.

⁷ Lugones, 'Toward decolonial feminism', 745.

⁸ Lugones, 'Toward decolonial feminism', 745.

⁹ Lugones, 'Toward decolonial feminism', 747.

have resistance and oppression on two sides. At the site of gender is the fractured locus, which compels the decolonial feminist to situate their studies in the fractured locus to learn and observe'.¹⁰ Learning involves understanding 'each other as resisters to the coloniality of gender at the colonial difference'.¹¹ She further perceives 'the process as continually resisted, and being resisted today'.¹² Lastly, the resistance is in concert with others—coalitions—which do not recreate the violently imposed divisions.¹³

African feminisms

Consistent to the preceding, the bane of scholarship on African feminisms in the 20th century—the decolonial turn—was the assumption that feminism, as an ideology, is a Western concept and, thus, irrelevant to Africa. For example, Oyèrónké Oyěwùmí asserted that: 'African women and feminism are at odds because despite the adjectives used to qualify feminism, it is Western feminism that inevitably dominates even when it is not explicitly the subject under consideration'.¹⁴ Western feminism in its construction, Oyěwùmí noted, refers to 'a feminism that is entangled with the history and practice of European and North American imperialism and the worldwide European colonisation of Africa, Asia and the Americas'.¹⁵ Accordingly, when Western feminism was applied in Africa to define African women and their realities, there was incongruence due to the effects of perceiving Africa in Western terms.¹⁶ In other words, Western feminism operated in a cultural vacuum.

¹⁰ Lugones, 'Toward decolonial feminism', 753.

¹¹ Lugones, 'Toward decolonial feminism', 753.

¹² Lugones, 'Toward decolonial feminism', 748.

¹³ Lugones, 'Toward decolonial feminism', 754.

¹⁴ Oyèrónké Oyěwùmí, 'Introduction: Feminism, sisterhood, and other foreign relations' in Oyěwùmí O (ed) *African women and feminism: Reflecting on the politics of sisterhood*, Africa World Press, 2003, 1.

¹⁵ Oyěwùmí, 'Introduction: Feminism, sisterhood, and other foreign relations', 3.

¹⁶ Mary Modupe Kolawole, 'Transcending incongruities: Rethinking feminisms and the dynamics of identity in Africa' 54 *Agenda: Empowering Women for Gender Equity* (2002) 92-94.

Difference, or the dichotomous hierarchies, between African feminisms and Western feminism became one of the main features of 20th century African feminisms. Oyěwùmí particularly rejected the claim in Western feminism that women worldwide shared the same experiences because of their biology or bodies. In her seminal work of 1997, 'The invention of women: Making an African sense of Western gender discourses,' she wrote that by placing biology as key in defining women, Western feminism enabled a feminist lens that was obsessed with the difference between men and women.¹⁷

This divisive way of perceiving women spread into the Western feminist approaches to gender especially when gender connoted a biological rather than a social construct, as well as studies of the phenomenon 'women in agriculture'. Thus, 'two social categories that emanated from this construction were the 'man of reason' (the thinker) and the 'woman of the body' and they were oppositionally constructed.'¹⁸ Observe, for instance, Olufemi Taiwo's critique of Western feminism's analyses (often disciples of Ester Boserup¹⁹) of women in agriculture:

Every new paper or chapter on women in Africa opens with a recitation of how women do sixty to eighty percent of agricultural work in Africa... Reading all these assertions about women and agriculture in Africa, one often wonders what the men do while the women are busy breaking their backs on the fields.... In the first place, it is problematic to say that African men did not engage in agriculture until they were forced to do so by Europeans. For a continent that is regarded as the birthplace of agriculture, it would be strange indeed if men did not take part in it until the nineteenth century. Secondly, only a culpable penchant for homogenisation would lead one to put a

¹⁷ Oyěwùmí, *The invention of women: Making an African sense of western gender discourses*, University of Minnesota Press, 1997, 11.

¹⁸ Oyěwùmí, *The invention of women: Making an African sense of western gender discourses*, 6.

¹⁹ Boserup was a Danish economist renowned for her research on women in development especially in agriculture in the third world.

continent of Africa's diversity and complexity into a monocultural or simple cultural frame. Thirdly, there is evidence that men did practice agriculture.²⁰

Studies in 20th century African feminisms depicted a demand for contextual and accurate portrayals of women in Africa because of the uncritical and inaccurate ways in which Western feminism described African women and their cultures.²¹ Labelling African cultures as barbaric, primitive, savage, violent and African women as helpless and victimised typified the images.²² The private-public (modern-traditional, formal-informal, male space-female space) divide was another common inaccuracy of Western feminism imposed in Africa, which was applied whimsically to explain and agitate for women's lack of access to land, labour, men and power. For example, 'integrating women into development is code for moving them out of subsistence production (private world) into the cash cropping (public world) of men'.²³ These views tended to be rigid and applied to all women in Africa despite their diversities.

Scholarly works on Africanness—what it means to be African or what is Africa—from political and historical lenses, influenced and were complemented by the evolution of African feminisms in the 20th century. Some mentionable contributions in this regard include Mahmood Mamdani's bifurcated state and Ali Mazrui's triple heritage theory. Moreover, both Mamdani and Mazrui are renowned African contributors of scholarship in the decolonial turn.

²⁰ Olufemi Taiwo, 'Feminism and Africa: Reflections on the poverty of theory' in Oyèwùmí O (ed) *African women and feminism: Reflecting on the politics of sisterhood*, Africa World Press, 2003, 50-51.

²¹ Kolawole, 'Transcending incongruities: Rethinking feminisms and the dynamics of identity in Africa', 21.

²² Oyèwùmí, 'The White Woman's Burden: African women in Western Feminist discourse,' in Oyèwùmí O (eds) *African women and feminism: Reflecting on the politics of sisterhood*, Africa World Press, 2003, 31-33.

²³ Oyèwùmí, 'The White Woman's Burden: African women in Western Feminist discourse', 37-38.

Therefore, it is unsurprising how the bifurcated state, a creature of indirect rule, aptly explains how the dichotomous hierarchies mentioned earlier impacted on the African colonial experience and its legacies. Under the bifurcated state, there was a single legal order where the colonised (natives) would have to conform to European laws (civilised laws), while few, if any, native institutions were recognised or respected.²⁴ Citizenship would be the racial privilege of the civilised while the uncivilised were subjected to a reified version of customary law but not political rights. For emphasis, rights were the preserve of civilised men.²⁵ These political and civil inequalities were grounded in a legal dualism under received law and customary law; urban power and rural power; market and non-market; freedom and tradition.²⁶ Natives or uncivilised men working in the urban areas created an in-between (juridical limbo) in this divide in the sense that they were neither fully citizens nor fully subjects.²⁷

The latter power in the dichotomy was always subservient to the former.²⁸ Instructively, the customary order was decentralised and reified (standardised or mediated) to secure and incorporate the former's single centralised order.²⁹ It regulated the natives' land, personal and community affairs through extra-economic coercion and administrative justice executed by colonially appointed or 'approved' native authorities.³⁰ Mamdani calls this decentralised despotism as it enabled the colonial minorities to subdue the majority comprising

²⁴ Mahmood Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism*, Princeton University Press, 1996, 16.

²⁵ Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism*, 17 and 20.

²⁶ Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism*, 18.

²⁷ Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism*, 19.

²⁸ Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism*, 9-10.

²⁹ Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism*, 18 and 25.

³⁰ Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism*, 19.

Africans by 'marshalling the authoritarian possibilities of the native culture'.³¹ Ultimately, each side signified one face of the same bifurcated state.³²

With regards to the post-colonial order, Mamdani heeds us to be cautious of reproducing rather than dismantling the many varieties of despotism, whether centralised or decentralised.³³ He explains that since independence, most African states have failed to change the nature of power in the bifurcated state. Mamdani posits that:

To do so requires that the nature of power in both spheres, the rural and the urban, be transformed, simultaneously. Only then will the distinction rural-urban—and interethnic—be more fluid than rigid, more an outcome of social processes than a state-enforced artefact.³⁴

Ali Mazrui applied his triple heritage theory (which advances that African identity is simultaneously developed through indigenous, Islamic and Euro-Christian civilisations) in a bid to analyse black women and sexism from an African perspective. Like the 'barbaric' and 'savage' labels attached to African cultures, Mazrui's analysis interrogated the discriminatory global culture of sexism when applied to black women in Africa, using three nuanced labels. These are: benevolent (generous/protective towards the underprivileged gender), benign (harmless and recognises gender differences) and malignant (subjects women to economic manipulation, sexual exploitation and political marginalisation).³⁵ The categories are nuanced because they are not fixed, as African cultures are not static; therefore, while bridewealth or

³¹ Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism*, 21.

³² Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism*, 18.

³³ Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism*, 286-291.

³⁴ Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism*, 301.

³⁵ Ali Mazrui 'The black woman and the problem of gender: An African perspective' 24(1) *Research in African Literatures* (1993) 87-92.

traditions of female warriors may be perceived as benevolent sexism in one community, they could be practised in a malignant way in another.³⁶

Pertinent to this book, Mazrui exemplifies the non-ossified characteristic of the categories. Below, Mazrui narrates the effects of the colonial imposition of migrant labour within the urban-rural divide on the family relations between male miners in the towns and female agriculturalists in the villages.

Many men from, for example, Mozambique went to work in the mines in the Republic of South Africa for a year or eighteen months at a time, and they were not allowed to take their wives with them. There evolved a class dichotomy that consisted of a male proletariat (which worked for wages in South Africa) and a female peasantry (which remained to cultivate the land in the villages). There were, however, still enough men in the villages to lend a hand to some of the women whose husbands were away. Over the decades a reverse polygamy arose - an African woman had more than one husband instead of an African man having more than one wife. When the husband from the mines returned home, the village husband vacated the hut for the duration. Agreements were sometimes reached between the men as to the paternity of the women's children. In most cases, the first husband claimed a lion's share of the offspring. This situation represented de facto polyandry, not yet sanctioned by custom and ritual, but evolving as a result of the racist constraints on migrant labour in Southern Africa. Was it benign or malignant sexism? It was probably benign sexism operating in conditions of malignant racism.³⁷

Since the 20th century there has been a rich diversity in theorising African feminisms, hence the plurality of the term, making it an imperative to appreciate the various strands, which continue to be created in the 21st century, especially by African writers. For instance, writing in 1997, Gwendolyn Mikell advanced the view that African feminisms were not only 'shaped by African women's resistance to Western hegemony'

³⁶ Mazrui 'The black woman and the problem of gender: An African perspective', 88-89.

³⁷ Mazrui, 'The black woman and the problem of gender: An African perspective', 23.

but 'distinctly heterosexual, pro-natal, and concerned with many bread, butter, culture and power issues'.³⁸ She described further that:

The African variant of feminism grows out of a history of a female integration within largely corporate and agrarian-based societies with strong cultural heritages that have experienced traumatic colonisation by the West. Women have experienced marginalisation in the capitalist-oriented transition of these societies to an "independence" fraught with economic dependence.³⁹

Another strand is Obioma Nnaemeka's nego-feminism, which connotes a proactive type of African feminism that 'knows when, where and how to negotiate with or negotiate around patriarchy in different contexts'.⁴⁰ Further, nego-feminism is a 'no ego' type of feminism, which adheres to African cultural principles of exchange, compromise and balance.⁴¹ Furthermore, nego-feminism operates in a 'third space' rather than a fixed place or territory, 'where the immediacy of lived experience gives form to theory, allows the simultaneous gesture of theorising practice and practising theory'.⁴²

Other writers preferred to grapple with the subject by steering clear of using the term feminism for the sake of inclusivity all the while ensuring that their approaches were context-specific and guaranteed diversity. With this, the content of their theories, which in my view are still strains of African feminisms, sought to bring the adversaries of Western feminism on board such as sceptics; African (or black) men in particular and some black African scholars (male and female alike).⁴³ Examples of these strains include Molara Ogunjide-Leslie's *Stiwanism*,

³⁸ Gwendolyn Mikell, 'Introduction' in Gwendolyn Mikell (ed) *African feminism: The politics of survival in sub-Saharan Africa*, University of Pennsylvania Press, 1997, 3 and 4.

³⁹ Mikell, 'Introduction', 4.

⁴⁰ Obioma Nnaemeka 'Nego-feminism: Theorising, practicing and pruning Africa's way' 29(2) *Signs: Journal of Women in Culture and Society* (2003) 377-378.

⁴¹ Nnaemeka, 'Nego-feminism: Theorising, practicing and pruning Africa's way', 377-378.

⁴² Nnaemeka, 'Nego-feminism: Theorising, practicing and pruning Africa's way', 377.

⁴³ Kolawole, 'Transcending incongruities', 93.

whose definition explained the choice not to use the term feminism. In her words:

I have advocated the word ‘Stiwanism’ instead of feminism, to bypass the combative discourses that ensue whenever one raises the issue of feminism in Africa. The word ‘feminism’ itself seems to be a kind of red tag to the bull of African men. Some say the word by its very nature is hegemonic, or implicitly so. Others find the focus on women in themselves somehow threatening. Some who are genuinely concerned with ameliorating women’s lives sometimes feel embarrassed to be described as ‘feminist.’ ‘Stiwa’ is my acronym for Social Transformation Including Women in Africa.⁴⁴

The four world conferences on women convened by the United Nations (UN), which took place in Mexico City (1975), Copenhagen (1980), Nairobi (1985) and Beijing (1995) have influenced African feminist thought about gender equality and economic empowerment.⁴⁵ The Beijing Declaration and Platform for Action, the key outcome from the 1995 Conference, set out 12 strategic objectives and the ways governments, non-governmental organisations, the private sector, academia, financial institutions (such as the World Bank and the International Monetary Fund) could ensure the achievement of the objectives.⁴⁶ Women (economic) empowerment and gender equality were the overarching goals of the objectives as surmised in the mission statement:

The Platform for Action emphasises that women share common concerns that can be addressed only by working together in partnership with men towards the common goal of gender equality around the world. It respects and values the full diversity of women’s situations

⁴⁴ Molaria Ogundipe-Leslie, *Recreating ourselves: African women and critical transformation*, Africa World Press, 1994.

⁴⁵ UN Women ‘World Conferences on women’ available at <<https://www.unwomen.org/en/how-we-work/intergovernmental-support/world-conferences-on-women>> on 31 October 2024.

⁴⁶ UN Women, *Beijing Declaration and Platform for Action/Beijing+5 political declaration and outcome*, 2014, 30.

and conditions and recognises that some women face particular barriers to their empowerment.⁴⁷

The 12 strategies showcased a bent for promoting global economic development especially for the so-called Third World or developing countries. For instance, the first strategy on women and poverty, details that: 'More than 1 billion people in the world today, the great majority of whom are women, live in unacceptable conditions of poverty, mostly in developing countries'.⁴⁸ The strategy states further that: 'In the past decade the number of women living in poverty has increased disproportionately to the number of men, particularly in the developing countries'.⁴⁹

To date, the United Nations Entity for Gender Equality and the Empowerment of Women advocates for the women economic empowerment (WEE) rhetoric actively. Among its key interventions is: 'Championing women's increased participation and leadership in green and blue economies and climate-resilient agriculture'.⁵⁰

Notably, the rhetoric is replete with uncritical use of the dichotomous hierarchies, which does not augur well with the decolonial feminisms proffered thus far. For example, another vital strategy under WEE on supporting women's active participation states that, 'these interventions will cover public and private sectors, urban and rural areas, and formal and informal economies and workers'.⁵¹ For emphasis, the construction of these divisions public-private, urban-rural, formal-informal, green or blue economies are steeped in coloniality.

It follows that African feminists take issue with the maintained instrumentalisation of women in such economic agenda. Everjoyce Win typifies this in her brief on the silencing of middle class African women

⁴⁷ UN Women, *Beijing Declaration and Platform for Action/Beijing+5 political declaration and outcome*, 16.

⁴⁸ UN Women, *Beijing Declaration and Platform for Action*, 34.

⁴⁹ UN Women, *Beijing Declaration and Platform for Action*, 34.

⁵⁰ United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), *Strategic Plan 2022–2025*, UNW/2021/6, 14–15 September 2021, 11.

⁵¹ UN-Women, *Strategic Plan 2022–2025*, 11.

in the narratives of the development agenda (be it UN or international non-governmental organisations or governments), where the preferred image of African women is often poor, powerless, invariably pregnant, bare-footed and laden with children or goods fastened on her back or head.⁵² She then implores attention to the 'new' African woman who moves and carries out obligations between the urban and local with ease, occupies powerful positions at both local and international level, and is neither too poor nor too rich.⁵³

Similarly, Fadekemi Abiru writes critically about the hangovers of 'Africa's lost decade': the period between the 1980s and the 1990s where the International Monetary Fund and World Bank's structural adjustment programmes rendered Africa perennially poor.⁵⁴ According to Abiru, women were especially affected during this decade because they became 'shock absorbers of these adjustment efforts at an immense cost to their well-being'.⁵⁵ Marjorie Mbilinyi describes how the dark period affected agriculture:

Farm support systems and producer subsidies were dropped, and the entire research and extension service system was dismantled. Many smallholder producers stopped growing export cash crops in the late 1980s and 1990s because of their inability to afford and/or access improved farm inputs and credit. Others tried to extract more unpaid labour from wives and children in place of casual farm workers in order to reduce production costs. They were often unsuccessful, given family members' resistance to what they called 'slavery'. Men as well as women were forced to seek alternative sources of income outside

⁵² Everjoice Win, 'Not very poor, powerless or pregnant: The African woman forgotten by development' 35(4) *IDS Bulletin* (2004) 61.

⁵³ Win, 'Not very poor, powerless or pregnant: The African woman forgotten by development', 62.

⁵⁴ Fadekemi Abiru 'Africa's lost decade: Women and the structural adjustment programme' *The Republic*, 25 September 2018, available at <https://republic.com.ng/augustseptember-2018/africas-lost-decade/> on 31 October 2024.

⁵⁵ Fadekemi Abiru, 'Africa's lost decade: Women and the structural adjustment programme' *The Republic*, 25 September 2018, available at <https://republic.com.ng/augustseptember-2018/africas-lost-decade/> on 31 October 2024.

of the household economy for survival, thereby depriving peasant agriculture, including pastoralism, of vital sources of labour.⁵⁶

From a legal and women's rights standpoint, conventions at the UN and the African Union (AU) influence the discourses on African feminisms. At the UN, the main legal instruments are the Convention on the Elimination of All Forms of Discrimination against Women (enacted in 1981), which was preceded by the work of the UN Commission on the Status of Women (established in 1946) over the span of 30 years.⁵⁷ On the other hand, the African Charter on Human and Peoples' Rights (1981) made for the legal influence on women's rights at the AU, especially Article 2 on non-discrimination and Article 18(3) on the elimination of all forms of violence against women.

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) entered into force in 2005 and aimed at centring women's rights within the AU human rights system. According to Fareda Banda, before the Maputo Protocol was drafted, there was 'little interest in women's rights within the African Commission [on Human and Peoples' Rights]', thus, 'it was decided that an additional protocol would be the best way forward'.⁵⁸ For Frans Viljoen, the Maputo Protocol could 'contribute to the gradual reversal' of the societal structures that limit women's rights such as cultures and the dearth of legal guarantees that affirm women's rights.⁵⁹

Contrastingly, for Ambreena Manji, how the law affects women in Africa, namely, the phallocentric legal centralism, hinders feminist

⁵⁶ Marjorie Mbilinyi, 'Analysing the history of agrarian struggles in Tanzania from a feminist perspective' 43 (S1) *Review of African Political Economy* (2016) 121.

⁵⁷ <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx> on 26 March 2025.

⁵⁸ Fareda Banda, *Women, law and human rights: An African perspective*, Hart Publishing, 2005, 67-69.

⁵⁹ Frans Viljoen, 'An introduction to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' 16(1) *Washington and Lee Journal of Civil Rights and Social Justice* (2009) 46.

engagement with law and power.⁶⁰ She noted that, while the view gave a partial account of women's experiences with law, it also restricted analyses on legal pluralism which feminisms in Africa should engage with because:⁶¹

...in reality, state law does not intervene in women's lives to the extent claimed [by the phallogocentric legal centralism approach]. Women have experienced state law as coercive and have deliberately distanced themselves from its control, a fact that undercuts the claim of state law to intervene in every aspect of social life.

Recalling Lugones' fractured locus of oppression and liberation in shaping decolonial feminisms, Mĩcere Mũgo's concept of liberated zones is a notable example of African feminism as resistance. It refers to reclaimed or recovered spaces (from oppressive or exploitative systems) where the oppressed redefine themselves in their own terms physically, intellectually, creatively and conscientiously in order to birth a new people and societies unshackled from enslaving or colonising ideas.⁶² She illustrates this through her poem, 'To be a Feminist is', whose explanatory note reads: 'In an effort to liberate the concept of feminism from abduction by Western bourgeois appropriators and in the spirit of naming the essence, rather than peeling off the label.'⁶³ A slice of her orature's wisdom then instructs:

Refrain: To be a Feminist is
For me
to be a feminist is
to unseat domination
and forge a rock
out of powerlessness
it is to shake hands

⁶⁰ Ambreena Manji, 'Imagining women's 'legal world': Towards a feminist theory of legal pluralism in Africa' 8(4) *Social and legal studies* (1999) 435.

⁶¹ Manji, 'Imagining women's legal world', 451.

⁶² Wole Soyinka, Samir Amin, Bereket Habte Selassie, Mĩcere Mũgo and Thandika Mkandawire, *Reimagining Pan-Africanism: Distinguished Mwalimu Nyerere Lecture Series 2009-2013*, Mkuki na Nyota Publishers, 2015, 183-184.

⁶³ Mĩcere Mũgo, 'To be a Feminist is' in Mĩcere Mũgo (ed) *My mother's poem and other songs*, East African Educational Publishers Limited, 1994, 36.

with people's struggles
it is
to disempower
superpower arrogance
it is
to conceive and deliver
a human world.⁶⁴

Refrain

As liberated zones depend on strategic coalitions, the African Feminist Forum (AFF) is a fitting example of charting new ways of theorising African feminisms in the 21st century. Between 15 November 2006 and 19 November 2006, 120 participants from 16 African countries convened in Accra, Ghana, for the inaugural African Feminists Forum.⁶⁵ The development of a feminist epistemology in Africa was among the objectives of the meeting, which also facilitated the adoption of the Charter of Feminist Principles for African Feminists (Charter of Feminist Principles).⁶⁶ Therefore, the Charter of Feminist Principles for African Feminists is the starting point in understanding AFF's contribution to African feminisms.

With regards to identity, the provision in the preamble titled 'Naming ourselves as feminists' reads:

By naming ourselves as Feminists we politicise the struggle for women's rights, we question the legitimacy of the structures that keep women subjugated, and we develop tools for transformatory analysis and action. We have multiple and varied identities as African Feminists. We are African women—we live here in Africa and even when we live elsewhere, our focus is on the lives of African women on the continent. Our feminist identity is not qualified with 'Ifs,' 'Buts,' or 'Howevers.' We are Feminists. Full stop.⁶⁷

⁶⁴ Mĩcere Mũgo, 'To be a Feminist is', 41.

⁶⁵ African Feminist Forum (AFF), *Reclaiming our spaces: Executive summary of the 1st African Feminist Forum*, 2006, 3.

⁶⁶ AFF, *Reclaiming our spaces: Executive summary of the 1st African Feminist Forum*, 3.

⁶⁷ AFF, *Charter of Feminist Principles for African Feminists*, African Women Development Fund, 2007, 3.

The Charter of Feminist Principles demands that patriarchy should be centred in any analyses using African feminism so as to define African feminists' ideological tasks to understand the system and political mandate to end it, rather than pitting women against men.⁶⁸ Patriarchy here means a system of male dominance, as the key structure that legitimises women's subjugation through political, social, cultural and religious institutions.⁶⁹ One of the African feminist's (a right or entitlement to be African and feminist⁷⁰) anti-patriarchal liberation task is described below:

Modern African states were built off the backs of African feminists who fought alongside men for the liberation of the continent. As we craft new African states in this new millennium, we also craft new identities for African women, identities as full citizens, free from patriarchal oppression, with rights of access, ownership and control over resources and our own bodies and utilising positive aspects of our cultures in liberating and nurturing ways.⁷¹

It is no wonder that there has been an insistence on applying a liberating feminism in the context of women's agrarian struggles in post-colonial Africa, which we now turn to.

Coloniality consistently imposes 'formal' privatisation over 'informal' communal land ownership in Africa, which has permeated into land policies and their attendant resistance. Such imposition stems from the nineteenth century fad that formal private property ownership is a mark of civilised progress or efficiency. Further, the transition from the informal to this formal regime is a universal and inevitable part of social evolution.⁷² The fad continues that through formal title, enabled by formal land laws, farmers are incentivised to access credits and invest in their land. Celestine Nyamu-Musembi affirms that in spite of the

⁶⁸ AFF, *Charter of Feminist Principles for African Feminists*, 4.

⁶⁹ AFF, *Charter of Feminist Principles for African Feminists*, 4.

⁷⁰ AFF, *Charter of Feminist Principles for African Feminists*, 4.

⁷¹ AFF, *Charter of Feminist Principles for African Feminists*, 5.

⁷² Celestine Nyamu-Musembi, 'Breathing life into dead theories about property rights: de Soto and land relations in rural Africa' IDS Working Paper 272, October 2006, 11 and 15.

imposed transition, the 'informal title' persists with immense variety, dynamism, adaptability, gender and 'pro-poor' inclusiveness, and legal pluralism, 'to take account of the multiple dimensions of meanings that people attach to land and other valued possessions'.⁷³

The formalisation of land has direct imprints on the agrarian struggle, where the relation between land rights and agriculture is economic productivity. This explains political elites' minimalist efforts in accountable and equitable land redistribution. To illustrate, it is documented that few political elites since independence have acquired the vast fertile lands, 'White Highlands', through sale agreements, hence, maintaining landlessness.⁷⁴

A macro-site of the agrarian struggle is the intensification of global economic crisis since 2008 associated with rising costs of food, which resulted in a renewed search for new avenues for primitive and capital accumulation in Africa; and these have gendered implications.⁷⁵ For example, in spite of claims to be supportive of small-scale farmers'—who are predominantly women—productivity, efficiency and output, the major beneficiaries of the Green Revolution in Africa still remain agroindustry giants such as Monsanto, Bayer Crop Science, Nestle, Syngenta International, Unilever and Yara.⁷⁶

Reportedly, the Alliance for a Green Revolution in Africa (established in 2006) has performed dismally in guaranteeing food security owing to its narrow development priorities. For instance, its focus on seeds, fertilizer and pesticides neglects a focus on the needful extension services.⁷⁷ Further, its fetish for technological innovations

⁷³ Nyamu-Musembi, 'Breathing life into dead theories about property rights: de Soto and land relations in rural Africa', 23.

⁷⁴ Manji, *The struggle for land and justice in Kenya*, 40.

⁷⁵ Marjorie Mbilinyi, 'Analysing the history of agrarian struggles in Tanzania from a feminist perspective' 116.

⁷⁶ Mbilinyi, 'Analysing the history of agrarian struggles in Tanzania from a feminist perspective', 121; Marjorie Mbilinyi, 'Debating land and agrarian issues from a gender perspective' 5(2 and 3) *Agrarian South: Journal of Political Economy* (2016) 169.

⁷⁷ Timothy Wise and Jomo Kwame Sundaram, 'Another false start in Africa sold with Green Revolution myths' CODESRIA Bulletin, Number 2, 2023, 31.

dismisses 'indigenous and - other - 'old' knowledge, science and technology, or even basic infrastructure'.⁷⁸

Given the preceding, this book's decolonial feminist framework cannot rely on a 'feminist epiphany from economically driven stakeholders' but an express decolonial feminism that deals with women's economic empowerment head on.⁷⁹ Fatimah Keller inspires this task when she asserted that: 'Feminist positions that can uncompromisingly challenge the status quo and provide alternative solutions—such as ecofeminist activism that offers ground-level truths on climate-smart agriculture and the environment—are rarely engaged with'.⁸⁰ Accepting the epistemic provocation, the next section of this chapter makes the case for applying ecofeminism as the main feminist theoretical framework of this book.

Ecofeminism

The main premise of ecofeminism, both an ecological and feminist movement, as espoused by Mies and Shiva is that the liberation of women is directly connected to the liberation of nature from reductionist modern science and technology.

As feminists actively seeking women's liberation from male domination, we could not, however, ignore the fact that 'modernisation' and 'development' processes and 'progress' were responsible for the degradation of the natural world.... we began to see that the relationship of exploitative dominance between man and nature, (shaped by reductionist modern science since the 16th century) and the exploitative and oppressive relationship between men and women that prevails in most patriarchal societies, even modern industrial ones, were closely connected.⁸¹

⁷⁸ Timothy Wise and Jomo Kwame Sundaram, 'Another false start in Africa sold with Green Revolution myths', 31.

⁷⁹ Fatimah Kelleher, 'To chew on bay leaves: On the problematic trajectory of instrumentalist justifications for women's rights' in Margaret Busby (ed) *New daughters of Africa*, Jonathan Ball Publishers, 2019, 540.

⁸⁰ Fatimah Kelleher, 'Disrupting orthodoxies in economic development — An African Feminist perspective' 22 *Feminist Africa* (2017) 135.

⁸¹ Maria Mies and Vandana Shiva, *Ecofeminism*, 2ed, Zed Books, 2014, 2-3.

Secondly, ecofeminism chastises capitalist and patriarchal dichotomous hierarchies, which over the years have rendered women subordinate to men. For specificity, modern science puts forward that nature is subordinate to man; woman is inferior to man; consumption to production; global over the local.⁸² Further, fragmentations such as value/non-value and primitive or raw material/advanced or improved—even when improvement involved appropriation or plunder (invasion)—are commonplace in science's intervention in agriculture.⁸³ These heralded yet destructive dichotomies are an incessant obscurity to the main premise of ecofeminism.

Thirdly, ecofeminism seeks to overcome these enslaving dichotomies through the subsistence perspective, which proffers human co-operation with nature.

An ecofeminist perspective propounds the need for a new cosmology and a new anthropology which recognises that life in nature (which includes human beings) is maintained by means of co-operation, and mutual care and love...We call this vision the subsistence perspective, because to 'transcend' nature can no longer be justified, instead, nature's subsistence potential in all its dimensions and manifestations must be nurtured and conserved.⁸⁴

Fourthly, while ecofeminism is not an essentialising theory, it acknowledges that women's relationship/co-operation with nature is specific and different than men's. Ariel Salleh explains:

A first difference involves experiences mediated by female body organs in the hard but sensuous labours of birthing and suckling. A second difference follows from women's historically assigned caring and maintenance chores that serve to "bridge" men and nature. A third difference involves women's manual work in making goods as farmers, cooks, herbalists, potters, and so on. The fourth difference involves creating symbolic representations of "feminine" relations to "nature"- in poetry, in painting, in philosophy, and everyday talk.

⁸² Mies and Shiva, *Ecofeminism*, 5.

⁸³ Mies and Shiva, *Ecofeminism*, 5, 24-32.

⁸⁴ Mies and Shiva, *Ecofeminism*, 6 and 8.

Through this constellation of lay labours, the great majority of women around the world are organically and discursively implicated in life-affirming activities, and they develop gender-specific knowledges grounded in this material base.⁸⁵

Consequently, Shiva and Mies asserted that the subsistence perspective, as part of these gender-specific knowledges, is 'nearer' to women than men. Nuancing their claim, they note that 'women in the South working and living, fighting for their immediate survival are nearer to it than urban, middle-class women and men in the North'.⁸⁶ Moreover, Zo Randriamaro wrote that even before the birth of ecofeminism in the 1970s, rural women's political and religious movements in Eastern Africa such as Ethiopianism, the Nyabingi women of Uganda, and the Mau Mau of Kenya, were grounded in their association with nature.⁸⁷ John Mbiti's wisdom crowned it all when he wrote that 'because [African] religions permeate all departments of life, there is no formal distinction between the sacred and the secular, religious and the non-religious, the spiritual and material areas of life'.⁸⁸

Fourthly, ecofeminism, understood through the subsistence perspective, links the dichotomies, goes beyond the dichotomies and 'creates the possibility of viewing the world as an active subject, not merely as a resource to be manipulated and appropriated'.⁸⁹ Ynestra King offers three illustrations through what she terms ecofeminist beliefs. First, because women are closer to nature, 'ecofeminists take on the life-struggles of all nature as our own'.⁹⁰ Second, because all forms of life on earth are interconnected, that is the human and non-human, 'ecofeminism practice is necessarily anti-hierarchical'.⁹¹ Lastly,

⁸⁵ Ariel Salleh, 'Ecofeminism as sociology' 14(1) *Capitalism Nature Socialism* (2003) 67.

⁸⁶ Mies and Shiva, *Ecofeminism*, 20.

⁸⁷ Zo Randriamaro, 'Eco-feminist Perspectives from Africa' in Miriam Lang, Mary Ann Manahan and Breno Bringel (eds) *The geopolitics of Green Colonialism: Global justice and ecosocial transitions*, Pluto Press, 2024, 183.

⁸⁸ John Mbiti, *African religions and philosophy*, 2ed, Heinemann, 1989, 2.

⁸⁹ Mies and Shiva, *Ecofeminism*, 34.

⁹⁰ Ynestra King, 'Ecology of feminism and the feminism of ecology' in Judith Plant (ed) *Healing the wounds: The promise of ecofeminism*, New Society Publishers, 1989, 19.

⁹¹ King, 'Ecology of feminism and the feminism of ecology', 19.

ecofeminism is a 'decentralised global movement that is founded on common interests yet celebrates diversity and condemns all forms of domination and violence'.⁹²

Therefore, ecofeminism is averse to agricultural development that ignores its basic principles. First, nature is not a resource to be plundered but nurtured as it has its own regenerative life. Second, nature cannot be divided into different sectors to enable its plunder, for example; livestock farming as independent from forestry or food/cash crop farming. This is because differentiation kills diversity and marginalises women. Third, women's agricultural knowledges and agricultural practices should be seen rather than hidden, that is, should not be labelled non-knowledge and non-work respectively. Fourth, women's work and knowledge in agriculture is unique as it defies any fragmentations (sectors) to assure the connectedness between ecological stability and productivity notwithstanding the limitation of resources. Fifth, women's work and knowledge in agriculture should be the basis of any advancements in agriculture. For example, in the Green Revolution, women must be recognised as age-old seed custodians (seed understood as the continuity of life) and strategic decision-makers on how the innovations relate/connect with biodiversity.

The oft-cited Kenyan ecofeminism strand is found in Wangari Maathai's Green Belt Movement. I observe in a slice of her 2004 Nobel Lecture semblances of ecofeminist thought and practice. She averred:

In 1977, when we started the Green Belt Movement, I was partly responding to needs identified by rural women, namely lack of firewood, clean drinking water, balanced diets, shelter and income. Throughout Africa, women are the primary caretakers, holding significant responsibility for tilling the land and feeding their families. As a result, they are often the first to become aware of environmental damage as resources become scarce and incapable of sustaining their families. The women we worked with recounted that unlike in the past, they were unable to meet their basic needs. This was due to the degradation of their immediate environment as well as the introduction

⁹² King, 'Ecology of feminism and the feminism of ecology', 20.

of commercial farming, which replaced the growing of household food crops. But international trade controlled the price of the exports from these small-scale farmers and a reasonable and just income could not be guaranteed. I came to understand that when the environment is destroyed, plundered or mismanaged, we undermine our quality of life and that of future generations.⁹³

In terms of ecofeminism, as an epistemic movement for Kenya, Patricia Kimeri-Mbote makes the case for an ecofeminism that unites women's knowledges at the same time lays bare the global oppression to erase or invisibilise these knowledges.

The environmental movement and the women's rights movement have moved on parallel tracks. This is not to say that there is no mention of gendered encounters with environmental resources at local and national levels. Indeed, marginalisation, outlawing or demeaning of women's ways of managing environmental resources (saving seed, shifting cultivation and slash and burn agriculture) as well as the introduction of technologies that obliterate women's roles impact on women's work and their political leverage. This becomes more obvious as women become more dependent on new forms of knowledge that are owned and controlled by others.⁹⁴

Conclusion

Standing on the discussion thus far, decolonial ecofeminist thought is the thread that weaves across this study. This lens will help us appreciate this book's ensuing chapters on the different encounters women confront in agriculture, namely: environmental justice, land, agricultural governance, entrepreneurship, and labour. It offers clues as to why the challenges persist, have been resisted or have been overcome. As the title suggests, it is also an 'imposition' on what should be the main way of understanding this book. For instance, where dichotomies are present, that is not ecofeminist; or where instrumentalisation is at

⁹³ Wangari Maathai, 'Nobel Lecture' 10 December 2004, available at < <https://www.nobelprize.org/prizes/peace/2004/maathai/lecture/> > on 3 November 2024.

⁹⁴ Patricia Kimeri-Mbote, 'Access, control and ownership: Women and sustainable environmental management in Africa' 21(72) *Agenda* (2007) 37.

play. Notably the qualifier 'epistemic' does not intend to convey a type of excluding disciplinarity as this too does not adhere to ecofeminist beliefs. Besides, the study's methodology behaved the contributors to let the women farmers speak for themselves and educate the reader through their knowledges, which we celebrate by publishing this book for all to see. Therefore, the epistemic imposition of decolonial feminisms is attuned to the peoples' archive (a peopled memory), that is, the women farmers' knowledge and practices as gathered from the fieldwork. These multiple knowledges of decolonial ecofeminism prove that the decolonial turn's humanisation mission is still moving.

CHAPTER 2

Gender and environmental governance in Kenya: Barriers and opportunities for women in agriculture

.....
Rosemary Mwanza

Introduction

Environmental governance in the context of agriculture is a solution-oriented set of practices that allow communities and individuals to regulate, manage, and make decisions regarding the use, distribution, and conservation of environmental resources critical for agricultural productivity. Environmental governance consists of four key prongs. Access to and control over natural resources that support productive agriculture is the first prong, as it directly influences who benefits from resources and who bears the costs of environmental degradation. Moreover, environmental governance requires that stakeholders have the opportunity to participate in environmental decision-making at all levels of governance meaningfully. Public participation guarantees that the concerns, values, and views of stakeholders are considered to influence environmental decisions and outcomes. To ensure that public participation is not illusory, stakeholders should have access to relevant, comprehensive, and timely environmental information at all stages of the decision-making process. Finally, environmental governance entails empowering those affected by environmental harm to take responsive action by seeking legal accountability or through alternative dispute resolution mechanisms such as mediation, negotiation, and traditional justice systems.¹

¹ Nathan J Bennett and Terre Satterfield, 'Environmental governance: A practical framework to guide design, evaluation, and analysis' 11(6) *Conservation Letters* (2018) 7.

Thus, gender parity in environmental governance means that women and men have equal opportunities to access and control natural resources critical for agricultural productivity, participate in environmental decision-making at all levels of governance, access to environmental information, and access channels for accountability in response to environmental harm. Gender and environmental governance have gained prominence in Kenya, as reflected in the integration of gender considerations in the Constitution of Kenya, 2010 (2010 Constitution).² These developments, which reflect ongoing efforts by scholars and activists to mainstream gender considerations in laws and policies relating to environmental governance, signal a shift toward more inclusive and gender-sensitive legal frameworks and a growing recognition that gender equality is a critical component of effective environmental governance. Whereas Kenya has made remarkable progress in addressing gender parity, more remains to be done to achieve full and equal inclusion of women in governance.³ The latest Global Gender Gap Report by the World Economic Forum ranks Kenya 75 out of 146 countries, placing her behind some of her neighbours in the Eastern African region, including Rwanda, Burundi, and Tanzania.⁴

While the importance of mainstreaming gender considerations in environmental governance frameworks has been increasingly acknowledged,⁵ the intricate interplay between gender dynamics and

² See for example, Gloria Nyambura Kenyatta, 'Toward inclusive advancement: An analysis of gender equity in Kenya' 25 (2) *Journal of International Women's Studies* (2023) 1; Patricia Kameri-Mbote and Nkatha Kabira, 'Woman of law: Kenyan women's triumph in the Constitution of Kenya 2010' in Wanjiku Mukabi Kabira, Patricia Kameri-Mbote, Nkatha Kabira and Agnes Meroka (eds) *Changing the mainstream: Celebrating women's resilience*, African Women Studies Centre, 2018, 35-42.

³ Naomi Gichuki, 'Affirmative action in Kenya: Setting standards or missing the mark? Perspectives on gender equality in Kenya' 10(4) *Konrad Adenauer Stiftung African Law Study Library* (2023) 530-533.

⁴ World Economic Forum, 'Global gender gap report 2024: Insight report', 2024, 12.

⁵ Patricia Kameri-Mbote, 'The quest for equal gender representation in Kenya's Parliament: Past and present challenges' in Japhet Biegon (ed) *Gender equality and political processes in Kenya: Challenges and prospects*, Strathmore University Press, 2016, 39-66.

environmental governance in agriculture remains underexplored. Focusing on the experiences of farmers in three counties in Kenya – Baringo, Kitui, and Nakuru – this chapter adopts a context-specific analysis to investigate the ways that gender dynamics influence environmental governance for small-scale women farmers. The analysis is structured as follows: Following this introduction, section 2 lays out the conceptual framework for the notion of environmental governance and explores how specific historical, economic and social factors have shaped the experience of women in environmental governance in Kenya. Section 3 examines how applicable Kenyan law has addressed gender discrimination, women's exclusion and environmental governance. This analysis paints a mixed picture: legal reforms have been both progressive and insufficient in addressing deep-seated inequalities. Section 4 discusses the findings from the field study in Baringo, Nakuru, and Kitui counties, providing evidence-based perspectives on gender, environmental governance, and agriculture. This analysis shows that the experiences of small-scale women farmers in Baringo, Nakuru, and Kitui counties reflect a dual dynamic: while legal reforms and governance initiatives have promoted gender inclusion in environmental decision-making, these same farmers continue to face exclusionary practices rooted in socio-cultural and economic inequalities.

Gender and environmental governance in context

Kenya's performance in gender parity is due to a specific set of historical, economic and social factors. In the context of environmental governance, these factors are historical legacies of colonisation, the pervasive influence of capitalism, the diffusion of values and ideas as a function of globalisation, and the contribution of global and contextual feminist movements to the congealment and spread of feminist ideals. This analysis highlights how these factors have influenced the assumptions and roles assigned to men and women within the sphere of environmental governance. As figures 2A and 2B show, while some factors reinforced or continue to reinforce gender inequality, others have promoted gender inclusivity. Specifically, colonialism, capitalism, and some aspects of globalisation have contributed to deepening

gender inequalities in environmental governance. In contrast, feminist movements and other facets of globalisation have promoted the inclusion of women in environmental governance, fostering a shift towards greater equality.

Figure 2A: Relationships among colonialism, capitalism, and globalisation

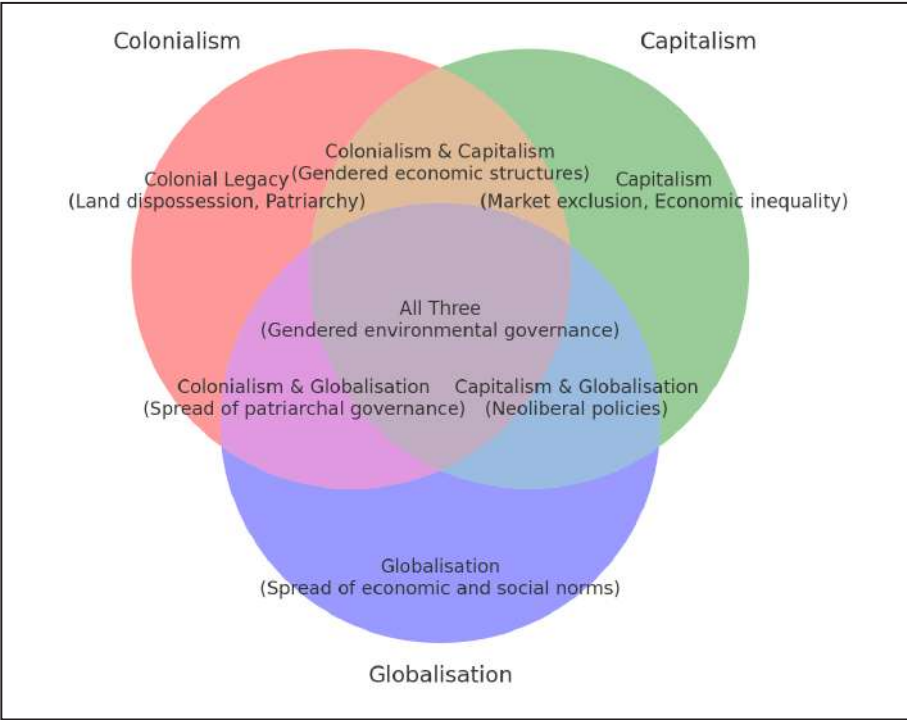
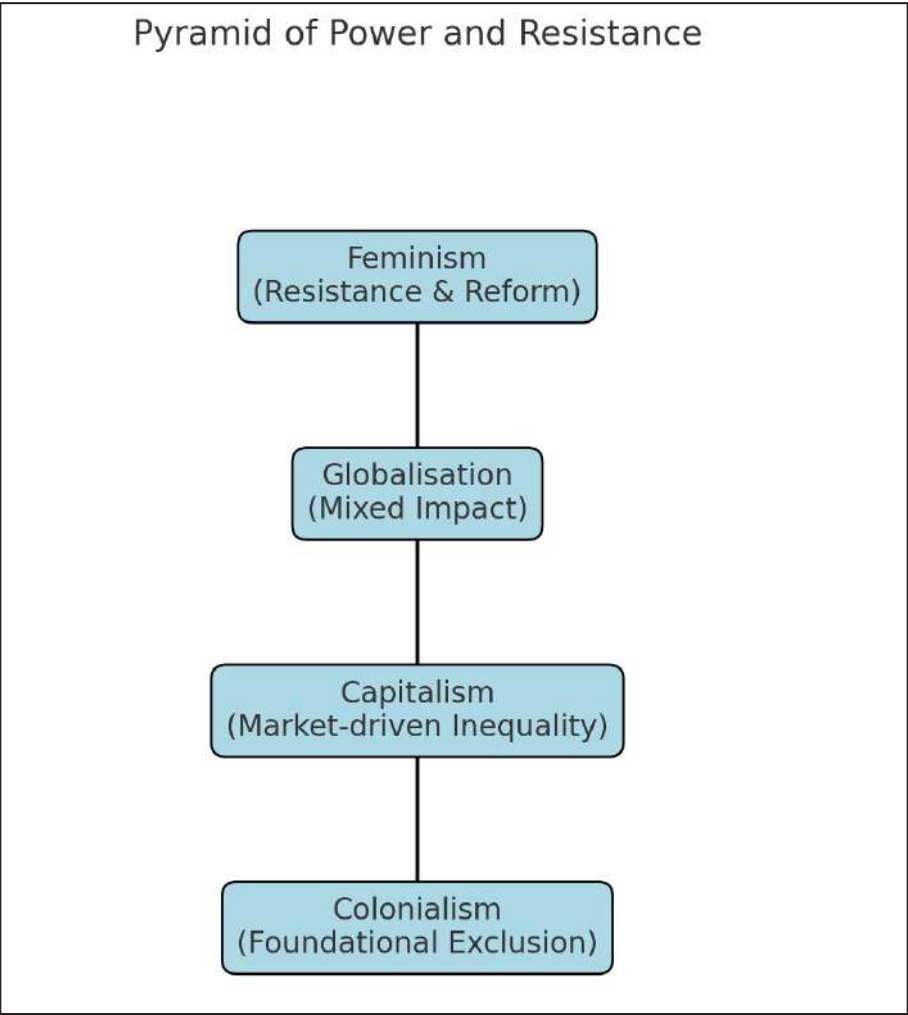


Figure 2B: Hierarchical power dynamics and feminism



Colonialism

Colonialism’s influence on environmental governance was markedly gendered. Through changes in systems of access to and control over land, modification of agricultural practices and governance structures, colonialism impacted environmental governance by limiting women’s access to control over environmental resources, loss of traditional information relevant to sustainability, limiting opportunities for women to participate in decision-making processes in respect to the

use and management of environmental resources, and the disruption of avenues and channels of coordination.

British colonial rule over Kenya dates back to the 1890s. Following the Berlin Conference of 1884-1885, during which European powers partitioned Africa among themselves, the British East Africa Company began its administration in an area that became Kenya and Uganda in 1888. In 1895, the British Government directly controlled the East African Protectorate. Kenya became a colony in 1920, implementing colonial policies that reshaped its political, social, and economic structures.

Colonial power appropriated large tracts of land for European plantations, mines, or settlements.⁶ The Colonial Government introduced laws that facilitated the expropriation of land.⁷ One of the most marked outcomes of the colonial appropriation of land was the displacement of African communities into reserves where the availability of agricultural land was restricted.⁸

Appropriation and displacement affected environmental governance in several ways. Unable to access land, Africans could no longer exercise control over environmental resources as they no longer had access to land on which such resources were located. Displaced communities were compelled to adapt to new agricultural methods and subsist within the confines of the reserves. The restrictions of large populations of Africans in reserves raised new environmental

⁶ Tabitha Kanogo, *Squatters and the roots of Mau Mau, 1905-63*, East African Publishers, 1987, 8-13.

⁷ The Crown Land Ordinance of 1902 formalised the alienation of land to European settlers. The Crown Land Ordinance of 1915 reinforced the 1902 Ordinance by providing a legal basis for the Colonial Government to allocate more land to the European settlers. The Native Land Trust Ordinance of 1930 delineated native reserves Africans could occupy. Native reserves were often on less fertile land, significantly smaller in size than the land allocated to settlers, and overcrowded. The Land Titles Ordinance of 1908 and the Registration of Titles Act of 1919 introduced formal land registration and titling. Land registration and titling favoured Europeans whose background in British legal culture had prepared them better than Africans to navigate legal complexities to secure ownership documents and further entrench the alienation of Africans from their land.

⁸ Kanogo, *Squatters and the roots of Mau Mau, 1905-63*, 8-13.

challenges, such as soil erosion and the depletion of forests and vegetation. Colonial powers' response to emerging environmental problems was to prescribe Western ideals of conservation that increasingly alienated African communities from their land and environmental resources.⁹ Consequently, most aspects of the traditional knowledge and practices that African communities had long relied on for sustainable agriculture gradually became obsolete, and the traditional channels through which Africans passed environmental information from one generation to another were severely, if not entirely, disrupted.

The Colonial Government's policies had an immense impact on agricultural practices, principally through the introduction of cash crops. During the colonial era, the Colonial Government encouraged farmers to replace traditional food crops, such as millet, sorghum, cassava, yams, and traditional maize, with cash crops, such as Irish potatoes, carrots, kale, spinach, cauliflower, cabbage, and maize varieties imported from abroad.¹⁰ The Swynnerton Plan of 1954 stands out as an example of how agricultural practices underwent modification. Under the Swynnerton Plan, Africans were encouraged to grow crops such as tea, coffee, and pyrethrum for sale. The Swynnerton Plan also laid the foundation for Africans to obtain title deeds, which allowed them access to credit for their agricultural development.¹¹ This shift to cash crops marginalised subsistence farming, often a domain of women.¹²

⁹ Martin S Shanguhya, 'The environment under colonialism' in Wanjala S Nasong'o, Maurice N Amutabi and Toyin Falola (eds) *The Palgrave Handbook of Kenyan history*, Palgrave Macmillan, 2023, 163-176.

¹⁰ A Fiona D Mackenzie, 'Contested ground: Colonial narratives and the Kenyan environment, 1920-1945' 26(4) *Journal of Southern African Studies* (2000) 697.

¹¹ Kennedy M Moindi, 'The colonial political economy in Kenya' in Nasong'o and others (eds) *The Palgrave Handbook of Kenyan history*, 106-109.

¹² John Ndungu Kungu, Babere Kerata Chacha and Thomas Njiru Gichobi, 'The Swynnerton plan and political economy of land in Kenya: A historical perspective' 9(11) *International Journal of Innovative Research and Advanced Studies* (2022) 35-42.

Alongside changes to agricultural practices, colonial laws and policies reinforced patriarchal structures, limiting women's access to land and other resources.¹³ This outcome arose because the production of cash crops was directly linked to land ownership and the ability to make decisions regarding agricultural practices, which were spheres dominated by men. Within this context, the traditional knowledge systems possessed by women gradually became obsolete, as cash crop farming depended largely on Western modes and farming techniques.

Colonisation transformed the governance structures of most African communities. Pre-colonial Kenya was characterised by diverse communities with their own unique systems of governance, often decentralised and based on clans or tribes.¹⁴ Traditional African governance structures, often complex and community-based, were replaced with centralised, hierarchical systems, mirroring the patriarchal norms of the colonisers.¹⁵ The imposition of Western norms and values brought about a fundamental redefinition of gender roles.¹⁶ Western ideals regarding family structures and gender roles were introduced and often imposed forcefully. The imposition of Western norms and values brought about a fundamental redefinition of masculinity and femininity: masculinity became associated with wage labour, power, and control, while femininity was increasingly linked to domesticity and subservience.¹⁷

The disruption of traditional governance and institutional arrangements allowed men and women to coordinate affairs related to family care, management of agricultural tasks, and access to and control over natural resources. Governance structures designed in accordance

¹³ Kungu, Gichobi and Chacha, 'The Swynerton plan and political economy of land in Kenya' 35-42.

¹⁴ Susan Mbula Kilonzo and Jethron Ayumbah Akallah, 'Women in colonial East Africa' in Olajumoke Jacob-Haliso and Toyin Falola (eds), *The Palgrave handbook of African Women's Studies*, Palgrave Macmillan, 2021, 1133.

¹⁵ Kilonzo and Akallah, 'Women in colonial East Africa', 1133.

¹⁶ Sacha Hepburn, 'Women in Kenya', *Oxford Research Encyclopedia of African History*, Oxford University Press, 2023.

¹⁷ Hepburn, 'Women in Kenya'.

with Western values and colonial laws and policies allowed men to hold significant governance positions in society, and the visibility and value of women's contributions diminished. Colonial education reinforced gender roles by preparing men for formal employment and women for domestic duties.¹⁸ Lower levels of formal education among women correlated with the exclusion of women from governance responsibilities. They undermined their ability and opportunities to participate fully in decision-making in many spheres, including agriculture and the management of environmental resources.

Taken together, the colonial system laid the foundation for a capitalist economic structure, which to them was part of a predestined tenurial evolution from traditional to modern states. Fredrick Lugard observed with conviction that:

Speaking generally, it may, I think, be said that conceptions as to the tenure of land are subject to a steady evolution, side by side with the evolution of social progress, from the most primitive stages to the organisation of the modern state. In the earliest stage the land and its produce is shared by the community as a whole; later the produce is the property of the family or individuals by whose toil it is won, and the control of the land becomes vested in the head of the family. When the tribal stage is reached, the control passes to the chief, who allots unoccupied lands at will, but is not justified in dispossessing any family or person who is using the land. Later still, especially when the pressure of population has given to the land an exchange value, the conception of proprietary rights in it emerges, and sale, mortgage, and lease of the land, apart from its user, is recognised.

Conquests vest control of the land in the conqueror, who in savage warfare also disposes of the lives and chattels of the conquered, but he usually finds it necessary to conform largely to the existing law and common. *In civilised countries conquest does not justify confiscation of private rights in land.*

¹⁸ Hepburn, 'Women in Kenya'.

These processes of natural evolution, leading up to individual ownership, may, I believe, be traced in every civilisation known to history.¹⁹

The next section looks into the creation of a capitalist state in Kenya and its imprints on environmental justice.

Capitalism

Kenya has undergone several stages of capitalism. According to Mogens Buch-Hansen and Jan Kieler, the initial three stages of capitalism began with the disruption of traditional systems of production and the establishment of European agriculture on lands expropriated from Africans during colonisation. Agriculture was redefined as a result of the expropriation and dispossession of land. A notable development in this respect was the expansion of African cash crop production and changes in the land tenure system elaborated in the Swynnerton Plan in the 1950s. The third stage began in the late 1960s with the establishment of agribusiness and agro-industrial production based on contracts with small-scale farmers.²⁰ Following the three states of capitalism, Kenya, like most countries around the world, has also experienced its own version of the later stages of capitalism, characterised by distinct and interrelated pillars of neoliberalism. The main pillars of neoliberal capitalism include the centrality of private property, economic activity driven by the profit motive and accumulation of capital, free market competition and consumer sovereignty, labour as a commodity, and the limited interventionist role of government.²¹

One of the most far-reaching impacts of neoliberalism in Kenya has been the redefinition of the role of the state by promoting the idea that the state should minimise its intervention in the economy and

¹⁹ Frederick Lugard, *The dual mandate in British Tropical Africa*, William Blackwood and Sons, London, 1922, 280-281. Emphasis added.

²⁰ Mogens Buch-Hansen and Jan Kieler, 'The development of capitalism and the transformation of the peasantry in Kenya' No 15 *Rural Africana* (1983) 14.

²¹ James Fulcher, *Capitalism: A very short introduction*, 2ed, Oxford University Press, 2015, 13-18; Sarwat Jahan and Ahmed Saber Mahmud, 'What is capitalism?: Free markets may not be perfect but they are probably the best way to organise an economy' 52(002) *Finance and Development* (June 2015) 44-45.

focus on creating an environment conducive to free markets. In Kenya, the redefinition of the role of the State was accomplished through policy interventions introduced through the Structural Adjustment Programmes (SAPs) operationalised in the 1980s by the International Monetary Fund (IMF) and the World Bank. SAPs were introduced as a policy response to facilitate economic stabilisation and development following the economic hardships of the 1970s. The SAPs program in Kenya was enunciated through several policy documents,²² which introduced the liberalisation of trade and openness to global capital flows, privatisation of State-owned enterprises, and the reduction in State intervention through, for instance, cutbacks on Government spending and removal of price support mechanisms in the economy.²³

The overall effects of SAPs on agriculture were negative. According to Fibian Lukalo, the most pernicious policies were those that reduced subsidies and support services, which meant that agricultural inputs such as fertilisers, seeds, extension and credit facilities for farmers, and social services were no longer available.²⁴ The privatisation of State-owned enterprises that had previously provided agricultural services and inputs led to higher costs for farmers and a focus on more profitable cash crops for export over subsistence or food crops for local consumption.²⁵ Simultaneously, market liberalisation exposed small-scale farmers to competition from imported goods and, in some cases, excluded them from participating in local and global markets due to difficulties in meeting certification standards required to qualify for

²² Republic of Kenya, 'Sessional Paper No 4 of 1980 on Economic Prospects and Policies', Government Printers, 1980; Republic of Kenya, 'Sessional Paper No 4 of 1981 on National Food Policy', Government Printers, 1981; Republic of Kenya, 'Sessional Paper No 1 of 1986 on Economic Management for Renewed Growth', Government Printer, 1986.

²³ Utsa Patnaik, 'The agrarian question in the neoliberal era' in Utsa Patnaik and Sam Moyo (eds) *The agrarian question in the neo-liberal era: Primitive accumulation and the peasantry*, Pambazuka Press, 2011, 8.

²⁴ Fibian Lukalo, 'Putting agriculture ahead? Some reflections about the early years of neoliberalism in Kenya' in Freedom Mazwi, George Tonderai Mudimu and Kirk Helliker (eds) *Capital penetration and the peasantry in Southern and Eastern Africa*, Springer, 2022, 170-177.

²⁵ Lukalo, 'Putting agriculture ahead?' 170-177.

global markets. Moreover, the push for land reform to secure property rights, a core pillar of neoliberalism, disrupted livelihoods that depended on communal ownership of land and traditional farming modes.²⁶ The emphasis placed on export-oriented agriculture favoured landholders and those with access to capital and resources, categories from which women are disproportionately excluded. Exclusion of women from land ownership or control of financial and other resources was and continues to be not merely a matter of economic disadvantage but is deeply rooted in the gendered division of labour and property rights, a major contributing factor to limiting women's access to land, credit, and extension services compared to their male counterparts.²⁷

A free-market economy and consumer sovereignty are central to capitalism. Consumer sovereignty implies that the production of goods and services should be tailored to meet consumers' preferences. Since consumer preferences are always in flux, farmers who desire to participate in agricultural commerce often find themselves burdened with the demand to meet conflicting consumer preferences. For example, some consumers demand products produced sustainably, forcing farmers to adopt sustainable practices such as crop rotation, growing cover crops, biological pest control, drip irrigation, mixed farming, and the use of organic manure.²⁸ Whereas such practices are good for the environment, the negative impact on livelihoods may be downplayed. The degradation of Indigenous land in Peru and Bolivia due to quinoa farming to meet the exponential demand for cereal by consumers in the Global North is a powerful example of how demand for farm produce under the banner of sustainability may be good for global markets but devastating to the economic and environmental sustainability of

²⁶ Lukalo, 'Putting agriculture ahead?' 170-177.

²⁷ Jean M Due and Christina H Gladwin, 'Impacts of structural adjustment programs on African women farmers and female-headed households' 73(5) *American Journal of Agricultural Economics* (1991) 1431.

²⁸ Temidayo O Akenroye, Mukesh Kumar, Manoj Dora, Ugwushi Bellema Ihua, Violet J Mtonga and Oluseyi Aju, 'Evaluating the barriers to adopting sustainable agriculture practices in smallholder coffee farming: Implications for global value chains' in Regina Frei, Sherwat Ibrahim and Temidayo Akenroye (eds) *Africa and sustainable global value chains*, Springer, 2022, 126.

local communities.²⁹ Other markets may demand higher yields to meet volume demand, forcing farmers to use commercial pesticides and fertilisers for higher yields. In this way, market participation creates incentives to engage in environmentally destructive agricultural practices. For example, a 2023 study on the use of pesticides by Kenyan farmers showed that 76% of Kenyan farmers used highly hazardous pesticides.³⁰ Long-term degradation of soil and water resources due to the use of hazardous chemicals is linked to food insecurity, poverty and worsening of gender inequality.

Overall, the cumulative impacts of neoliberalism have been negative. By redefining the role of the state and pursuing a free-market economy, capitalism exacerbated economic inequalities that correlate negatively with women's ability to access and control natural resources. Moreover, capitalism ignores or fails to fully engage with the social realities that determine equal and equitable participation in the market. In most cases, existing gender dynamics determine who has the authority to make decisions on the adoption of farming practices in response to market forces and demand within farmers' households. Despite the crucial role they play in managing household consumption and their substantial collective presence in the market, women often have limited influence over market trends or agricultural policies. In many societies, traditional gender roles restrict women's participation in public spheres, including economic markets and policy-making forums.³¹ Women tend to have limited access to information regarding market trends and agricultural technologies for sustainable agriculture due to factors such as lower literacy rates, less access to training, and

²⁹ Ainhua Magrach and María José Sanz, 'Environmental and social consequences of the increase in the demand for 'superfoods' world-wide' 2 (2) *People and Nature* (2020) 267.

³⁰ Lisa Tostado, Silke Bollmohr and Layla Liebetrau (eds), *Pesticide atlas: Facts and figures about toxic chemicals in agriculture -Kenya edition*, Heinrich-Böll-Stiftung Nairobi, Heinrich-Böll-Stiftung Berlin, Friends of the Earth Europe-Brussels, Friends of the Earth Germany and Pesticide Action Network Europe-Brussels, 2022, 38.

³¹ Lizzi Milligan, "'They are not serious like the boys": Gender norms and contradictions for girls in rural Kenya' 26(5) *Gender and Education* (2014) 465.

limited connectivity to communication and transport infrastructure in rural areas. The outcomes of poverty negatively affect all spheres of life. In relation to environmental governance, in particular, poor farmers facing environmental challenges have limited resources to pursue accountability through formal or informal means.

From the discussion so far, it is evident that globalisation is a facet of capitalism characterised by the interconnectedness and interdependence of economies, cultures, and political systems of countries and regions worldwide. The next section looks into this facet more closely.

Globalisation

According to the 2021 report by Konjunkturforschungsstelle (KOF) Globalisation Index, a popular globalisation indexing platform, Kenya's globalisation index stood at 56, an increase from 31 in 1970.³² The discussion below shows that the impact of globalisation on the gender-environmental governance nexus has been mixed. On the one hand, globalisation has facilitated the emergence of new forms of environmental problems and worsened existing ones as actors resort to environmentally damaging activities to cut production and transportation costs as a way to capture and maintain access to local and global markets. On the other hand, globalisation is linked with increased access to microfinance and the spread of ideas on and value on gender equality. The former is linked to improved access to and control over natural resources that support agriculture, while the latter impacts all the prongs of environmental governance as such ideas impact laws, policies and practices that enhance gender equality.

Globalisation is linked to the emergence of and worsening of global environmental challenges that have disproportionate negative impacts on women. This link between globalisation and environmental harm is attributable to the extraction of natural resources, manufacturing

³² KOF Globalisation Index, KOF Swiss Economic Institute -<<https://kof.ethz.ch/en/forecasts-and-indicators/indicators/kof-globalisation-index.html>> on 25 February 2025.

processes, and the movement of goods through global supply chains to meet the global demand for consumer products.³³ One of the clearest examples of environmental destruction resulting from economic globalisation in Kenya is climate change. Because of its geographical location in the Horn of Africa, Kenya is highly vulnerable to climate change. Small-scale farmers are particularly vulnerable to variations in rainfall patterns, heatwaves, stressed water resources, and plant diseases.³⁴ Globalisation drives up demand, worsening environmental problems. Demand for diverse farm produce in local and global markets exerts pressure on small and large agricultural farms to turn to commercial agricultural chemicals to maximise yields.

These challenges disproportionately affect women in general and, more specifically, women engaged in agriculture. In Kenya, women manage up to 40% of all small-scale farms. However, female farm managers face gender-specific barriers that hinder their participation in decision-making processes related to environmental stewardship. They also have limited access to and control over natural resources, as well as restricted access to timely environmental information compared to their male counterparts. Gender plays a significant role in determining whether female farmers transition to sustainable agricultural practices.³⁵ Specifically, female-led farms are less likely to adopt such practices when they require greater labour, knowledge, and resources.³⁶

³³ Peter Christoff and Robyn Eckersley, *Globalisation and the environment*, Rowman and Littlefield, 2013, 50-68.

³⁴ Justus Ochieng, Lilian Kirimi and Mary Mathenge, 'Effects of climate variability and change on agricultural production: The case of small scale farmers in Kenya' 77(1) *Wageningen Journal of Life Sciences* (2016) 71.

³⁵ For a discussion on how gender interacts with other factors to shape women's choices of sustainable agricultural practices, see, Beatrice W Muriithi, Kassie Menale, Gracious Diiro and Geoffrey Muricho, 'Does gender matter in the adoption of push-pull pest management and other sustainable agricultural practices? Evidence from Western Kenya' 10 *Food Security* (2018) 253.

³⁶ S Wagura Ndiritu, Kassie Menale and Bekele Shiferaw, 'Are there systematic gender differences in the adoption of sustainable agricultural intensification practices? Evidence from Kenya' 49 *Food Policy* (2014) 117.

Globalisation facilitates the increase in global capital and financial flows. One of the outcomes of the increase in financial flows on a global scale is the ability to access credit by small-scale and large-scale farmers in the form of microfinance, as global financial inclusion policies, such as the Universal Financial Access Initiative, diffuse into many countries' legal and policy frameworks. Microfinance is a leading source of credit for people experiencing poverty, primarily rural farmers because it is easier to access than traditional banking. There is currently no conclusive data that aggregates the number of women who obtain credit to run or start farms in Kenya. Considering this knowledge gap, one can reasonably conclude that the trend in Kenya mirrors global trends indicating that microfinance borrowers are mostly poor women who normally face barriers in accessing traditional banking.³⁷ Economic empowerment of women involved in small-scale farming increases their ability to obtain and control resources such as funds and land, a development that is positively linked to greater opportunities to participate in decision-making processes regarding environmental governance, such as the adoption of sustainable agricultural practices. However, the positive outcomes of access to financial resources are not uniform across the board, as gender norms may still limit women's control over family and personal agricultural resources and the power to make decisions pertaining to their use and conservation.³⁸

Not all impacts of globalisation have been negative. The increase in global channels of communication facilitates the spread and adoption of ideas and values on gender equality across different cultural and geographical contexts. Ideas on gender equality can travel across national and geographical contexts as multinational corporations operating in various countries respond to demand for goods produced in a manner that respects labour, gender inclusion, and sustainability standards within their global supply chains. The inclusion of gender

³⁷ Sunny Li Sun and Hao Liang, 'Globalisation and affordability of microfinance' 36(1) *Journal of Business Venturing* (2021) 1.

³⁸ Nadine Shaanta Murshid, 'Microfinance participation and women's decision-making power in the household in Bangladesh' 44(3) *Journal of Social Service Research* (2018) 308.

equality as a basis for fair trade certification for agricultural produce entering global markets from Kenya and other counties compellingly demonstrates that global trade can have a positive influence on gender relations.³⁹

Forums for the negotiation of international and regional legal instruments have been a forceful pathway facilitating the exchange and spread of gender equality. Many countries become signatories or members of international and regional instruments containing provisions addressing gender challenges to gain reputational benefits or out of a commitment to improve the plight of women domestically. The adoption of such instruments into municipal law has provided momentum for developing domestic laws and policies on gender. Member states and signatory countries use these instruments as reference material to shape the scope and content of relevant domestic laws.⁴⁰

Kenya is a signatory of numerous international and regional instruments that contain provisions on gender equality. Examples include the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the African Union Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).⁴¹ These instruments have played a direct and indirect role in enhancing gender equality. Gender equality provisions have the potential to enhance gendered environmental governance as they provide a legal basis to support the participation of women in the decision-making process, secure their access to and control of natural resources that support agriculture, and guarantee equality in access to environmental information and remedies

³⁹ Catherine Dolan, Maggie Opondo and Sally Smith, *Gender, rights and participation in the Kenya cut flower industry*, Natural Resource Institute, 2002.

⁴⁰ Audrey L Comstock, 'Signing CEDAW and women's rights: Human rights treaty signature and legal mobilisation' 49(2) *Law and Social Inquiry* (2024) 1.

⁴¹ Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, 1249 UNTS 13; African Union, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), 11 July 2003, Protocol No 5.

for environmental harm. Additionally, the aspirations embedded in these instruments resonate with the conceptual and theoretical frameworks for studying women's resistances to both colonial and capitalist oppression in environmental governance. The next section sets out to explain these frameworks.

Decolonial feminisms

Feminism encompasses an array of traditions, including liberal, traditional Marxist, radical, socialist, black, and Third World, each informed by a distinct understanding of the sources and solutions of gender inequality. The array also explains why the school of thought is referred to in plural form, that is, feminisms. Feminism seeks to challenge and eradicate patriarchal and cultural norms that have historically marginalised women in social, economic, political, and cultural spheres. For countries like Kenya, feminist thought is decolonial in nature, meaning it problematises both the colonial history and its legacies and the post-colonial futures (or resistances). Sylvie Tamale defines decolonial feminism (Afro-Feminism) as follows:

Although it shares some values with Western feminism, Afro-Feminism distinctly seeks to create its own theories and discourses that are linked to the diversity of African realities. It works to reclaim the rich histories of Black women in challenging all forms of domination, in particular as they relate to patriarchy, race, class, sexuality and global imperialism.⁴²

This book's main feminist framework is Ecofeminism as espoused by Vandana Shiva and Maria Mies, a strand of decolonial feminisms that connects ecology and feminism. In view of environmental governance, Ecofeminism links the liberation of women with the liberation of nature, which capitalist agricultural systems and methods continuously plunder thereby oppressing women farmers.⁴³ Second, Ecofeminism proffers human cooperation (rather than transcending) with nature through mutual care and love, thus, acknowledging that

⁴² Sylvia Tamale, *Decolonisation and Afro-feminism*, Daraja Press, 2020, xiii.

⁴³ Maria Mies and Vandana Shiva, *Ecofeminism*, 2ed, Zed Books, 2014, 2-3.

the earth as a bestowed gift to humanity.⁴⁴ Third, this cooperation starts from the fundamental necessities of life, also known as the subsistence perspective, in which women are nearer to than men.⁴⁵ Fourth, women, especially in the Global South, respect and celebrate Earth's sacredness and resist its transformation into dead raw material for industrialism and commodity production.⁴⁶

Feminism's role in shaping gender dynamics in environmental governance in Kenya is evident in how decolonial feminisms influence the laws that champion equitable access to and control over natural resources, equal opportunities for meaningful participation in decision-making, access to information and access to remedies. International law and policy documents, crafted and informed by feminist ideologies, have been a significant channel through which the force of Feminist thought has been infused into Kenyan law. The key global policy framework for gender equality is believed to consist of the Beijing Declaration and Platform for Action, CEDAW and the Maputo Protocol.⁴⁷

The Beijing Declaration and Platform for Action emerged from the Fourth World Conference on Women, held in Beijing in 1995, and is widely recognised as a comprehensive global policy framework for women's rights. One of the 12 critical areas of action identified in the framework was the need to involve women in environmental decision-making at all levels.⁴⁸ The Beijing Declaration and Platform for Action are linked to developments in law, policies, and institutional frameworks to facilitate women's participation in decision-making in many African countries and Kenya.⁴⁹ Nancy Baraza and Karen Koech argue that the 2010 Constitution reflects the values drawn from feminist thought as

⁴⁴ Mies and Shiva, *Ecofeminism*, 8.

⁴⁵ Mies and Shiva, *Ecofeminism*, 20.

⁴⁶ Mies and Shiva, *Ecofeminism*, 19.

⁴⁷ United Nations, Beijing Declaration and Platform for Action, A/CONF 117/31, 1995.

⁴⁸ United Nations, Beijing Declaration and Platform for Action, paras 246-252.

⁴⁹ Nancy Baraza and Karen Koech, 'Gains and losses: The impact of the Beijing Declaration and Platform for Action on the legal status of Kenyan women' 8(1) *Africa Nazarene University Law Journal* (2020) 96-106.

formalised in the Beijing Declaration and Platform for Action. Key among these include provisions on human dignity, equity, social justice, human rights, non-discrimination, and protection of the marginalised.⁵⁰

Similarly, feminist thought is credited with shaping the provisions of CEDAW,⁵¹ which Kenya ratified in 1984. The ratification of CEDAW correlated with improved political participation, social rights, and education for women worldwide.⁵² In Kenya, CEDAW has played a crucial role in shaping laws on equality before and after the promulgation of the 2010 Constitution. For instance, in the landmark case of *Rono v Rono*,⁵³ the Court of Appeal cited CEDAW, finding that daughters have an equal right to inheritance, even for property held under customary law.

Decolonial feminist thought is the bedrock of the Maputo Protocol, which Kenya ratified in 2010. Article 19 of the Maputo Protocol promotes women's access to and control over productive resources (land); access to credit, training, skills development, and extension services at rural and urban levels; and protection from any adverse effects of globalisation and the implementation of trade and economic policies and programmes.⁵⁴ State parties are mandated to promote training of women in science and technology as well as enable the development of women's indigenous knowledge systems.⁵⁵ The Maputo Protocol's provisions on the protection of dignity, equal protection before the law, right to participation in decision-making and the right to a healthy environment are directly relevant to and moderate the intersection of

⁵⁰ Baraza and Koech, 'Gains and losses' 96-106.

⁵¹ Laura Parisi, 'Feminist praxis and women's human rights' 1(4) *Journal of Human Rights* (2002) 571.

⁵² Neil A Englehart and Melissa K Miller, 'The CEDAW effect: International law's impact on women's rights' 13(1) *Journal of Human Rights* (2014) 22.

⁵³ *Mary Rono v Jane Rono and another*, Civil Appeal No 66 of 2002, Judgement of the Court of Appeal at Eldoret, 29 April 2005.

⁵⁴ Maputo Protocol, Article 19(c), (d) and (f).

⁵⁵ Article 12(2)(b) on right to education and training and Article 18(2)(c) on right to a healthy and sustainable environment respectively.

gender and environmental governance and mirror similar provisions in the Constitution of Kenya (2010).

Despite the progressive impact of decolonial feminist thought on laws and jurisprudence on gender and environmental governance, women are often underrepresented in decision-making bodies that influence agricultural policies and market regulations.⁵⁶ Since the adoption of Kenya's 2010 Constitution, there has been a notable increase in women's representation in political positions,⁵⁷ reflecting a progressive shift toward gender inclusion in governance. However, it is critical to observe that the current scale of women's representation still falls short of the constitutional vision for gender parity established in articles 10, 27, 59, 69, 175, and 197. This discrepancy between the aspirations of feminist thought as formalised in Kenyan law, and the practical realisation of gender parity in many spheres of life, tallies with the continued role of patriarchal norms and cultural assumptions in defining the place and role of women in many spheres of life.

Gender and environmental governance in agriculture under Kenyan law

This section explores how Kenyan law addresses the interplay between gender and environmental governance. The analysis shows that Kenyan law addresses gender inequality in environmental governance by: (1) incorporating equality and non-discrimination as principles of governance or obligations for the State; (2) requiring the State to eliminate beliefs and practices that portray women as inferior to men; (3) requiring the State to put in place affirmative action measures to address the cumulative effects of historical exclusion of women from participating in governance; (4) recognising the gendered dimensions of environmental challenges; and (5) requiring equal participation of women in the development of law, policies and decisions made at all

⁵⁶ Effie Owuor, 'Women and political inclusion in Kenya: A historical overview, 1963 - 2016' in Japhet Biegon (ed), *Gender equality and political processes in Kenya*, Strathmore University Press, 2016, 7-37.

⁵⁷ Kenyatta, 'Toward inclusive advancement: An analysis of gender equity in Kenya' 4.

levels of government. These developments affirm that current Kenyan law has made strides in addressing the gendered effects of colonialism, capitalism and globalisation while incorporating gender parity values drawn from global environmental law and feminist movements and thought.

Gender and the law on access and control of environmental resources

The primary environmental resources for agriculture sustenance in Kenya include water, soil fertility, land, a stable climate, biodiversity, and forests. Land is the most significant of these, as it serves as the source of the other resources. The Constitution of Kenya (2010) is the legal foundation for equal access to and control over land. It entrenches the principles of equitable access to land, security of land tenure, and the elimination of gender discrimination in law, customs, and practices related to land and property in land.⁵⁸ In Article 27, the 2010 Constitution enshrines principles aimed at ensuring equal treatment and opportunities for all individuals, regardless of their background. These principles are equality before the law, equal enjoyment of rights and fundamental freedoms, equality between men and women, prohibition against discrimination and affirmative action (the two-thirds gender rule).

Under Kenyan law, a person can gain legal access to land as a holder of private title, a holder of a lease or forms of partial interests defined under the Land Act (2012), if they are a member of a community whose land is registered under the Community Land Act (2016), or if they have a right of access to public land in accordance with the relevant provisions of the Land Act (2012).⁵⁹

The Land Act (2012) lays out the framework for the management and conservation of land and resources. It addresses the issue of gender parity in access and control over land in a number of ways. The Land Act (2012) reiterates the elimination of gender discrimination in law, customs, and practices related to land and property as one of the

⁵⁸ Constitution of Kenya (2010), Article 60(a), (b), (f).

⁵⁹ Land Act (No 6 of 2012), Section 5.

principles guiding the implementation of its provisions.⁶⁰ The Land Act (2012) anchors the management, transfer, and regulation of land on the principles of public participation, accountability, non-discrimination, protection of the marginalised, and inclusiveness.⁶¹ These provisions consolidate and protect women's rights to own, inherit, and access land, empowering them to make decisions about how to manage, use, and conserve environmental resources for sustainable agriculture.

The Community Land Act (2016) provides a legal framework for the recognition, protection, and registration of community land rights. The Community Land Act (2016) addresses gender parity in a number of ways. First, it incorporates the principles of equality and non-discrimination set out in articles 60 and 10 of the Constitution. Second, it requires communities to ensure applications for formal registration of community land rights recognise the equal rights of men and women.⁶² Third, Article 30 states that all members of the community benefit equally from community land after its registration. Fourth, the Community Land Act (2016) mandates inclusive participation of all community members, including women, in decisions related to land management and use, for instance, by mandating that the makeup of community land management committees conform to the two-thirds gender rule. The two-thirds gender rule is enshrined in articles 27(8) and 81(b) of the Constitution. The rule mandates that no more than two-thirds of the members of any appointive or elective public body should be of the same gender. The rule was introduced to promote gender equality and ensure that women have fair representation in political and public sectors, addressing the significant gender imbalances historically present in leadership roles.

Formal recognition and registration of land rights are vital for women's empowerment in agriculture as it provides them with a legal basis to claim and control land, thereby enhancing their access to resources and participation in agricultural activities. The Community

⁶⁰ Land Act (No 6 of 2012), Section 4(2)(f).

⁶¹ Land Act (No 6 of 2012), Section 4(2).

⁶² Community Land Act (No 27 of 2016), Section 14(4).

Land Act (2016) has provisions against discrimination in the allocation and use of community land, which are pivotal in addressing gender disparities.⁶³ By ensuring that land allocations are made without gender-based discrimination, the Community Land Act (2016) promotes gender equity in agricultural opportunities and access to land for farming.

Despite legal provisions on equality, women's access to and control over land remains limited due to gendered ownership structures. This reality is borne out by the fact that fewer women than men hold titles to land in Kenya.⁶⁴ Patriarchal systems prevalent in many communities play a significant role in restricting women's access to land by placing decisions in respect to whom may access land in the hands of men with little or no women participation. Without secure access to and control over land, women's power to make decisions on the management, utilisation and conservation of land and environmental resources critical for agricultural productivity is severely curtailed. Some examples serve to drive this point home. For example, a 2023 study on the management of maize plots in rural Kenya revealed that while joint decision-making is common in dual-adult households, decisions related to major financial expenditures that influence production potential were controlled by men. In contrast, women control the decisions on activities or items that require less financial expenditure.⁶⁵ Similarly, a study analysing the decision-making ability of women involved in agro-pastoral communities in Kenya revealed that women's increased contribution to the provision of labour is different from their decision-making ability.⁶⁶ Instead, decision-making is dominated by men in a manner consistent with the cultural definition of gender roles where

⁶³ Community Land Act (No 27 of 2016), Section 14 and 30 (relating to non-discrimination in the registration of ownership and access to benefits).

⁶⁴ Kenya Land Alliance and FIDA-Kenya, 'Women, land and property rights and the land reforms in Kenya', Policy Brief, 2019, 1.

⁶⁵ Rachel C Voss, Zachary Gitonga, Jason Donovan, Mariana Garcia-Medina and Pauline Muindi, 'Can I speak to the manager? The gender dynamics of decision-making in Kenyan maize plots' 41 *Agriculture and Human Values* (2023) 205.

⁶⁶ Stephen Olenje, 'The role of women in livestock decision making in agro-pastoral systems in Kenya: A critical literature review' 1(2) *American Journal of Livestock Policy* (2022) 10.

men dominate decision-making.⁶⁷ Women's limited or lack of decision-making power limits their ability to implement changes or invest in environmentally sound agricultural practices.

Although the legal framework guarantees equality and non-discrimination in land access, women in Kenya hold significantly fewer land titles than men.⁶⁸ Patriarchal systems entrenched in many communities continue to limit women's access to community land, with decisions regarding land allocation predominantly made by male elders, often excluding women. This persistent disparity highlights the urgent need for stronger enforcement of legal protections to ensure that women's land rights are realised in practice. Addressing these structural inequalities is crucial for promoting gender-inclusive land ownership and advancing sustainable development.

Gender and public participation

The 2010 Constitution mandates the State to ensure inclusive and equal participation in governance and other spheres of life. The principle of public participation is one of the national values and principles of governance listed in Article 10 of the 2010 Constitution. Its goals are to empower citizens to shape policies and laws developed by Government agencies and to monitor whether their actions conform to the law. On matters relating to the environment, the 2010 Constitution obliges the State to 'encourage public participation in the management, protection and conservation of the environment.'⁶⁹ The scope of the public participation obligation was explained in the *Mui Basin* case.⁷⁰ The High Court enunciated six principles to guide the determination of whether a public participation exercise would be considered

⁶⁷ Olenje, 'The role of women in livestock decision making' 10.

⁶⁸ Kenya Land Alliance and FIDA-Kenya, 'Women, land and property rights and the land reforms in Kenya' 1.

⁶⁹ Constitution of Kenya (2010), Article 69(1)(d).

⁷⁰ *Mui Coal Basin Local Community and 15 others v Permanent Secretary Ministry of Energy and 17 others*, Constitutional Petition Nos 305 of 2012, 34 of 2013 and 12 of 2014 (Formerly Nairobi Constitutional Petition 43 of 2014) (Consolidated), Judgement of the High Court, 18 September 2015.

legally valid. These include: i) Clarity of the subject matter for public engagement; ii) effective and timely communication; iii) reasonable access to information; iv) intentional inclusivity and diversity; v) meaningful engagement, not mere formality; and vi) transparency and accountability. These principles set a framework for assessing the validity of public participation in governance processes, particularly in environmental and land-related decision-making. Principle iv) above emphasises the need for the process to be inclusive of all relevant stakeholders, particularly marginalised and vulnerable groups, such as women, youth, persons with disabilities, and indigenous communities.⁷¹

Building upon this provision, Article 27(3) of the 2010 Constitution is a foundation provision that prohibits any form of discrimination based on specified grounds, one of which is gender. Non-discrimination is crucial for promoting gender inclusion and equality in all sectors, including environmental governance. The duty of the State to ensure full participation of women is further elaborated in Articles 54 (addressing the need for equality and inclusion for people with disabilities) and Articles 56 (addressing the need for equality and inclusion for minorities and marginalised persons). Furthermore, the 2010 Constitution envisions affirmative action measures to redress past discrimination against any group, including women.⁷² Since the introduction of constitutional provisions on equality, non-discrimination and affirmative action, the Kenyan courts have developed jurisprudence affirming equal participation of women in political life, including in the context of environmental governance.

The Environment Management and Coordination Act (EMCA) was adopted in 1999 and came into force in 2000. It is the key environmental legislation in Kenya. Whereas EMCA does not make explicit reference to gender as a key consideration guiding environmental management in the country, it is anchored on Article 10 of the 2010 Constitution, which lists public participation, equality and non-discrimination as national

⁷¹ *Mui Coal Basin Local Community and 15 others v Permanent Secretary Ministry of Energy*, para 97(d).

⁷² Constitution of Kenya (2010), Article 27(6).

values and principles of governance that bind all State organs, State officers, public officers.

Environmental impact assessment (EIA) processes are the main avenue through which citizens provide their input on the potential environmental impact of proposed projects. Part VIII of EMCA lays out the framework for conducting EIAs. While gender considerations are not explicitly mentioned, the National Environment Management Authority (NEMA) and county governments must ensure gender-sensitive participation in alignment with Article 10 of the 2010 Constitution.

Women can participate in environmental governance through membership in the institutions established under EMCA. For instance, membership in NEMA, the principal agency for implementing environmental policies, is expected to adhere to the constitutional two-thirds gender rule. Section 29 of EMCA establishes county environmental committees that operate under the guidance of NEMA, with their main purpose being to ensure that environmental considerations are integrated into all levels of decision-making within the county.⁷³ Environmental governance at the county level can incorporate the participation of women through various strategies. First, county environmental committees are to be constituted in alignment with the two-thirds gender rule. Like all Government agencies, county governments must adhere to the constitutional principles of public participation, equality and non-discrimination when they: develop county environmental action plans as required in Section 40 of EMCA, develop county-level environmental management legislation as mandated under Section 147A, and manage environmental resources at the county level.

EMCA is supplemented by the County Government Act (2016) which is the legislative framework that defines the powers, functions, and responsibilities of county governments and lays down the principles and obligations of such counties with respect to the delivery of services to citizens. The County Government Act (2016) requires county governments to ensure that citizens participate in processes that lead

⁷³ Environment Management and Coordination Act (No 8 of 1999), Section 29.

to the development of laws and policies, as well as in decisions related to the allocation and utilisation of public resources.⁷⁴ It emphasises the need for inclusive and participatory governance, ensuring that citizens have a voice in matters that affect them, particularly in the planning, budgeting, and implementation of public projects and services. One way that county governments have implemented the provisions on public participation is by adopting specialised public participation laws. For instance, the three counties under study have adopted legislation to facilitate public participation.⁷⁵

A majority of statutes on the protection of environmental resources incorporate public participation as a guiding principle or as an obligation for Government agencies whenever they implement the 2010 Constitution, develop the law or conduct their affairs. The Agriculture and Food Authority Act, 2013 builds on Section 44 of EMCA, which details general provisions for the protection of soils, mountains, and hilly landscapes. Whereas the Agriculture and Food Authority Act, 2013 does not take a gendered approach to the conservation and protection of soil resources, it requires ‘close consultation with all registered stakeholder organisations in the development of policies or regulations and before making any major decision that affects the agricultural sector’.⁷⁶ This provision creates scope for farmers’ gender-inclusive participation in actions taken to implement the Act, which are relevant to the protection of soil resources.

The Fisheries Act (Chapter 378) explicitly incorporates gender considerations into the management of fishery waters and resources by requiring social impact assessments that consider gender issues in the development of fish management plans.⁷⁷ Additionally, as with the other statutes, it requires that the public institutions charged with

⁷⁴ County Government Act (No 7 of 2012) Part VIII: Citizen Participation, sections 87-92.

⁷⁵ These legislations include the Baringo County Public Participation Act, 2014; the Kitui County Ward Public Forums Act, 2019; and the Nakuru County Public Participation Act, 2016.

⁷⁶ Agriculture and Food Authority Act (No 13 of 2013), Section 40.

⁷⁷ Fisheries Management and Development Act (Chapter 378), Section 39(3).

implementing the Act adhere to the constitutional gender rule in the composition of the Kenya Fisheries Council, Board of the Kenya Fisheries Advisory Council, and Beach Management Committees.⁷⁸ This requirement creates opportunities for integrating perspectives informed by the experiences of the women involved in fish farming.

Whereas the Forest Conservation and Management Act (Chapter 385) does not explicitly mention gender considerations, several of its provisions indirectly address the intersection of gender and environmental governance. The composition of the forest conservation committees in Section 21 must reflect the constitutional gender inclusion rule. These committees provide scope for women involved in farming activities within forests to be considered in the management of forest resources. The Forest Conservation and Management Act (Chapter 385) recognises the right to public participation in the management of forest resources as a guiding principle in the implementation of its provisions.⁷⁹ Effective public participation provides an opportunity for the integration of many viewpoints in the management of forests, including those of women involved in forest/based agricultural activities.

The Water Act (2016) incorporates public participation as its guiding principle by reiterating Article 10 of the Constitution and Section 60 of the Land Act (2012).⁸⁰ Similarly, the Pest Control Products Act (Chapter 346) does not contain explicit provisions related to gender, nor does it refer to the gender equality provisions of the Constitution as a guiding principle in constituting the Pest Control Products Board.⁸¹ However, the Pest Control Products Bill, 2022, which is under consideration at the time of preparing this chapter, adopts the national values and principles of governance set out by Article 10 of the Constitution, one of which is the principle of equality.⁸² Thus, the Pest Control Products Authority contemplated under the Bill will be required to be gender-inclusive and

⁷⁸ Fisheries Management and Development Act (Chapter 378), Section 6, 11(2) and 37.

⁷⁹ The Forest Conservation and Management Act (Chapter 385), Section 4(a).

⁸⁰ Water Act (Chapter 372), Section 4.

⁸¹ Pest Control Products Act (Chapter 346), Section 5.

⁸² Pest Control Products Bill, 2022, Section 5.

take into account gender dimensions of exposure to harmful pesticides in the implementation of the law once the Act becomes law.

Kenya is a party to international instruments which explicitly incorporate public participation as a guiding principle for environmental governance. Some instruments mention the interlinkage between environmental governance and gender in explicit terms. The key instruments in this regard are the CEDAW and the Maputo Protocol. Article 7 of CEDAW mandates that parties should take measures to ensure the inclusion of women in political/public life. These provisions are important in addressing gender inequality in environmental governance in contexts where certain decisions are reserved for men by virtue of their gender and where gendered assumptions stereotype women as caregivers and men as the decision-makers. Similarly, the Maputo Protocol imposes a duty on states parties to ensure equality of everyone before the law, eliminate discrimination against women, promote women's access to and control over productive resources such as land, and guarantee their right to property.⁸³

The progressive legal framework on public participation correlates with improvements in women's participation in political life in Kenya⁸⁴ as an outcome of measures taken by public institutions to comply with the constitutional two-thirds gender rule, relevant statutory provisions on gender parity, and international standards. Nonetheless, women remain underrepresented in political processes due to several factors. Cultural norms and assumptions tend to place men in decision-making positions while stereotyping women as caretakers.⁸⁵ Women are often underrepresented in political spaces where environmental laws and

⁸³ Maputo Protocol, Article 2 (Elimination of discrimination against women), Article 8 (access to justice and equal protection before the law) and Article 19(c) (right to sustainable development).

⁸⁴ Kenyatta, 'Toward inclusive advancement: An analysis of gender equity in Kenya' 4.

⁸⁵ Milligan, "'They are not serious like the boys': Gender norms and contradictions for girls in rural Kenya' 456.

policies are enacted, and the implementation of the two-thirds gender rule remains piecemeal.⁸⁶

Gender and access to environmental information

Environmental information consists of information on the state of all elements of the environment and natural resources; information related to environmental risks and any possible adverse impacts that any activity may pose to the environment and health; and information on policies, measures, and legislation related to environmental protection and management.⁸⁷ The 2010 Constitution lays the foundation for access to environmental information by recognising transparency as a principle of governance and public service.⁸⁸ Moreover, citizens have a right of access to information held by the State or any person as long as the latter is required for the protection of rights and fundamental freedoms protected by the 2010 Constitution.⁸⁹ In addition to the stated constitutional provisions, several statutes enshrine the right of access to information. The Access to Information Act of 2016 gives effect to the right of citizens to access information as provided under Article 35 of the 2010 Constitution by providing a comprehensive framework for access to information held by public and private bodies. EMCA equally, incorporates Article 35 of the 2010 Constitution.⁹⁰ Additionally, the County Government Act (2016) recognises timely access to information by every citizen and for marginalised groups, in particular, as principles of public communication.⁹¹

⁸⁶ Kameri-Mbote, 'The quest for equal gender representation in Kenya's parliament: Past and present challenges' 39-66.

⁸⁷ Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Aarhus, 2161 UNTS 447, 25 June 1998, 38 *International Legal Materials* (1999) 517, Article 3; Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, Escazú, 4 March 2018, Article 2(c).

⁸⁸ Constitution of Kenya (2010), Article 10(2)(c) and Article 232(f).

⁸⁹ Constitution of Kenya (2010), Article 35.

⁹⁰ Environment Management and Coordination Act (No 8 of 1999), Section 3(a).

⁹¹ County Government Act (No 7 of 2012), Section 87(a) and (c).

Gender and access to remedies for environmental harm

The legal basis for access to remedies for environmental harm in Kenya include the constitutional right to a remedy for violation of the right to a healthy environment,⁹² provisions imposing penalties and fines for crimes and civil wrongs under various environmental statutes,⁹³ and common law tort principles. Furthermore, the law establishes several mechanisms through which women can pursue accountability and access remedies for environmental harm.

Victims of environmental harm, or those at risk of such harm, can seek remedies by instituting proceedings before the Environment and Land Court (ELC) established under Article 162(2)(b) of the 2010 Constitution and operationalised by the Environment and Land Court Act (2011). The ELC is a superior court of record with unlimited jurisdiction over matters involving both land and the environment. Since its establishment, the ELC has decided several notable cases in which litigants sought remedies for actual or imminent environmental harm. The *KM & 9 others v Attorney General & 7 others* is a landmark decision, holding both the Government and private companies accountable for failing to uphold environmental and public health standards.⁹⁴ The case arose from severe environmental pollution caused by lead contamination in the Owino Uhuru settlement in Mombasa due to the activities of a lead smelting plant operated by Metal Refinery EPZ Ltd. The ELC awarded Ksh 1.3 billion in compensation to victims of lead poisoning for the damages they suffered, to be paid by the respondents, including Metal Refinery EPZ Ltd, NEMA, and relevant Government agencies.

⁹² Constitution of Kenya (2010), Article 70(1).

⁹³ See for example, Environment Management and Coordination Act (No 8 of 1999), Part XIII.

⁹⁴ *KM and 9 others v Attorney General and 7 others*, Environment and Land Case 1 of 2016, Judgement of the Environment and Land Court, 16 July 2020. This judgement was later appealed and the Court of Appeal partly affirmed this judgement, see, *National Environment Management Authority and another v KM (Minor suing through Mother and Best friend SKS) and 17 others*, Civil Appeal E004 of 2020 and E032 of 2021 (Consolidated), Judgement of the Court of Appeal, 23 June 2023, para 111.

Unlike the ELC, the National Environment Tribunal (NET), a quasi-judicial body established under EMCA, is primarily focused on hearing appeals against decisions made by NEMA. Despite its narrow jurisdiction, NET has also developed jurisprudence on access to remedies for environmental harm. The *Save Lamu* case⁹⁵ revolved around a challenge to the issuance of an EIA licence by NEMA for the construction of a coal power plant in Lamu, Kenya. NET revoked the EIA license on finding that NEMA had failed to ensure proper public participation, particularly in a region with vulnerable communities, and that the EIA report was inadequate in addressing environmental concerns, particularly with regard to the cumulative environmental impact and potential alternatives to coal power.

In addition to the two forums highlighted above, Kenyan law provides for alternative dispute resolution (ADR) mechanisms. The Constitution requires all courts and tribunals to promote alternative forms of dispute resolution, including reconciliation, mediation, arbitration, and traditional dispute resolution mechanisms.⁹⁶ Various statutes operationalise the constitutional provisions on access to remedies. The Legal Aid Act (2016) provides a framework for the provision of legal aid to indigent and vulnerable individuals in order to promote access to justice.⁹⁷ The Civil Procedure (Court-Annexed Mediation) Rules (2022) are rules established under the Civil Procedure Act (Chapter 21). They govern the process of court-annexed mediation, a type of mediation that is usually initiated and managed by the court as part of the judicial process. Equally, the Arbitration Act (1995) provides a legal framework for parties to resolve disputes outside of the court system through arbitration, which is generally faster, less formal, and more confidential compared to litigation.

⁹⁵ *Save Lamu and 5 others v National Environmental Management Authority (NEMA) and another*, Tribunal Appeal 196 of 2016, Judgement of the National Environment Tribunal, 26 June 2019.

⁹⁶ Constitution of Kenya (2010), Article 159(2)(c).

⁹⁷ Legal Aid Act (Chapter 16 A).

In addition to the formalised mechanisms of accessing remedies, communities retain various forms of dispute resolution that are not captured in legal form. Some examples include the use of councils of elders, such as the Njuri Ncheke among the Meru and the Kiama among the Kikuyu; clan-based dispute resolution, such as the Maslaha system of justice among the Somalis in Northern Kenya; and community justice practices that may include mediation, negotiations, payment of compensation and reprimands, and the use of informal networks of women or men.⁹⁸

Women's access to the mechanisms highlighted above depends on several gendered factors. In some cases, gender assumptions on the role of men and women can have a pervasive effect and result in reserving decisions on whether to pursue remedies to men who are believed to be the chief decision-makers in families. This dynamic is in addition to the exclusion of women from traditional justice mechanisms, which is common in communities that use the system to resolve conflicts. Furthermore, women participate less as litigants in the formal justice sector due to several factors, such as the location of courts far away from home and the cost of litigation.⁹⁹ These factors affect a large proportion of litigants but have disparate limiting impacts on women. Women are likely to face more safety risks when travelling long distances from home and are generally less likely to afford litigation than men. The law has been slow to address the need for inclusive participation of women in processes that enable them to access remedies. Of the three statutes defining the mechanisms of access to remedies, only the Legal Aid Act (2016) references gender by stating that gender equality, gender equity, inclusiveness and non-discrimination are among the guiding principles underpinning the provision of legal aid services in Kenya.¹⁰⁰

⁹⁸ Francis Kariuki, 'Community, customary and traditional justice systems in Kenya: Reflecting on and exploring the appropriate terminology' 3(1) *Alternative Dispute Resolution* (2015) 163-183.

⁹⁹ The National Gender and Equality Commission (NGEC) and International Association of Women Judges-Kenya Chapter 'The judiciary gender audit', International Development Law Organization (IDLO), 2019, 87.

¹⁰⁰ Legal Aid Act (Chapter 16 A), Section 4(c) and (d).

One may argue that the failure to take a gender-informed perspective in designing mechanisms of access to remedies in respective statutes is mitigated by their being anchored on the constitutional principles of inclusivity, non-discrimination, and equality.

Findings

The preceding section demonstrates that historical, economic, and social forces have played a dual role in shaping gender relations in environmental governance. While some factors have and continue to reinforce gender inequality, others have facilitated progress towards gender inclusivity. Based on this observation, one can rightly assume that gender plays a mixed role in limiting and enabling women small-scale farmers to participate in environmental governance. This study followed up on this issue during visits and interactions with farming communities, including policy-makers and environmental activists, in Baringo, Kitui and Nakuru counties of Kenya between March and July 2023.

The study sought to understand how gender impacts the opportunities and ability of women small-scale farmers to access and control environmental resources, participate in the decision-making process with respect to environmental protection, access environmental information and opportunities for holding perpetrators accountable for environmental harm. The data obtained is analysed along the four prongs of the concept of environmental governance. The main finding of the study is that gender assumptions and roles limit the opportunities of women small-scale farmers to participate in environmental governance in most instances. Gender assumptions that reserve decision-making to men curb women's power to make decisions on the adoption of sustainable agriculture practices. Gender assumptions that allocate decision-making authority to men limit women's ability to influence the adoption of sustainable agricultural practices. Nonetheless, in specific contexts, gender may have minimal or no effect on disparities, as women engaged in small-scale farming can access equal opportunities to participate in environmental governance.

Access to and control over land and natural resources

Women secure access to and control over land and environmental resources essential for agricultural production through various means: as titleholders, members of families owning familial or community land, land rights obtained through inheritance, and as beneficiaries of leases enabling participation in contract farming. Despite the fact that women have diverse modes of access to environmental resources, formal titles are mainly held by their husbands or by male members within families. Thus, only a few women have security of tenure through formal titles. In Kitui County, participants reported that most land is owned by men who have long held the right to inherit in terms of the traditions of the Akamba culture. Despite the lack of security of tenure, some women have equal access to land for farming, similar to men. Farmers in Kitui County reported that men and women involved in growing green beans for sale have equal access to land and resources. Thus, gender relations and assumptions appear to play no role in determining farmers' access to land leased to conduct contract farming. An example of the Perkerra Irrigation Scheme in Baringo is a case in point. Here, the primary determinant of access to land for agriculture is whether a farmer married (for females) or was a descendant of the initial lessees.

Whereas most responses on the question of access centred around land, gender plays a role in limiting access to other environmental resources. A case in point is the gendered aspects of beekeeping in Baringo and Kitui. Women in some communities are excluded from beekeeping because of a cultural belief that posits that bees that come into contact with women during their menstrual cycles will leave their hives and migrate elsewhere.

Access to environmental resources does not automatically correlate with decision-making power on agricultural practices adopted in pursuit of environmental sustainability. On the one hand, women actively participate in crucial decision-making processes related to sustainable farming. These decisions encompass the transition toward the utilisation of indigenous seeds, the application of natural

pesticides and fertilisers, as well as crop selection and rotation patterns. This participation indicates the significant role of women in steering agricultural practices toward more environmentally friendly and sustainable methods. However, an intriguing discrepancy emerges when these decision-making roles are correlated with control over the economic outcomes of such agricultural activities. Despite their substantial involvement in agricultural decisions that directly impact the sustainability and productivity of farming operations, women's influence diminishes when it comes to making decisions on activities that have higher financial returns or if the activity is traditionally considered the domain of men. This divergence suggests a complex interplay between gender roles within the agricultural sector, in which women's contributions to sustainable practices are not necessarily reflected in equal control over financial resources.

Participation in decision-making processes with respect to environmental issues

The study sought to ascertain what role gender plays in determining opportunities for participation in decision-making processes with respect to the environment. The general finding in this regard is that gender determines women's participation depending on the level at which environmental decision-making is done. Women make decisions with respect to the environment at the household level, as members of community groups, and in formal institutions that are legally responsible for environmental governance. Men dominate decision-making in formal contexts and make most of the decisions that impact the commercial viability of some farming activities.

At the household level, women are engaged in decision-making on a wide range of issues relevant to environmental stewardship. Women decide on the use of indigenous or commercially available seeds, crop selection and crop rotation, the use of organic commercial fertilisers, soil management practices, water management and conservation measures, and grazing locations for animals. In some cases, decision-making at the household level is dominated by men in cases where larger family

projects are geared towards commerce or involve an activity that has traditionally been deemed a domain of men. However, this dynamic is only a reality in some cases. Women farmers in Ithamuli, Kitui County, engage in public participation in higher numbers than men due to commitments that men have to their employments and sensitisation on the importance of women's involvement following the promulgation of the 2010 Constitution. However, the same group of women reported that they did not participate in the deliberation of County bills and policies relating to agriculture, environmental protection and climate change.

In community-based groups, women report that gender does not play a restrictive role in decision-making opportunities for those who are already members of the groups. For example, members of the Rachemo Honey Marketing Co-operative Society in Baringo County consist of 53 men and 27 women. While men are more, our discussions revealed that the decision-making processes within the group accommodates views from men and women equally. A similar level of gender inclusion was observed in the Endorois Women Group in Baringo County, which brings together farmers involved in indigenous group farming. Most members are women who make decisions related to crop choice, water conservation, use of natural pesticides and fertilisers and indigenous medicine for human health on an equal footing with men. Similarly, members of community-based farmers' organisations in Ithamuli, Kitui County, reported having equal opportunities to participate in making decisions on a wide range of issues impacting environmental sustainability.

Logistical challenges related to gender roles limit women's opportunities to engage in environmental decision-making processes within formal contexts. The observation relates mainly to participation in forums organised by county governments responsible for organising public participation forums to deliberate on proposed laws and projects impacting the environment. Women participants consistently reported encountering significant barriers to their involvement, primarily due to the challenge of balancing domestic care responsibilities with the demands of participation. Public participation sessions typically occur

in locations that are far from their homes and tend to extend late into the evening when their presence at home is crucial to attend to family care duties.

These findings highlight the complex interplay between gender and environmental decision-making. While women actively participate in household and community-level governance, their influence diminishes in formal institutional settings due to entrenched gender roles and logistical challenges. Although some community-based groups demonstrate inclusivity, structural barriers such as time constraints, domestic responsibilities, and limited access to formal decision-making spaces continue to hinder women's full participation. Addressing these disparities requires deliberate interventions, including gender-sensitive policies, improved accessibility to public forums, and sustained efforts to challenge traditional assumptions about women's roles in environmental governance.

Access to environmental information

Gender disparities in access to information exist depending on whether environmental information is availed through formal or informal sources. Participants reported three formal sources of environmental information: information held by national and county-level public agencies, which can be obtained by making formal requests, and legally mandated public participation forums organised by governmental agencies at the pre-approval stages of projects that are likely to affect the environment and agricultural extension services. Informal sources of environmental information identified in the study are: farmers' own observations, conferences, workshops, training sessions and seminars organised by government agencies and NGOs (non-governmental organisations), peer learning from farmers' groups in other counties, traditional information on agricultural practices, and local ecosystems and weather patterns passed down through generations.

The impact of gender is more apparent as a limiting factor to accessing environmental information from formal sources. Regardless

of the size of the farm, men benefit more from extension services in cases where farming is conducted for commercial purposes. The disparity is partly attributable to gender assumptions that hold that the for-profit aspects of agriculture in mixed-gender families or married couple households are, in most cases, controlled by men. The countrywide shortage of agricultural extension officers further exacerbates this limitation that women face in accessing information available through agricultural extension. A compelling illustration is from statistics provided by officials from the County Government of Baringo that the current extension officer to farmer ratio in the county was 1:2000, a number that is below the required ratio of 1:400.¹⁰¹ Whereas the limited number of extension officers affects both men and women across the board, the effects remain gendered as men remain the key beneficiaries of the available extension services. The unequal access to extension services is not replicated in every context. Farmers in Kitui County reported having equal access to extension services upon request, their gender notwithstanding.

Gender assumptions and roles limit opportunities for women to access information from public participation forums. Public forums organised by public institutions such as county governments are typically held in distant locations and often run into the evening, times when women are needed at home to fulfil family care duties. Women in Baringo County reported that they are often forced to make arrangements for relatives or neighbours to step in to help take care of their children so they can free up time to attend public participation forums. Such help is not guaranteed as relatives and neighbours may wish to participate in the same forums or be unable to assist for various reasons. Since some public forums run late into the evening, safety concerns necessitate that they leave the forums before deliberations are completed or make arrangements to have trusted male companions on their way to and from the forums to ensure safety.

¹⁰¹ Government of Kenya, National Agricultural Sector Extension Policy, 2012, 8.

The role of gender in accessing environmental information from informal sources is mixed. Within some farmer groups composed of men and women, there did not appear to be much discrepancy between men and women in terms of the scope of knowledge on environmental challenges because some groups were intentional in creating opportunities for all their members to obtain information. Rachemo Honey and Marketing Co-operative Society follows a gender-representative approach that ensures that members attend inter-county peer-learning sessions, and national and international conferences to receive training on environmental challenges and how they can be surmounted. The same case was observed in relation to traditional information. Both male and female farmers have access to information on environmental stewardship passed down from earlier generations. However, information may not be passed down to women if the activity in question is traditionally the domain of men. The Baringo and Kitui beekeeping are cases in point. Since women are excluded from beekeeping because of beliefs surrounding their menstrual cycle, traditional information on the care of bees is passed to men.

Gender and access to remedies for environmental harm

Farmers encounter a range of environmental challenges depending on their specific agricultural activities. This study identified key issues, including water shortages due to inconsistent rainfall and water diversion, prolonged heatwaves linked to climate change, chemical pollution from commercial pesticides and fertilisers, littering of plastics along highways—particularly in areas such as Naivasha (Nakuru County)—and unsustainable resource extraction, such as sand harvesting in Kitui County. Some of these challenges have distinct gendered impacts. For instance, women constitute the majority of labourers in Naivasha's flower farms, where exposure to hazardous chemicals poses serious health risks. One female worker reported being unable to work due to illness caused by prolonged chemical exposure. Additionally, the type of labour women engage in often differs from that of men, further shaping their vulnerability to environmental hazards.

Water scarcity presents a significant environmental challenge with distinct gendered impacts, largely due to disparities in access to advanced technology. In Kitui, women primarily rely on basic methods, such as using donkeys to transport water, which limits the quantity available for agricultural use. In contrast, men are more likely to utilise advanced irrigation technologies to support commercial farming. However, the presence of numerous charitable organisations in Kitui has improved access to reliable and quality water for many households, helping to mitigate some of these disparities.

Farmers may pursue responsive action through formal means, such as instituting legal proceedings against perpetrators of environmental harm, filing complaints with the relevant Government agencies, requesting a formal investigation into activities that cause environmental harm and petitioning elected representatives to prompt intervention and accountability for the environment. Farmers may also seek corrective action through dialogue or negotiation with the parties responsible for environmental harm. Our discussions with farmers indicated that the two predominant channels used by farmers to seek responsive action are lodging complaints with local and county government agencies and negotiating with perpetrators to persuade them to cease the environmentally damaging activity. An example of the former from Baringo County entailed a formal complaint made by farmers to issue an injunction to stop a car wash company from redirecting water from Lake Baringo. An example was provided by beekeepers from Baringo County, whose beehives were affected by exposure to hazardous and illegal pesticides used in tomato farms upstream. With the help of the local sub-chief (a local administrative official), the bee farmers were successful in persuading the tomato farmers to stop using the hazardous chemicals that were harming the bees.

The capacity of women small-scale farmers to address environmental challenges relies on their understanding of mechanisms for holding perpetrators accountable, their ability to coordinate effectively, and their access to sufficient financial resources to pursue

remedies. This study did not find evidence affirming or refuting a direct correlation between gender assumptions and roles and women's ability to access the preferred mechanisms for accountability and corrective action.

Conclusion

This chapter has presented a detailed examination of the intersection between gender and environmental governance for small-scale farmers in Baringo, Nakuru, and Kitui counties. The analysis was grounded in a conceptual framework that highlighted the historical, economic, and social factors shaping women's participation in environmental governance in Kenya. The findings from the field study affirm the chapter's hypothesis that the experiences of small-scale farmers in these counties largely replicate the dynamics described in the literature—where both inclusionary and exclusionary forces operate concurrently. On one hand, certain advancements, such as increased legal recognition of gender equality, have contributed to enhanced female participation in environmental governance. On the other hand, deep-seated social norms and structural inequalities continue to hinder the realisation of full gender parity, leading to unequal access to resources and decision-making power for women farmers. The legal framework, while progressive on paper, has not fully translated into lived equality, as reflected in the mixed outcomes observed in the field. While the findings cannot be generalised to all Kenyan counties, they provide critical insights into the gendered dimensions of environmental governance for small-scale farmers in Kenya.

CHAPTER 3

Gender, land rights, and agricultural production in Kenya: Historical legacies and contemporary struggles

Omolo Joseph Agutu and George Gor

Introduction

Much of what we know about the sedimented history of land in Kenya, we owe to formal archives. These archives are made up in large part by official reports directly on land and also reports primarily about other matters, but which are closely tied up with land issues and so raise and record them. Together these reports, over time become assembled into an archive...These reports are striking in similar ways: at the opening of a paper, a newspaper, article, a law case, they are mentioned serially and in neat temporal order. Kenyan's incantation of the Ndung'u Report...the Truth, Justice and Reconciliation Commission...report...and so on has become also ritualistic. Set out in this way they give authority to what is about to be said by invoking a political and legal folk memory, but in turn they cement the place of the reports as authoritative, official archive.¹

In keeping with, but wary hence critical of, the ritual explained in the excerpt above, this chapter's methodology invokes and recites aspects of the official land archive on the historical linkages of land injustice in Kenya that have created systems of exclusion of vulnerable groups, including women in agriculture. The archive is conjured temporally through the pre-colonial, colonial, and post-independence epochs, where the salient aspects of Kenya's legal system on land ownership and the participation of women in agricultural production will be explained. In so doing, it centres its discussion on two key

¹ Ambreena Manji, *The struggle for land and justice in Kenya*, James Currey, 2020, 22.

questions. First, what gender questions exist in relation to access, ownership and management of agricultural land in Kenya? Second, how do these gender questions affect agricultural production in Kenya?

This study employed a mixed-methods approach, combining a comprehensive literature review with field visits and discussions. Engagements were conducted with small-scale farmers, as well as officials from county governments, the National Government, and civil society organisations across Baringo, Kitui, and Nakuru counties in Kenya.

Women's land ownership in the pre-colonial epoch: Ecofeminism encounters in the African commons

Before the advent of colonisation in the 19th Century, Africans owned and utilised land on a communal basis mostly. HWO Okoth-Ogendo referred to such land as African commons as it was ontologically organised, with access to its resources exclusive to specific communities, lineages or families operating as corporate entities based on membership criteria established in custom.² The commons belonged not only to the present but also to past and future generations. The commons not only represented an economic asset, but the basis of Africans' spiritual, social and political life. The commons were also 'used in function-specific ways, including cultivation, grazing, hunting, transit, recreation, fishing and biodiversity conservation'.³

Laurenti Magesa illustrates the features of the African commons when he writes:

In African religious ethical understanding, the earth is given to humanity as a gratuitous gift and all human beings possess an equal claim to it and the resources it offers. This is especially true of the essentials of life such as land, air, water, fire, and so on. These cannot be alienated from the clan and ethnic group. What this means is

² Hastings Winfred Opinya Okoth-Ogendo, 'The tragic African commons: A century of expropriation, suppression and subversion', Programme for Land and Agrarian Studies, University of the Western Cape, Occasional Paper Series No 24, 2002, 2-3.

³ Okoth-Ogendo, 'The tragic African commons', 3.

that an individual can only hold land in trust for oneself and one's descendants on behalf of the clan or ethnic group. Water sources, mineral resources, forests, and so on, are in principle public property and have to be cared for and used as such. In the strict sense, African morality does not and cannot sanction private ownership of land and the natural resources under the ground. In the final analysis, God's representative on earth, in the form of the chief or another recognised leader, has the responsibility of overseeing their use. In fact, if they are misused by an individual or the community, that is, if their vital force is uselessly disturbed and disaster befalls the community, the ruler is ultimately responsible.⁴

Although the patriarchal social ordering of many African countries enabled a transmission of the commons that favoured male members,⁵ there are Ecofeminism encounters with the African commons described above that liberate women's participation in the commons. First, ecofeminism connects the liberation of women with the liberation of nature,⁶ which has been 'uselessly disturbed' through Western colonisation and capitalism, as the next section on the colonial epoch will show, hence oppressing women. Second, ecofeminism proffers human cooperation (rather than transcending) with nature through mutual care and love, thus, acknowledging the earth as a bestowed gift to humanity.⁷ Third, this cooperation starts from the fundamental necessities of life, also known as the subsistence perspective, in which women are nearer to than men.⁸ Fourth, women, especially in the Global South, respect and celebrate Earth's sacredness and resist its transformation into dead raw material for industrialism and commodity production.⁹

The next section shows how through use of force, legal enactments, and dubious interpretation of laws, the British, upon declaring

⁴ Laurenti Magesa, *African religion: The moral traditions of abundant life*, Paulines Publications Africa, 1997, 63.

⁵ Patricia Kameri-Mbote, 'Women, land rights and the environment: The Kenyan experience' 49(3) *Development* (2006) 44.

⁶ Maria Mies and Vandana Shiva, *Ecofeminism*, 2ed, Zed Books, 2014, 2-3.

⁷ Mies and Shiva, *Ecofeminism*, 8.

⁸ Mies and Shiva, *Ecofeminism*, 20.

⁹ Mies and Shiva, *Ecofeminism*, 19.

protectorate status over East Africa, set out to delegitimise the African form of property ownership and to institute in its place private property based on English law.

Colonial epoch 1885-1963: Origins of the dual agrarian mandate

Convened by German Chancellor, Otto von Bismarck, the 1885 Berlin Conference marked a watershed moment in the partition and conquest of African territories by various foreign powers, mainly European. Yash Ghai and Patrick McAuslan note that the year of the Conference is a suitable 'starting date for this historical survey [incantation] since it coincided with a change in attitude of European powers towards the East African coast'.¹⁰ Instructively, before the Conference, Britain's presence in East Africa, through its consulate in Zanzibar established around 1840, was primarily to abolish slave trade. Further, Patrick Gathara reported that '[a]t the time of the Conference, 80 percent of Africa remained under traditional and local control. The Europeans only had influence on the coast'.¹¹ Therefore, the Conference had two aims, with the more immediate being resolving territorial and commercial disputes among European powers in West and Central Africa, and the other being 'the moral injunctions to stop the slave trade and bring "civilisation" to Africa'.¹²

Whereas the Conference itself only yielded one state, Congo Free State,¹³ it also established an international legal framework to govern

¹⁰ Yash Pal Ghai and John Patrick William Buchanan McAuslan, *Public law and political change in Kenya: A study of the legal framework of government from colonial times to the present*, Oxford University Press, 1970, 3.

¹¹ Patrick Gathara, 'Berlin 1884: Remembering the conference that divided Africa' *Aljazeera*, 15 November 2019, available at <<https://www.aljazeera.com/opinions/2019/11/15/berlin-1884-remembering-the-conference-that-divided-africa>> on 18 March 2025.

¹² Ghai and McAuslan, *Public law and political change in Kenya*, 4.

¹³ Patrick Gathara, 'Berlin 1884: Remembering the conference that divided Africa' *Aljazeera*, 15 November 2019, available at <<https://www.aljazeera.com/opinions/2019/11/15/berlin-1884-remembering-the-conference-that-divided-africa>> on 18 March 2025.

the acquisition of territories, which had repercussions for the whole of Africa.¹⁴ Ghai and McAuslan note that Article 35 of the General Act of the Berlin Conference on West Africa, which was the only provision on acquisition, was restricted to acquisition of the African coast and not its interior because little was known of the latter.¹⁵ What followed was that rival Western powers asserted moral claims to the 'ownerless' interior territories through forceful occupation or bilateral agreements with African chiefs or other European countries¹⁶ without consulting the most affected including women specifically.¹⁷

In September 1888, the British Crown granted the Imperial British East African Company (IBEAC) a Royal Charter of Incorporation bestowing upon it powers to exercise political and economic control on behalf of Britain.¹⁸ IBEAC was clothed with administrative, judicial, and legislative power over the East African territory through which it appointed administrators, established a court system, promulgated laws and negotiated concessions with local rulers.¹⁹ The declaration of the East Africa Protectorate on 1 July 1895 terminated the IBEAC's Charter and the Protectorate became the vehicle through which Britain took over the territories that had been acquired and administered by the company.²⁰

There were legal questions that persisted in relation to Britain's powers to acquire and alienate land in East Africa through declaration of protectorate status, which were resolved through colonial legal instruments. The doubts were based in an 1833 legal opinion to the British Government by its law officers, which stated that protectorate

¹⁴ Ghai and McAuslan, *Public law and political change in Kenya*, 4.

¹⁵ Ghai and McAuslan, *Public law and political change in Kenya*, 4.

¹⁶ For example, the Agreement between Great Britain and Germany for the Partition of East Africa into British and German Spheres, 1886. See other examples in, Ghai and McAuslan, *Public law and political change in Kenya*, 4-5.

¹⁷ Ghai and McAuslan, *Public law and political change in Kenya*, 5.

¹⁸ Githu Muigai, *Power, politics and law: Dynamics of constitutional change in Kenya, 1887-2022*, Kabarak University Press, 49.

¹⁹ Muigai, *Power, politics and law*, 49.

²⁰ Muigai, *Power, politics and law*, 52.

status did not automatically confer powers on the protecting state to alienate land unless specifically so granted by agreement or treaty.²¹ Britain responded by extending the application of the Indian Land Acquisition Act (1894) to the East Africa Protectorate in 1896.

Section 4 of the Indian Land Acquisition Act (1894) empowered the Crown to compulsorily acquire land for a public purpose.²² This law was used to compulsorily acquire land for the construction of the Uganda Railway and Government buildings.²³ In 1897, Land Regulations were adopted to allow the Crown to alienate land for allocation to settlers. The Land Regulations (1897) created a distinction between land within the Zanzibar Sultanate upon which the Commissioner could grant freehold titles and land on the rest of the Protectorate over which the Commissioner could only grant certificates of occupancy for 99 years.²⁴

A series of colonial instruments that were contemptuous of African commons ensued. In 1901, the East Africa (Lands) Order in Council was enacted to vest all land within the East African Protectorate in the Crown.²⁵ It empowered the Commissioner to make grants and leases in relation to Crown lands. In 1902, the Crown Land Ordinance was enacted to allow for outright sale and 99-year leases in respect of alienated land, thereby attracting European settlement within the Protectorate.²⁶ Through the Crown Lands Ordinance (1915), all land, including land occupied by the Africans, became part of Crown land rendering Africans tenants-at-will of the Crown.²⁷ In *Isaka Wainaina wa Gathomo and Kamau wa Gathomo v Murito wa Indangara, Nganga wa Murito and Attorney General*,²⁸ the Colonial Court confirmed that the Crown

²¹ Arnold Duncan McNair, *International law opinions: Selected and annotated*, Cambridge University Press, 1956, Volume I, 39; Manji, *The struggle for land and justice in Kenya*, 32.

²² Land Acquisition Act (No 1 of 1894), Section 4 (India).

²³ Ghai and McAuslan, *Public law and political change in Kenya*, 25.

²⁴ East Africa Land Regulations (1897) Sections 1 and 10.

²⁵ Manji, *The struggle for land and justice in Kenya*, 32.

²⁶ Ghai and McAuslan, *Public law and political change in Kenya*, 26.

²⁷ Kariuki and others, *Property law*, 165.

²⁸ *Isaka Wainaina wa Gathomo and Kamau wa Gathomo v Murito wa Indangara, Nganga wa Murito and Attorney General* (1922-23) 9(2) KLR 102.

Lands Ordinance (1915), the Kenya (Annexation) Order-in-Council of 1920, and the Kenya Colony Order-in-Council (1921) extinguished any legal rights Africans had to the African commons including the lands they were forced to occupy in the native reserves.

The physical dispossession was enhanced through the maintenance of a dual agrarian policy comprising two separate and unequal systems for European settlements and African reserves.²⁹ Although some aspects of community land ownership regimes were entertained in the native reserves,³⁰ the Colonial Government's main aim was to:

... 'Europeanise' the African agrarian economy by increasing the growing of cash crops, providing a controlled marketing system, taking action against bad land use, and finally by beginning a tenurial revolution through the consolidation and registration of landholding under a modern statutory system of law.³¹

Crucially, this tenurial revolution should be understood as a colonial imposition. The Colonial Government believed in a predestined disrupted evolution of the African customary laws regulating the commons to pave way for private ownership. Fredrick Lugard observed with conviction that:

Speaking generally, it may, I think, be said that conceptions as to the tenure of land are subject to a steady evolution, side by side with the evolution of social progress, from the most primitive stages to the organisation of the modern state. In the earliest stage the land and its produce is shared by the community as a whole; later the produce is the property of the family or individuals by whose toil it is won, and the control of the land becomes vested in the head of the family. When the tribal stage is reached, the control passes to the chief, who allots unoccupied lands at will, but is not justified in dispossessing any family or person who is using the land. Later still, especially when the

²⁹ See detailed history of the dual agrarian policy as documented in Ghai and McAuslan, *Public law and political change in Kenya*, 79-124.

³⁰ W Morris Carter, *Report of the Kenya Land Commission*, Her Majesty's Stationery Office, 1934, 420.

³¹ Ghai and McAuslan, *Public law and political change in Kenya*, 110.

pressure of population has given to the land an exchange value, the conception of proprietary rights in it emerges, and sale, mortgage, and lease of the land, apart from its user, is recognised.

Conquests vest control of the land in the conqueror, who in savage warfare also disposes of the lives and chattels of the conquered, but he usually finds it necessary to conform largely to the existing law and common. *In civilised countries conquest does not justify confiscation of private rights in land.*

*These processes of natural evolution, leading up to individual ownership, may, I believe, be traced in every civilisation known to history.*³²

In effect, the process of modernising land tenure system was in reality the process of commodification of land and the muffling of its socio-cultural features for the benefit of the settler economy, all the while attempting to modernise the colonised.

In 1955, the Colonial Government developed 'a five-year plan for the intensified development of African agriculture in Kenya' (the Swynnerton Plan).³³ Ignoring other significant factors like land shortage in the native reserves, economic inequalities and lack of support for African agriculture, the Swynnerton Plan identified customary land tenure as a major contributor to poor agricultural productivity for African land.³⁴ It stated that:

Sound agricultural development is dependent upon a system of land tenure which will make available to the African farmer a unit of land and a system of farming whose production will support his family at a level, taking into account perquisites derived from the farm, comparable with other occupations. *He must be provided with such security of tenure through an indefeasible title as will encourage him to invest his labour and profits into the development of his farm and as will enable him*

³² Frederick Lugard, *The dual mandate in British Tropical Africa*, William Blackwood and Sons, London, 1922, 280-281. Emphasis added.

³³ Richard John Mannix Swynnerton, *A plan to intensify the development of African agriculture in Kenya*, Government Printer, Nairobi, 1954, 1.

³⁴ Joel Ngugi, 'The decolonisation-modernisation interface and the plight of indigenous peoples in post-colonial development discourse in Africa' 20 *Wisconsin International Law Journal* (2002) 297-352.

to offer it as security against such financial credits as he may wish to secure from such sources as may be open to him. The commitment that land and chattels will be mortgaged as security against loans and that he will be 'sold up' if he defaults must be fully accepted by the farmer in applying for loans and by the Government in preparing any legislation covering land tenure and agricultural credit... In the past, Government policy had been to maintain the tribal system of tenure so that all the people have had bits of land and to prevent the African from borrowing money against the security of his land. The result is that there is no agricultural indebtedness by Africans to the other races. In future, if these recommendations are accepted, former Government policy will be reversed and able, energetic or rich Africans will be able to acquire more land and bad or poor farmers less, creating a landed and a landless class. *This is a normal step in the evolution of a country.*³⁵

The East Africa Royal Commission (Commission) endorsed the proposals in the Swynnerton Plan and cautioned the Colonial Government against allowing this evolution to occur in a natural way.³⁶ Instead, it urged the Colonial Government to take positive action to introduce laws requiring individualisation and to breakdown the exclusive nature of customary land regimes by all means including through use of its powers to acquire land compulsorily.³⁷ The Commission recommended adjudication, consolidation and registration of exclusive individual titles to land.³⁸ This private property regime system extended to the pastoral and other semi-arid and arid areas where it was clearly inappropriate.³⁹

³⁵ Swynnerton, *A plan to intensify the development of African agriculture in Kenya*, 9-10. Emphasis added.

³⁶ East Africa Royal Commission, *East Africa Royal Commission report 1953-1955*, London: Her Majesty's Stationery Office, 1955, 348.

³⁷ East Africa Royal Commission, *East Africa Royal Commission report 1953-1955*, 348.

³⁸ East Africa Royal Commission, *East Africa Royal Commission report 1953-1955*, 356 and 428.

³⁹ Okoth-Ogendo, 'The tragic African commons', 9.

The Swynnerton Plan sharply reduced land for subsistence production, hence eroding women's customary right and access to land.⁴⁰ Undoubtedly, the agrarian dual policy not only robbed women of their sacred duty as custodians of nature but favoured men's agricultural production. Ruth Nasimiyu narrates on the effect of Swynnerton Plan on women's participation in agricultural production in Bungoma, Western Kenya:

The changes that took place as the result of the Swynnerton Plan had a significant impact on the situation of women vis-à-vis men. In the first place, women's economic rights were undermined by land consolidation. Further, the colonial administrators failed to understand the complexity of the traditional land tenure system in which women had important usufructary land rights. Among the Bukusu, land had been communally owned by both sexes, holding rights to use land. However, through the implementation of the Swynnerton Plan, land was converted to a form of private property held by individual male.⁴¹

While the legacies of the dual agrarian policy persisted in the post-colonial era as the next section shows, Celestine Nyamu-Musembi affirmed that in spite of the imposed tenurial revolution, the African commons live on. She noted that the 'informal title' persists with immense variety, dynamism, adaptability, gender and 'pro-poor' inclusiveness, and legal pluralism, 'to take account of the multiple dimensions of meanings that people attach to land and other valued possessions'.⁴² Okoth-Ogendo put forward that 'the commons survived mainly because the expectation that they would disintegrate and dissolve by reason of

⁴⁰ Wilhelmina Oduol and Wanjiku Mukabi Kabira, 'The mother of warriors and her daughters: The women's movement in Kenya' in Amrita Basu (ed) *The challenge of local feminisms: Women's movement in global perspective*, Westview Press, 1995, 195.

⁴¹ Ruth Nasimiyu, 'Women in the colonial economy of Bungoma: Role of women in agriculture, 1902 – 1960' 15 *Journal of Eastern African Research and Development* (1985) 59.

⁴² Celestine Nyamu-Musembi, 'De Soto and land relations in rural Africa: Breathing life into dead theories about property rights' 28(8) *Third World Quarterly* (2007) 1463 and 1473.

internal contradictions, presumed social and cultural anachronism, and inability to resist the impact of 'modernising' Western values did not materialise.⁴³

Land ownership, matrimonial property, and agricultural production: Legacies of the dual agrarian policy in the post-colonial Kenya

As is already clear, land tenure in Kenya has undergone significant transformation, shaped by colonial policies that favoured individual ownership and post-colonial legal frameworks that sustained these systems. This section critically examines the impact of land individualisation on agricultural production, gender equity, and communal land rights. It explores how colonial-era laws, such as the Registered Land Act (1963) and the Land Adjudication Act (1968), entrenched land injustices by prioritising formal title registration over customary landholding systems. Additionally, the section analyses the persistence of patriarchal structures in land ownership, the influence of Western property concepts, and the implications for women's access to and control over land. Drawing on ecofeminist perspectives and the resilience of the African commons, it highlights the tensions between statutory and customary land rights, questioning whether legal reforms, including the Constitution of Kenya, 2010 (2010 Constitution) and the Community Land Act (2016), have effectively addressed historical inequities.

Typologies of land rights

The key legal instruments underpinning the individualisation of land, introduced by the Colonial Government and sustained by post-colonial administrations, reshaped land relations fundamentally. The Survey Act (1961),⁴⁴ the Registered Land Act (1963) (Repealed)⁴⁵ and the Land Adjudication Act (1968)⁴⁶ provided very limited room

⁴³ Okoth-Ogendo, 'The tragic African commons', 1.

⁴⁴ Survey Act of 1961 (Chapter 299) Sections 18 and 31.

⁴⁵ Registered Land Act (Chapter 300) Section 148.

⁴⁶ Land Adjudication Act (Chapter 284) Sections 26 and 29.

for addressing grievances thereby entrenching land injustices further. Specifically, the Registered Land Act (1963) (Repealed) provided that in the case of a 'first registration', one could not mount any challenge even in cases of fraud or mistake.⁴⁷

Western thinking on land ownership developed along the idea of property, from the Latin word *proprius*, which means one's own.⁴⁸ As per this account, the concept of property entails a delineation of the rights that a person may assert against other persons in relation to the subject matter of ownership. However, what qualifies as an acceptable subject matter of property rights and the extent of rights that one may enjoy over it depends on particular socio-political and economic contexts. In this regard, a claim for proprietary rights is viewed as a claim over a bundle of rights that entitle an owner to certain powers over the thing that they own.⁴⁹ Also, in relation to the same subject matter, it is possible for different persons to claim different types of ownership or property.⁵⁰

The concept of property, within this Western history, has concretised into three main types of rights, which, as Figure 3A illustrates, denote different levels of entitlement: the right to use; the right to control; and the right to transfer.⁵¹ The right to use represents the lowest form of entitlement over a property. This right entitles an owner to exploit their property and to derive income and profits from it.⁵² Easements, rights to use another's land which need not be registered,

⁴⁷ Registered Land Act (Repealed) (Chapter 300), Section 143; *Sela Obiero v Opiyo and others* [1972] EA 227; and *Esiroyo v Esiroyo and another* [1973] EA 388.

⁴⁸ George Purcell Costigan Jr, 'A plea for a modern definition and classification of real property' 12 *Yale Law Journal* (1903) 425.

⁴⁹ Kariuki and others, *Property law*, 5.

⁵⁰ Republic of Kenya, *Report of the Mission on Land Consolidation and Registration*, 1966, 5, para 12.

⁵¹ Food and Agriculture Organisation, 'Land tenure and rural development', *Land Tenure Studies* 3, 2002, 7; Australian Law Reform Commission, *Traditional rights and freedoms - encroachments by commonwealth laws*, Issues Paper 46, 2014, 51.

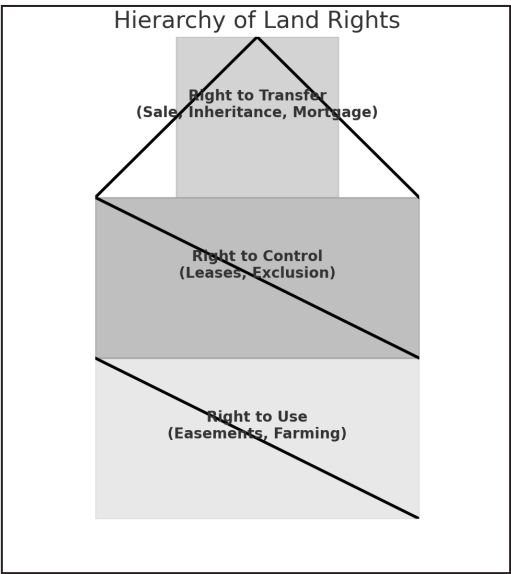
⁵² Antony Maurice Honoré, 'Ownership' in Patricia Smith (ed), *The nature and process of law: An introduction to legal philosophy*, Oxford University Press, 1993, 372.

fall under this category. Some types of easements common in agriculture include right of way, right of light, irrigation water way and drainage.⁵³

The right to control grants an owner the power to possess the property and to exclude others. An example of this could be the rights held by a lessee. A lessee has the right to occupy the subject premises and to exclude everybody from accessing them. This also includes the lessor. However, a lessor may have access upon giving notice and justification for such access.

The right to transfer represents the highest form of entitlements in property. This right empowers an owner to either voluntarily or involuntarily dispose of their proprietary interests.⁵⁴ Voluntary disposals may take the form of sales, charges, assignments, and donations. Involuntary dispositions, on the other hand, occur by operation of the law. These may include cases of transmissions on a proprietor's death, bankruptcy or liquidation and in execution of a decree.

Figure 3A: Different levels of property rights



⁵³ See Land Act (No 6 of 2012), Part X; Land Registration Act (No 3 of 2012), Section 18.

⁵⁴ Kariuki and others, *Property law*, 9.

Most literature on gender equality and land ownership in Kenya tend to adopt this Western account of property. The focus on exclusive ownership as proved by a Government-issued title document (right to transfer) is apparent. In this regard, security of tenure is seen as synonymous with formal registration of title in a person's name.⁵⁵ This view is informed by the legacy of colonial policies that introduced land tenure systems based on individual freehold and leasehold ownership, which were placed above customary forms of land ownership.⁵⁶

However, in practice, there exists a multiplicity of legal systems in most Kenyan communities brought about by (resistance to) colonisation or surviving African commons. For example, the statutory land registration regimes in Kenya were established on the basis of the Torrens system,⁵⁷ which is based on registration of title to land rather than registration of proof of such title.⁵⁸ Once registered, all ownership details are reflected on the face of the register thereby obviating the need for a historical inquiry into their basis, and the State-issued certificate of ownership becomes final and conclusive proof.⁵⁹ In reality, however, the process of determining property rights in a particular case remains a very complicated process. Other than corruption at land registries, this is also caused by the existence of entitlements under other legal regimes whose validity does not depend on formal registration. Justice Antony Kaniaru of the Environment and Land Court in *Beatrice Anyango Wanga and another v Rispa Shiundu Ong'ong'a and 2 Others* reminded us of this reality, thus:

In this country, we have embraced the Torrens Land Registration System. The philosophy behind the system embodies three principles,

⁵⁵ UN-Habitat, SDG indicator 14.2 training module: Secure tenure rights to land, 2018, 5.

⁵⁶ Emmanuel Kasimbazi, 'Land tenure and rights: For improved land management and sustainable development', Global Land Outlook Working Paper, September 2017, 7.

⁵⁷ The Torrens system of registration was introduced in Kenya through the Registration of Titles Ordinance of 1921.

⁵⁸ Ryan C Walker, 'The Torrens system' 2(1) *Virginia Law Review* (1916) 1.

⁵⁹ Joseph Herron Crowley, 'The Torrens system' 6(3) *Marquette Law Review* (1922) 114; and Land Registration Act (No 3 of 2012), Sections 24, 25, 26 and 81.

namely, the mirror principle of the state of title; the curtain principle, which holds that a purchaser need not investigate the history of past dealings with land, or search behind the title depicted on the register; and the insurance principle, where the state guarantees the accuracy of the register and compensates any person who suffers loss as a result of an inaccuracy.

The basic assumption under the Torrens Registration System is that the place of registration will be managed or run by people who are not only accomplished professionals but also possessed of good conscience, absolute honesty, and high integrity. Fraud would obviously not flourish in such a place. But this is the ideal, rather than the reality. Some of our land offices are obviously habitats of sleaze and other vices. The people running them are triple satanic and care nothing about good and/or honest service.⁶⁰

During our visits and discussions with farmers, we observed that land is predominantly registered in the name of a male family head. However, this registration does not grant absolute ownership, as customary rights ensure that family members retain certain entitlements. While men primarily own land, women have access to it, often controlling small plots for farming, whereas men manage larger agricultural enterprises. However, some women have secured land ownership privately or through women's groups. Farm sizes generally range from 2 to 5 acres, with some as small as 1 to 2 acres. Notably, increasing land pressure remains a significant concern, particularly for pastoralist communities.⁶¹

Similarly, to facilitate access to important natural resources, most communities have implied covenants such as those applicable to natural resources like waterbodies for irrigation or flowers for beekeeping. These covenants allow community members to lay water pipes through each other's parcels or to even set up beehives on each other's parcels freely without the need for leases or access agreements. Taken together,

⁶⁰ *Beatrice Anyango Wanga & another v Rispa Shiundu Ong'ong'a & 2 others*, Judgement of the Environment and Land Court at Busia, 30 July 2019, para 24-25.

⁶¹ Discussions with Florence Gitau, Ward Livestock Production Officer, Elementaita Ward, Gilgil Sub County on 12 July 2023.

paramountcy of certificate of title only tells a part of the history of land ownership.

Acknowledging the presence of these multiple forms of ownership of land dilutes the dominant narrative of Western property ownership and curves out an ecofeminist perspective on land ownership for women in agriculture. The plurality defies the Western definitions of private property rights granted under statutory registration regimes in line with ecofeminism, which decries ownership by alienation or separation (transcendence) over land. In this connection, ecofeminist holds that Earth cannot be 'owned'; rather, it is co-owned by all of humankind. Furthermore, women's use of land extends beyond being mere 'raw material' for agricultural production or an appendage to capitalistic land ownership.⁶²

Section 28 of the Land Registration Act (2012) recognises spousal rights over matrimonial property as easements, which do not require formal registration.⁶³ The following section examines how the concept of matrimonial property influences women's ownership and use of agricultural land.

Matrimonial property

Western history suggests that there are two dominating approaches to ownership of matrimonial property rights: community of property and separate property. Community of property approach is more prevalent in countries that follow the civil law tradition. It grants parties to a marriage equal ownership of all property acquired during marriage irrespective of the extent of individual contribution.⁶⁴ The separate property approach used in common law jurisdictions, on the other hand, allows each party to retain their separate property rights. That is to say, marriage does not affect each party's property rights and

⁶² Mies and Shiva, *Ecofeminism*, 25-26.

⁶³ Land Registration Act (No 3 of 2012), Section 28; *Isack M'Inanga Kiebia v Isaaya Theuri M'Lintari and Isack Ntongai M'Lintar*, Judgement of the Supreme Court, 5 October 2018, para 58.

⁶⁴ Kariuki and others, *Property law*, 261.

determination of a party's rights over matrimonial property is based on contribution.⁶⁵

Prior to the enactment of the Married Women Property Act (1882) in England, married women could not own property in their name.⁶⁶ Upon marriage, a woman lost her right to own property and her property became the husband's.⁶⁷ Under the doctrine of coverture, a wife lost her legal personality and became *femme covert*.⁶⁸ The Married Women Property Act (1882) empowered a married woman to acquire, hold and dispose of real or personal property in her own right as if she were a single woman.⁶⁹ Although the Married Women Property Act (1882) introduced a significant legal reform in relation to the right of married women to own property, its fruits were soon blighted by judicial pronouncements that required wives to prove financial contribution towards acquisition of property acquired in marriage.⁷⁰ This requirement led to injustice on account of domination of economic resources by men at the expense of women, who were relegated to performing domestic work.

In the *I v I* case of 1970,⁷¹ the High Court of Kenya ruled that the Married Women Property Act (1882) was a statute of general application in England and, as such, applicable in Kenya. In a number of subsequent cases, courts in Kenya affirmed the attitude of courts in England requiring spouses to prove financial contribution to have any right over property acquired during marriage and registered in the name of one spouse.⁷² In instances where property was registered in the joint names of spouses,

⁶⁵ Kariuki and others, *Property law*, 262.

⁶⁶ Kariuki and others, *Property law*, 256.

⁶⁷ Richard H Chused, 'Married women property law: 1800-1850' 71 *Georgetown Law Journal* (1982-1983) 4.

⁶⁸ Kariuki and others, *Property law*, 264.

⁶⁹ Married Women Property Act (1882), Section 1.

⁷⁰ *Pettit v Pettit* [1970] AC 777; *Gissing v Gissing* [1970] UKHL 3.

⁷¹ *I v I* [1971] EALR 278.

⁷² *Essa v Essa* [1996] EA 53; *Tabitha Wangechi Nderitu v Samuel Nderitu Kariuki*, Civil Appeal 203 of 1997, Judgement of the Court of Appeal, 30 June 1998; *Peter Mburu Echaria v Priscilla Njeri Echaria*, Civil Appeal 75 of 2001, Judgement of the Court of Appeal, 2 February 2007.

courts deemed their entitlement as equal.⁷³ In *Kivuitu v Kivuitu*,⁷⁴ *Tabitha Wangechi Nderitu v Samuel Nderitu Kariuki*,⁷⁵ and *Kamore v Kamore*,⁷⁶ the Court of Appeal made important modifications to this trend when it ruled that in certain instances, non-monetary contributions like child-bearing, domestic work and running a family business could be considered as contribution for the purposes of determining the interests of a spouse in property acquired during marriage and registered in the name of one spouse. However, this position was reversed in *Peter Mburu Echaria v Priscilla Njeri Echaria* where the Court of Appeal declared that such determinations were contrary to the Married Women Property Act (1882), and further that they were usurpations on the role of Parliament to make laws. In recognising the need for law reform on this issue, the Court of Appeal observed:

...it is our respectful view that both Omolo Ag JA and Kwach JA, though, undoubtedly guided by a noble notion of justice to the wife were ahead of the Parliament when they said that the wife's non-monetary contributions have to be taken into account and a value put on them.

It is now about seven years since this Court expressed itself in *Kamore v Kamore*, but there is no sign, so far, that Parliament has any intention of enacting the necessary legislation on matrimonial property. It is indeed a sad commentary on our law reform agenda to keep the country shackled to a 125-year-old foreign legislation which the mother country found wanting more than 30 years ago! In enacting the 1967, 1970 and 1973 Acts, Britain brought justice to the shattered matrimonial home. Surely our Kenyan spouses are not the product of a lesser god and so should have their fate decided on precedents set by the House of Lords which are at best of persuasive value! Those precedents, as shown above, are of little value in Britain itself and we think the British Parliament was simply moving in tandem with the times.⁷⁷

⁷³ *Kivuitu v Kivuitu* [1991] 2 KAR 241; and *Kamore v Kamore* [2000] 1 EA 81.

⁷⁴ *Kivuitu v Kivuitu* [1991] 2 KAR 241.

⁷⁵ *Tabitha Wangechi Nderitu v Samuel Nderitu Kariuki*, Civil Appeal 203 of 1997, Judgement of the Court of Appeal, 30 June 1998.

⁷⁶ *Kamore v Kamore* [2000] 1 EA 81.

⁷⁷ *Peter Mburu Echaria v Priscilla Njeri Echaria*, para 12-13.

Before the *Peter Mburu Echaria* case, the Constitution of Kenya Review Commission (CKRC) had already outlined the need for legal reform on matrimonial property. In its final report, the CKRC noted that:

African customs support patrilineal inheritance and male control of decision-making that frequently exclude females from land ownership. Women are regarded as belonging neither to their natal nor to their marital clans, and get land from neither. Even where women do have rights to family land, male relatives take advantage of the adjudication and land titling process to deny women their share. Sometimes women support these traditions.

Kenya does not have a local statute on dividing of matrimonial property. The law is the 1882 Married Women's Property Act of England. Although this law says that when a woman marries she keeps her own property, the position on about (sic) the family house is unclear. The law tends to assume that land belongs only to the person in whose name it is registered; even if the wife has contributed by her remuneration from employment, or by her domestic work, to acquiring or developing the property, she may have no rights to it at all. When there is a divorce, or the husband decides to sell the house, the wife may find she has no rights and can be thrown out of the house. This may seem unfair, but it is not clear that it is discriminatory contrary (sic) to the Constitution.⁷⁸

The CKRC recommended the enactment of a provision in the Constitution or through legislation to '...protect the matrimonial homes of all parties to a marriage during, and at the conclusion, of the marriage...' ⁷⁹ The recommendation by the CKRC dealt with a very narrow aspect of the issue, that is, 'the matrimonial home'.

⁷⁸ Constitution of Kenya Review Commission (CKRC), 'The Final Report of the Constitution of Kenya Review Commission', 10 February, 2005, 280. Although Section 82 of the Constitution of Kenya (Repealed) that was in force at that time outlawed discrimination, it allowed discrimination in relation to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law.

⁷⁹ CKRC, 'The Final Report of the Constitution of Kenya Review Commission' 289.

The need for legal reform in relation to ownership of matrimonial property was further outlined in the National Land Policy of 2009. The National Land Policy of 2009 diagnosed the problem, thus:

The existing laws and practices governing matrimonial property discriminate against spouses whose contribution to the acquisition of such property is indirect and not capable of valuation in monetary terms. Further, the courts have been inconsistent in determining what amounts to such contribution, with the result that some spouses have unfairly been denied of their rights to land'.⁸⁰

The National Land Policy proposed to the Government to: (a) Review succession, matrimonial property and other related laws to ensure that they conform to the principle of gender equity; (b) enact specific legislation governing division of matrimonial property to replace the Married Women's Property Act (1882); (c) protect the rights of widows, widowers and divorcees through the enactment of a law on co-ownership of matrimonial property; (d) establish appropriate legal measures to ensure that men and women are entitled to equal rights to matrimonial property; and (e) establish mechanisms to curb the selling and mortgaging of family land without the involvement of spouses.⁸¹

The 2010 Constitution did not limit itself to the protection of the matrimonial home as recommended by the CKRC. In Article 45(3), the 2010 Constitution provides for equality between parties to a marriage 'at the time of the marriage, during the marriage and at the dissolution of the marriage' in addition to having a provision that generally prohibits discrimination on a number of grounds including sex, marital status and culture.⁸²

In 2013, the Matrimonial Property Act was enacted '...to provide for the rights and responsibilities of spouses in relation to matrimonial property...'⁸³ The Matrimonial Property Act (2013) provides for equal

⁸⁰ Ministry of Lands, 'Sessional Paper No 3 of 2009 on National Land Policy', August, 2009, 52.

⁸¹ Ministry of Lands, 'Sessional Paper No 3 of 2009 on National Land Policy', 52.

⁸² Constitution of Kenya (2010), Articles 27(3), 45(3).

⁸³ Matrimonial Property Act (No 49 of 2013), long title.

status of spouses in relation to property ownership, capacity to enter into contracts and to sue or be sued.⁸⁴ It defines matrimonial property as the matrimonial home or homes and household goods and effects therein and any other property jointly owned or acquired during the subsistence of a marriage.⁸⁵ Unless parties to a marriage enter into a contrary agreement prior to the marriage, matrimonial property vests in the parties according to their contribution towards acquisition.⁸⁶ Spouses may also acquire beneficial interests in each other's property on the basis of contribution towards improvement of the property.⁸⁷

Contribution under the Matrimonial Property Act (2013) refers to both monetary and non-monetary input and may include domestic work and management of the matrimonial home, child care, companionship, management of family business or property, and farm work.⁸⁸ However, the Matrimonial Property Act (2013) does not provide any guidance on how courts should allocate value or weight to non-monetary contribution, which could give courts unfettered discretion. This could explain why the 2023 Supreme Court decision in *JOO v MBO*⁸⁹ does not differ fundamentally from the position of the law determined before the 2010 Constitution. In this decision, the Supreme Court clarified that while spouses have equal rights in marriage, the division of matrimonial property upon divorce should reflect both the monetary and non-monetary contributions of each party.

In future, the courts in determining the value to attach to non-monetary contribution could be guided by the Kenya Time Use Reports for the year 2021. According to the report, women spent 18.7% (equivalent to 4 hours 30 minutes) of their day on unpaid domestic and care work

⁸⁴ Matrimonial Property Act (No 49 of 2013), Section 4.

⁸⁵ Matrimonial Property Act (No. 49 of 2013), Section 6.

⁸⁶ Matrimonial Property Act (No 49 of 2013), Section 7.

⁸⁷ Matrimonial Property Act (No 49 of 2013), Section 9.

⁸⁸ Matrimonial Property Act (No 49 of 2013), Section 2.

⁸⁹ *JOO v MBO; Federation of Women Lawyers (FIDA Kenya) & Law Society of Kenya (amicus curiae)*, Petition No 11 of 2020, Judgement of the Supreme Court, 27 January 2023, para 106.

compared to men's 3.6% (equivalent to 54 minutes).⁹⁰ The proportion of unpaid domestic and care work for married women living with their spouses was the highest at 6 hours a day.⁹¹ These statistics show not only the disproportionate distribution of the burden of unpaid domestic and care work between men and women but also how marriage exacerbates this. Thus, according to these statistics, marriage robs a woman a significant amount of economically productive time thereby limiting her ability to acquire property or engage in personal or professional development as compared to a man. The report provides some hints for courts on the costs that spouses incur in carrying out unpaid domestic and care work, which could be used as a proxy to determine their economic value and impact on each spouse's capacity to earn within the household.

No interest in a matrimonial property may be disposed of without the consent of parties to a marriage.⁹² The Matrimonial Property Act (2013) also provides for certain rebuttable presumptions in relation to property acquired during the currency of marriage.⁹³ Firstly, any property acquired in the name of one spouse is to be held in trust for the other spouse. Secondly, any property acquired in the joint names of spouses shall be owned in equal proportions. The Matrimonial Property Act (2013) grants courts the powers to determine any question on rights over matrimonial property at any time after commencement of marriage.⁹⁴ This could be during the currency of the marriage or upon its dissolution.

Both the Land Act (2012) and the Land Registration Act (2012) have provisions on additional protections for matrimonial property rights. The Land Act (2012) provides that charges relating to a matrimonial

⁹⁰ Kenya National Bureau of Statistics, 'Kenya time use survey report findings 2021', 2023, 57.

⁹¹ Kenya National Bureau of Statistics, 'Kenya time use survey report findings 2021' 67.

⁹² Matrimonial Property Act (No 49 of 2013), Section 12.

⁹³ Matrimonial Property Act (No 49 of 2013), Section 14.

⁹⁴ Matrimonial Property Act (No 49 of 2013), Section 17.

home shall only be valid if consented to by all spouses living in it.⁹⁵ Such a spouse is entitled to be served with a notice to sell a charged property where the chargee intends to exercise its power of sale and has the right to seek relief from a court.⁹⁶

However, the protections under the Land Act (2012) are limited in two significant ways. Section 79(3) of the Land Act (2012) arguably limits the requirement for spousal consent to only charges that affect the matrimonial home as opposed to all matrimonial property. Further, sections 96(3) and 103(3) of the Land Act (2012) require a chargee to issue notices to a spouse only when exercising its statutory power of sale and allows such a spouse the right to approach courts for relief. Under the Land Act (2012), a chargee has other remedies like appointing a receiver or leasing or taking over possession of the charged land.⁹⁷ All these remedies may affect matrimonial property rights adversely and should have been covered under the above provisions.

The Land Registration Act (2012) has two major provisions aimed at the protection of matrimonial property rights. Firstly, Section 93 provides that where a spouse obtains an interest in land during the subsistence of a marriage for the co-ownership and use of both spouses, such property shall be deemed to be matrimonial property. Secondly, sections 94(3)(e) and (f) provide that in considering an application for partitioning of land held under tenancy in common by persons who are spouses, the Land Registrar has a duty to ensure that the partition does not render a spouse homeless.

As originally enacted, the Land Registration Act (2012) provided for more comprehensive protections for matrimonial property, which were weakened by three amendments introduced through the Land Laws (Amendment) Act (2016).⁹⁸ First, the Land Laws (Amendment) Act (2016) introduced in Section 2 of the Land Registration Act (2012)

⁹⁵ Land Act (No 6 of 2012), Section 79(3).

⁹⁶ Land Act (No 6 of 2012), Sections 96(3) and 103(3).

⁹⁷ Land Act (No 6 of 2012), Sections 92, 93 and 94.

⁹⁸ Land Laws (Amendment) Act (No 28 of 2016).

the following definition of ‘matrimonial home’:⁹⁹ ‘Any interest in land that is owned or leased by one or both spouses and occupied by the spouses as their family home.’ This definition is narrower compared to the one contained in the Matrimonial Property Act (2013) which extends the definition of a matrimonial home to any property attached to the matrimonial home.¹⁰⁰ Property attached to the matrimonial home could include a farm used to provide supplies to the matrimonial home.

Second, the Land Laws (Amendment) Act (2016) deleted Section 28(a) of the Land Registration Act (2012) which recognised spousal rights over matrimonial property as overriding interests to which all registered interests in land would be subject even if not noted on the register.¹⁰¹ Third, the Land Laws (Amendment) Act (2016) deleted aspects of Section 93 of the Land Registration Act (2012) that protected matrimonial property rights by: providing for an outright entitlement of a spouse to be registered as a joint tenant where a spouse obtained land for the co-ownership and use of both spouses, for entitlement of ownership in common for a spouse who contributed by their labour or other means to the productivity, upkeep and improvement of land registered solely in the name of one spouse, requiring a lender, an assignee and a transferee to require spousal consent for all land and dwelling houses.¹⁰²

Despite the amendments to sections 2, 28 and 93 of the Land Registration Act (2012) any disposition affecting matrimonial property would still require spousal consent as provided for in Section 12 of the Matrimonial Property Act (2013). Indeed, spousal consent or a declaration that spousal consent is not necessary remains a mandatory requirement for all transactions on land to date. Thus, these amendments

⁹⁹ Land Laws (Amendment) Act (No 28 of 2016), Section 2.

¹⁰⁰ Matrimonial Property Act (No 49 of 2013), section 2.

¹⁰¹ Land Laws (Amendment) Act (No 28 of 2016), Section 11; *Grace Mwakiria Mugambi v Philip Kimani*, Environment and Land Case, Case Number 154 of 2012, Judgement of the Environment and Land Court, 14 December 2018; and *JKN v JWN & 3 Others* Case Number 622 of 2017, Judgement of Environmental and Land Court, 17 February 2022.

¹⁰² The Land Laws (Amendment) Act (No 28 of 2016), Section 31.

cause some uncertainty on the requirement for spousal consent. Further, the enforcement of spousal consent for all land transactions is undermined by the fact that land registry databases are not linked to the marriage registries and in any case, land registries do not have comprehensive databases on matrimonial property. Moreover, not all marriages in Kenya are registered. Thus, land sellers easily overcome the requirement for spousal consent by simply declaring that they are single, widowed or divorced or that the subject land is not matrimonial property. Additionally, at present, spousal consent is only enforced for transactions affecting land as there is no such requirement for other forms of property.

In Baringo, Kitui, and Nakuru counties, land ownership and control through marriage impact women's ability to make agricultural production decisions significantly. Since land is predominantly owned by their husbands, men often make key decisions—particularly regarding cash crop farming—without needing to consult their wives. However, in family farming, women generally have greater decision-making authority.

Discussions with farmers in Nakuru revealed that cultural norms further constrain women's participation in production decisions. Cultural expectations dictate that a wife should submit to her husband and prioritise family unity, thereby reinforcing male dominance in agricultural decision-making. As a result, women are often required to defer to their husbands regarding critical production choices.

Additionally, in Nakuru County, there was a strong emphasis on preserving marriages and family cohesion, making spousal consultation on the use of farming income crucial. However, this dynamic is not unique to Nakuru. Discussions with farming communities in Baringo County, involving both men and women, highlighted that, culturally, major land-related decisions—such as sale, purchase, or leasing—are the prerogative of men as heads of households. Even when women are active members of agricultural self-help groups and cooperatives, they must often seek their husbands' permission before engaging in farming activities.

Among the Endorois, unmarried women have the right to till but not own their father's land. Similarly, unmarried boys cannot own land; instead, they cultivate the family land under their father's authority. It is only upon marriage that a father allocates land to his sons, allowing them to establish their homes.

This discussion underscores the intersection of colonial legal constructs of matrimonial property with enduring patriarchal social structures that favour male ownership of communal land. However, from an ecofeminist perspective, the relationship with nature (land) should be based on mutual care and respect—an approach in which women's knowledge and stewardship often surpass that of men.¹⁰³ The practice of distinguishing women's land entitlements based on marital status and economic dependency contradicts ecofeminism's principle of fostering relationships with the Earth based on humanisation and equity.

There is no abstract gain of knowledge which justifies the drastic destruction of vital links between self-sustaining living systems on earth, of the inherent worth of plants, animals, and humans in their living environment. The *marriage between knowledge and force* must be dissolved. It is imperative to alter this science. Another paradigm of science cannot start, however, with the famous male urge for limitless knowledge, omniscience and omnipotency. Therefore, it cannot start within science itself but has to come from a different world-view, a different view of the relationship between human beings and our natural environment, of the relationship between woman and man, of the relationship between different people, races, and cultures. These relationships can no longer be defined according to the militaristic model of White Man, who, by force, defined himself as human and the rest as non-human.¹⁰⁴

The historical record on the erasure of women's contributions to agricultural land management through modern laws and scientific techniques is particularly striking, a subject to which we now turn.

¹⁰³ Mies and Shiva, *Ecofeminism*, 20.

¹⁰⁴ Mies and Shiva, *Ecofeminism*, 51-52.

Rethinking land tenure: Gender, agriculture, and the limits of individual ownership

The imposed evolution of land tenure has reinforced the notion that individual property systems—governing access, ownership, and land use—directly shape agricultural participation and production. Since colonialism, it is often motivated that these systems influence decisions on land investments and determine opportunities for financing; that the way land is owned and managed significantly affects who controls access and its use for agricultural purposes;¹⁰⁵ and further that secure ownership creates various opportunities,¹⁰⁶ including access to credit facilities and the ability to adopt diverse agricultural methods and technologies.¹⁰⁷ Furthermore, it is often argued that security of tenure lowers transaction costs associated with agricultural investments by simplifying ownership verification and enforcement of obligations.¹⁰⁸

This rhetoric is a continuation of the Swynnerton Plan, which advocated for land individualisation as a means of promoting agricultural investment. The Swynnerton Plan stated:

The African farmer must be provided with such security of tenure through an indefeasible title as will encourage him to invest his labour and profits into the development of his farm and as will enable him to offer it as security against such financial credits as he may wish to secure from such sources as may be open to him.

¹⁰⁵ Hastings Winfred Opinya Okoth Ogendero, 'Some issues of theory in the study of tenure relations in African agriculture' 59(1) *Africa: Journal of the International African Institute* (1989) 6.

¹⁰⁶ Angelique Haugerud, 'Land tenure and agrarian change in Kenya' 59(1) *Africa: Journal of the International African Institute* (1989) 61.

¹⁰⁷ Elisabeth Fischer and Matin Qaim, 'Gender, agricultural commercialization, and collective action in Kenya' 4 *Food Security* (2012) 441-453.

¹⁰⁸ Omotunde Johnson, 'Economic analysis: The legal framework and land tenure systems' 15 *Journal of Law and Economics* (1972) 259-276 cited in Richard Barrows and Michael Roth, 'Land tenure and investment in African agriculture: Theory and evidence' 28(2) *The Journal of Modern African Studies* (1990) 265.

Writing in 1985, Okoth-Ogendo predicted that ‘the programme is by no means complete, and at the present rate may not be until the year 2050.’¹⁰⁹

Our visits and discussions with farmers revealed the tangible effects of these land ownership systems on agricultural investments and women’s participation in agriculture. Men’s dominance in land ownership influences household-level agricultural activities significantly. While women typically own and manage poultry, men control large livestock such as cattle. Poultry farming is often considered transient and less land-intensive, making it more accessible to women. In contrast, men are better positioned to engage in large-scale commercial farming, which requires substantial landholdings and interactions with third parties such as factories, financiers, and marketing cooperatives—entities that often demand proof of land ownership.

Although some rural women have managed to register land in their names—either as joint or sole owners—most of these holdings are in semi-urban areas rather than agricultural zones. Despite the potential for land to serve as collateral for credit access, many farmers are reluctant to use their title deeds this way, fearing the risk of losing their land in the event of loan default. Instead, they prefer alternative financial avenues, such as producer organisations, table banking, and savings and credit cooperatives (SACCOs).

These experiences challenge the simplistic assumption that formal land titles automatically enhance agricultural productivity and credit access.¹¹⁰ Women’s agricultural labour remains concentrated in small-scale farming due to deeply entrenched cultural norms rather than legal ownership constraints. For instance, women invest significant labour in green gram farming, whereas men often opt out of intensive farming or focus on large-scale agribusiness.

¹⁰⁹ HWO Okoth-Ogendo, ‘The perils of land tenure reform: The case of Kenya’ 1986, 1, available at <<https://erepository.uonbi.ac.ke/handle/11295/35689>> on 20 March 2025.

¹¹⁰ Celestine Nyamu-Musembi, ‘De Soto and land relations in rural Africa’, 1467.

Ecofeminism emphasises that women's work in agriculture is inherently diverse, resisting artificial sectoral divisions. Women's agricultural knowledge and labour bridge ecological stability and productivity, even with limited resources.¹¹¹ Crucially, nature should not be fragmented into isolated economic sectors to facilitate exploitation.¹¹² The separation of livestock farming from fishing, or cash crop farming from subsistence agriculture, exemplifies the destructive 'marriage between science and force' that ecofeminism seeks to dissolve.

A potential source of hope lies in the resilience of the African commons, which fosters a more humanised and inclusive approach to land ownership. This communal model offers an alternative to the rigid individualistic land tenure system, reinforcing the interconnectedness of land, people, and sustainable agricultural practices.

Resilience of the African commons

The most radical attempt at decolonisation since independence remains the 2010 Constitution, celebrated widely as a transformative legal framework. At its core, the 2010 Constitution serves as a manifesto for land reform, seeking to redress historical injustices and promote equitable land management.¹¹³ It mandates that land be utilised and governed in a manner that is equitable, efficient, productive, and sustainable, ensuring that land ownership and access are no longer dictated by entrenched colonial-era disparities.¹¹⁴ The 2010 Constitution does not in any way allow for discrimination on the basis of gender.¹¹⁵ This position is indeed in sharp contrast to Section 82 of the Repealed Constitution that allowed for discrimination 'with respect to adoption, marriage, divorce, burial, devolution of property on death or other

¹¹¹ Mies and Shiva, *Ecofeminism*, 168.

¹¹² Mies and Shiva, *Ecofeminism*, 171-172.

¹¹³ Constitution of Kenya (2010), Article 60(1)(a), (c) and (f).

¹¹⁴ Constitution of Kenya (2010), Article 60(1).

¹¹⁵ Constitution of Kenya (2010), Article 27.

matters of personal law...'¹¹⁶ In relation to the right to property, Article 40(1) grants all persons the right to acquire and own property while Article 61 recognises three types of land tenure systems: public, community and private.¹¹⁷ This section focuses on the gendered aspects of managing community land, whose architecture is nearest to the living commons, in relation to agriculture.

Kenya's territory is made up of approximately 582,646 square kilometres which includes 97.8% dry land and 2.2% water surface.¹¹⁸ Public land comprises 13%, community land at 60%, and private land at 27% of the territory.¹¹⁹ Only 15.78% of this land constitutes prime agricultural area.¹²⁰ Agricultural production is mainly done on a small-scale commercial basis (70%) and on parcels of land that measure approximately 0.2 to 3 hectares.¹²¹ In the areas covered by this study (Baringo, Kitui and Nakuru), most farming families indicated that they own approximately 1 to 3 hectares of agricultural land.

Community land is provided for under the Community Land Act (2016).¹²² The Community Land Act (2016) defines a community as 'a consciously distinct and organised group of users of community land who are citizens of Kenya and share any of the following attributes: (a) common ancestry; (b) similar culture or unique mode of livelihood;

¹¹⁶ Constitution of Kenya (Repealed), Section 82(4); *In the Matter of the Principle of Gender Representation in the National Assembly and the Senate* [2012] eKLR; and *Virginia Edith Wamboi Otieno v Joash Ochieng Ougo and another* (1987) eKLR.

¹¹⁷ Constitution of Kenya (2010), Article 61.

¹¹⁸ Ministry of Land and Physical Planning, 'Sessional Paper No 1 of 2017 on National Land Use Policy', Government Printer Nairobi, 8.

¹¹⁹ Constitution of Kenya (2010), Article 61; ActionAid Kenya, GROOTS Kenya and LANDac, 'Securing women's land rights: scaling for impact in Kenya'2; and Ibrahim Mwathane, 'Surrender unused public land to more demanding needs' *Business Daily*, 26 November 2021.

¹²⁰ Ministry of Land and Physical Planning, 'Sessional Paper No 1 of 2017 on National Land Use Policy', Government Printer Nairobi, 9.

¹²¹ National Environment Management Authority, 'State of the environment and outlook 2010,' 2011, 115.

¹²² Community Land Act (No 27 of 2016).

(c) socio-economic or other similar common interest; (d) geographical space; (e) ecological space; or (f) ethnicity'.¹²³

The Community Land Act (2016) provides for the registration of a community as a corporate entity.¹²⁴ A registered community has an assembly made up of all adult members of the community and a land management committee, which acts as the executive organ of the community.¹²⁵ The dominance of the communal land is enhanced by recognition of the equality of customary land rights with individual tenure (freehold or leasehold).¹²⁶

Although the enactment of the Community Land Act (2016) creates the impression of restoring and preserving communal land ownership systems, in reality, it is a further step towards individualisation of land interests. For example, the common challenges in the transition to secure community land title include: Delays by the Community Land Registrar in processing the applications, after submission of requisite documentation; difficulty in filing the paperwork for community land registration (the process is technical and in English); disagreement within the community on whether to subdivide or privatise their land; and issues with investors who have private land claims (leases) in parts of the community land.¹²⁷ Thus, the new community land tenure system lacks the safeguards that had been built into the traditional land tenure systems to protect the rights of vulnerable persons.

Specifically, in relation to women, the Community Land Act (2016) does not provide for gender equality in the composition and management of the community.¹²⁸ This is despite the fact that much of communally-held land is located in rural set ups where both traditional and colonial patriarchy continue to thrive. For instance, in Laikipia County, where

¹²³ Community Land Act (No 27 of 2016), Section 2.

¹²⁴ Community Land Act (No 27 of 2016), Section 7.

¹²⁵ Community Land Act (No 27 of 2016), Sections 7(5) and 15.

¹²⁶ Community Land Act (No 27 of 2016), Section 5(3).

¹²⁷ Namati, *Monitoring the transition of group ranches to community land in Kenya: A case study of Laikipia, Kajiado, West Pokot, and Samburu Counties*, September 2023, 42-44.

¹²⁸ Namati, *Monitoring the transition of group ranches to community land in Kenya: A case study of Laikipia, Kajiado, West Pokot, and Samburu Counties*, September 2023, 34-37.

much of the land is held collectively, a 2018 study shows that only 20% of members of the land management committees were women while only 8.97% of the listed members of the community assembly were women.¹²⁹

Certainly, the imposition of colonial rule introduced a racially biased land tenure which served injustice upon all Africans. However, for women, this was an additional layer of injustice in their relationship with land. For ages, patriarchy was already working well in their subjugation. Traditional land tenure systems were male dominated, mainly, with women mostly having user rights on land.¹³⁰ Certain aspects of these traditional land tenure systems continue to undermine women's rights to land and, therefore, their participation in agricultural production.

The attainment of independence in 1963 did not improve the lot of Africans in relation to land fundamentally since racial preference merely became replaced by class and ethnic considerations and land became (and continues to be) a tool for political mobilisation through exclusive structures which disfavour(ed) various vulnerable groups including women.

Despite the onslaught by the Colonial Government and its post-colonial successors against the communal land tenure, it remains the dominant land tenure system in Kenya.¹³¹ Furthermore, some communities still use their customs to preserve the non-commercial aspects of land. For instance, among the Endorois of Mochongoi Ward, Baringo County, culturally, a male child has the right to build a house in his father's homestead. Upon marriage, the father shows him his land where he constructs his home. Unmarried boys are not given land;

¹²⁹ ActionAid Kenya, GROOTS Kenya and LANDac, 'Securing women's land rights: Scaling for impact in Kenya' 3.

¹³⁰ Kariuki and others, *Property law*, 175.

¹³¹ ActionAid Kenya, GROOTS Kenya and LANDac, 'Securing women's land rights: Scaling for impact in Kenya, Working Paper 1, 2018, 2; and Ibrahim Mwathane, 'Surrender unused public land to more demanding needs', *Business Daily*, 26 November 2021 - <<https://www.businessdailyafrica.com/bd/opinion-analysis/letters/surrender-unused-public-land-to-more-demanding-needs-3631350>> on 12 January 2024.

instead, they till the family land under their father. The last-born son retains the home. In old age, the last-born son is required to take in and care for the mother while the father moves in with the first-born son. Women access land through their husbands upon marriage. Unmarried women have the right to till but not own their father's land. These customs continue to apply even in families with registered land.

Additionally, as discussed earlier, we observed an aversion to using land title deeds as security for loans due to the special traditional attachment to the natural resource. Most rural families see using land as collateral as a very risky venture. Rather than attach land, many farmers prefer to use other forms of property like salaries, livestock and other household goods as security.

Pastoralism is not the only form of land use dependent on community tenure as there are other land uses for which individual ownership is just as unsuitable, such as hunting, foraging or beekeeping.¹³²

Although Article 40 of the 2010 Constitution grants women and men equal rights over land, various sources show that land ownership and use remain gendered and disproportionate in Kenya. However, a 2022 report by the Kenya National Bureau of Statistics of Kenya shows that, overall, the huge disparity in registered land ownership between men and women aged between 15 and 49 years is being bridged (see Table 3A).¹³³ Where disparity exists, the gender patterns closely mirror the roles assigned to women (reproductive) and men (productive) in the society and are influenced by other factors like marital status, presence of children and mode of acquisition and the type of land in question.

On account of patrilineal land ownership systems, marriage seems to have a two-fold effect on women's land rights. Through marriage,

¹³² Celestine Nyamu-Musembi and Patricia Kameri-Mbote, 'Mobility, marginality and tenure transformation in Kenya: Explorations of community property rights in law and practice' 17(1) *Nomadic Peoples* (2013) 10.

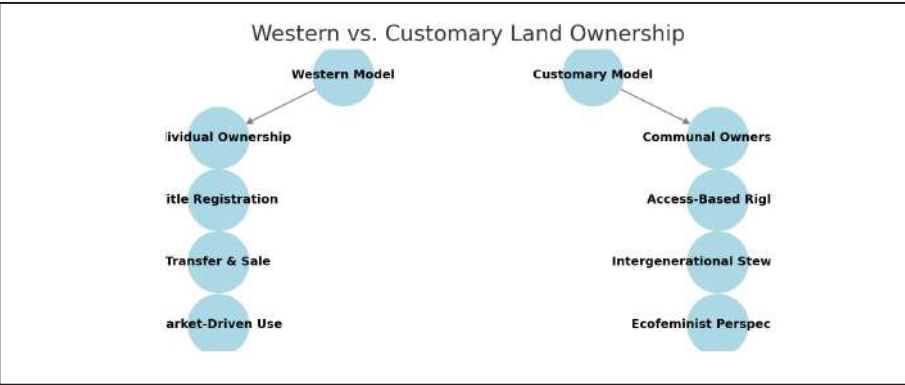
¹³³ Kenya National Bureau of Statistics, 'Kenya Demographic and Health Survey 2022: Key indicators report', January 2023, 73-74.

women gain secondary rights to their husband’s land while losing their primary entitlement to their family land.¹³⁴ In certain communities, widows’ access to land rights depend on whether they have a child or not and it also matters whether the child is a son or a daughter.¹³⁵ Women seem to have more freedom to deal with non-customary land such as commercial land. These, they could freely register in their names and dispose of as they please as opposed to ancestral land.

Table 3A: Ownership of land by women¹³⁶

Asset type	Total ownership (%)	Ownership alone (%)	Ownership jointly with spouse/partner only (%)
House	33%	5%	28%
Agricultural land	25%	3%	20%
Nonagricultural land	7%	Not specified	Not specified

Figure 3B: Contrasting Western and customary land tenure systems



¹³⁴ Elvin Nyukuri, *Women, land, and resource conflicts: policy implications and interventions in Kenya*, African Centre for Technology Studies Press, 2006, 18.

¹³⁵ Nyukuri, *Women, land, and resource conflicts*, 18.

¹³⁶ Authors’ computation from table 26.1 and 26.2 of Kenya National Bureau of Statistics, ‘Kenya demographic and health survey 2022: Key indicators report’, 73-74.

Concluding remarks

This study has critically examined the historical, legal, and socio-political dimensions of land tenure in Kenya, with a specific focus on gendered access to land and its implications for agricultural production. Through an interdisciplinary approach that integrates legal analysis, historical inquiry, ecofeminist perspectives, and empirical observations from rural communities, the study has demonstrated how colonial and post-colonial land policies have systematically entrenched inequities in land ownership. While legal reforms, such as the 2010 Constitution and the Community Land Act (2016), have sought to address these injustices, deeply rooted patriarchal norms, socio-economic constraints, and institutional inefficiencies continue to undermine substantive gender equality in land ownership and agricultural participation.

The study has established that the individualisation of land tenure, introduced through colonial legal frameworks and sustained by successive post-independence administrations, has fundamentally altered traditional land relations, privileging statutory land registration systems over customary communal ownership. This transition, championed by policies such as the Swynnerton Plan, was underpinned by the Western capitalist ideology of private property, which prioritised exclusive ownership, commodification, and market-driven land use. However, as demonstrated, these legal and policy shifts disproportionately disadvantaged women, who, under customary tenure, had significant albeit informal land access and user rights. The study finds that despite statutory recognition of gender equality in land ownership, cultural norms and patriarchal structures continue to limit women's ability to own, control, and benefit from land on an equal footing with men.

Moreover, the study interrogates the efficacy of land registration systems, particularly the Torrens system, which, despite its objective of creating certainty in land ownership, has facilitated historical and contemporary land injustices through exclusionary practices, fraudulent transactions, and corruption. The enduring male dominance

in land ownership has had far-reaching implications on agricultural production, as it has reinforced gendered divisions of labour, restricting women to small-scale subsistence farming while men control commercial agribusiness ventures. The study further challenges the mainstream economic argument that formal land titles enhance agricultural productivity and credit access, showing instead that land ownership is often shaped by social and cultural factors that transcend legal registration.

From an ecofeminist perspective, the study contends that the commodification of land under Western legal traditions has not only marginalised women but also disrupted the interconnected relationship between people, land, and nature. Women's agricultural labour, often rendered invisible within formal legal frameworks, remains central to food production, biodiversity conservation, and ecological sustainability. The study underscores the resilience of the African commons as an alternative to the Western property model, advocating for land governance approaches that prioritise communal stewardship, ecological sustainability, and gender justice.

In light of these findings, the study calls for a paradigm shift in land governance that transcends formal legal reforms to address structural inequalities and cultural barriers that hinder women's land rights. This includes strengthening community-based land governance mechanisms, enhancing women's participation in land administration, and integrating ecological and gender-sensitive approaches into land and agricultural policies. Additionally, there is a need for continued scholarly engagement with the intersections of land, gender, and environmental justice to develop more inclusive and context-specific frameworks that acknowledge the plurality of land tenure systems in Kenya.

Ultimately, this study contributes to broader discourses on decolonisation, gender justice, and sustainable land use by challenging the dominant narratives that equate land security with formal titling and private ownership. It asserts that equitable land governance must

move beyond legal recognition to actively dismantle the socio-economic and institutional barriers that perpetuate gendered land injustices. The future of land reform in Kenya, and indeed across Africa, lies in reclaiming and reinforcing indigenous land management systems that uphold social justice, ecological balance, and the full inclusion of women as key actors in land governance and agricultural production.

CHAPTER 4

Gender-responsive agricultural governance in Kenya: Representation, outcomes, and policy pathways

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*Henry Paul Gichana*¹

Introduction

A country's economic development refers to its financial prosperity or wealth measured in terms of Gross Domestic Product (GDP), employment rates, or income per capita. A country's social development, on the other hand, focuses on the quality of life and well-being of communities and individuals and addresses itself to social issues such as improvements in education, health and gender equality. Put simply, while economic development emphasises a country's wealth, social development highlights its health. Although each is vital, in its own right, they are but two sides of the same coin thus being equally important. A focus or over-emphasis on one often comes at the expense of the other, with the result that a country might be economically rich but socially poor, or vice versa. Such an approach, like a one-winged bird, undermines sustainability; for even though such bird might fly, its flight could be limited. Sustainable development is hence socio-economic.²

¹ The author would like to acknowledge, with gratitude, the research assistance accorded by Barrack Onyango in the writing of this chapter.

² See also, World Bank Group, *Women, business and the law 2022*, 2022, 1; World Bank, *Gender in Agriculture Sourcebook*, 2009, 3.

Agriculture plays a crucial role in furthering a country's socio-economic development. Besides being a key player in a country's economic growth, agriculture ensures food and nutritional security, contributes towards poverty alleviation and provides an avenue for the attainment of other social goals. However, reference to the role of agriculture in development has often been in the context of its contribution to a country's economy, hence, a bias towards its role in economic development. In that case, therefore, the economic optimisation of agriculture becomes the goal and attention is often directed towards measures and policies aimed at improving and maximising agricultural productivity.

Emphasis on agricultural productivity, however, holds the potential to undermine agriculture's role in social development and in the attainment of such social goals as gender equality. For instance, generally, women lag behind men in agricultural productivity.³ As the Food and Agriculture Organisation (FAO) reported in 2011, 'empirical evidence suggests that women's deficits in agricultural productivity range from 4% to 50% across the world, but lie between 20% and 30% in the sub-Saharan African region'.⁴ This is due to gender inequalities that persist with respect to women's access to and control over the utilisation of productive resources including land, labour, education, extension and financial services, and technology.⁵ A narrow focus and emphasis on agricultural productivity, therefore, may have the unintended

³ Adamon N Mukasa and Adeleke O Salami 'Gender equality in agriculture: What are really the benefits for sub-Saharan Africa?' 7(3) *Africa Economic Brief* (2016) 1; Gracious M Diiro, Greg Seymour, Menale Kassie, Geoffrey Muricho and Beatrice Wambui Murithi 'Women's empowerment in agriculture and agricultural productivity: Evidence from rural maize farmer households in Western Kenya' 13(5) *PLOS ONE* (2018) 1; Yana van der Meulen Rodgers, *The cost of the gender gap in agricultural productivity: Five African countries*, United Nations Women, United Nations Development Programme and United Nations Environment, 2018, 2.

⁴ Mukasa and Salami 'Gender equality in agriculture' 1.

⁵ Diiro and others 'Women's empowerment in agriculture and agricultural productivity' 1-2.

consequence of perpetuating an unequal society, hence, a resultant lag in social development, due to the gender-related productivity differentials in the sector.

Women play a critical role in agriculture, hence, the need to ensure that agriculture is designed, implemented, monitored and evaluated in a manner that accommodates their interests.⁶ According to FAO, women represent a considerable share of the agricultural labour force in various capacities, for example, as self-employed farmers, as unpaid workers on family farms or as paid labourers in agricultural enterprises.⁷ More specifically, the World Bank estimates that if women worldwide had the same access to productive resources as men, they could increase yields on their farms by 20% to 30% and raise total agricultural output by 2.5 – 4%.⁸ To facilitate both economic and social development, therefore, agriculture and the agricultural sector need to be gender-responsive.

Given the direct influence that political structures as well as legal and extra-legal governance institutions have on both agricultural policies and practices, they provide the best avenue for facilitating gender-responsiveness in agriculture. To achieve this, institutions involved in agricultural governance need to pay attention to and ensure that the needs, concerns and experiences of women in agriculture are taken into account and form an integral part of the design, implementation, monitoring and evaluation of agricultural policies, laws, programmes and projects (herein referred to as agricultural governance outputs). This is otherwise referred to as gender mainstreaming.⁹ While this applies to men, women constitute the marginalised gender in this context, hence, their interests are the subject of this chapter's analysis.

⁶ Paul Otieno Onyalo 'Women and agriculture in rural Kenya: Role in agricultural production' 4(4) *International Journal of Humanities, Art and Social Studies* (2019) 1.

⁷ FAO, *The state of food and agriculture –Women in agriculture: Closing the gender gap for development*, 2011, 7.

⁸ World Bank, *Levelling the field: Improving opportunities for women farmers in Africa*, 2014, 6.

⁹ Ministry of Agriculture and Ministry of Livestock Development of Kenya (National Agriculture and Livestock Extension Programme (NALEP)), *A guide for mainstreaming gender in the agricultural sector*, March 2010, 8-10.

However, beyond just a prior assessment of the impact of agricultural governance outcomes on women and/or men, gender mainstreaming in agricultural governance needs to go a step further to include a consideration of whether women (in this context) are actually included in the pool of persons undertaking this crucial assessment. As such, whether the outcomes of these institutions (either in the form of policies, laws, programs or projects) align with the interests of women will also depend on whether the voices of women are heard at the decision-making table. While the presence and participation of women in these structures is crucial, the nature and levels at which they participate in decision-making are equally important and are considered in this chapter's analysis.

Against the above background, this chapter seeks to interrogate the following questions in relation to the role Kenya's agricultural governance institutions have played and continue to play in facilitating gender-responsive agriculture: -

1. Are women part of the decision-making structures of the agricultural governance institutions?
2. To what extent are the outcomes of these agricultural governance institutions gender-responsive?
3. To what extent can the gender-responsiveness, or lack thereof, of these outcomes be attributed to the involvement or non-involvement of women in their formulation?
4. To what extent can the findings on the above find explanation in the concepts of gender quotas?

In addition to adopting a doctrinal approach to the analysis of the above issues, the chapter also benefits from discussions with knowledgeable persons and observations during deliberate visits to Hivos partners in Baringo, Kitui and Nakuru counties (collectively, study counties). The chapter begins with setting out gender quotas as its conceptual framework before proceeding to look into how Kenya has fared in gender equality in its government architecture. Here, the offices or institutions concerned with agricultural governance outcomes,

especially in the study counties, are highlighted. Lastly, the study assesses, using the gender quotas framework, whether agricultural governance in the study counties is gender responsive before making some conclusions.

Gender quotas as the conceptual link between gender representation and the gender-responsiveness of agricultural governance outcomes

The adoption of gender quotas is a global trend since the turn of the 21st century. It offers many perspectives into how gender representation and gender-responsive outcomes in the agricultural sector are interlinked. Drude Dahlerup conceptualises gender quotas drawing from her feminist and political science expertise, thus, a suitable perspective for this chapter. Briefly, Dahlerup describes electoral gender quotas as ‘a type of equal opportunity measure that force the nominating bodies, in most political systems the political parties, to recruit, nominate or select more women for political positions’.¹⁰ She writes further that electoral gender quotas represent the fast track model to equal political representation of women, which stems from and is propelled by the ‘growing impatience with the slow pace of change of the position of women’.¹¹

The fast track model, Dahlerup asserts, contrasts with the incremental track model but the two models reveal useful assumptions for gender parity in governance. For example, and by way of definition, the incremental track model assumes that women will lead eventually or that discrimination against women will end eventually depending on the society’s development, often understood as rigid, gradual or linear development.¹² The fast track model is less optimistic and situates

¹⁰ Drude Dahlerup, ‘Introduction’ in Drude Dahlerup (eds) *Women, quotas and politics*, Routledge, 2006, 6.

¹¹ Dahlerup, ‘Introduction’ 6.

¹² Dahlerup, ‘Introduction’ 8.

its battlefield in the political institutions and structures that enhance gender inequality like political parties and electoral management systems.¹³

While Dahlerup's conceptualisation was global (with some mention of African states), Aili Tripp provides the African connection to gender quotas. Tripp noted that in 2015, the number of women in legislatures tripled to 22.2% from 7.78% in 1990.¹⁴ At that time, Africa was among the global leads in representation with 12 African countries having women speakers and about 20% more women in the various cabinets than other parts of the world at 18%.¹⁵ Tripp observed that the quota system in Africa took on one of three types, namely: voluntary quotas, reserved seats and, the most common, compulsory legislated quotas.¹⁶ Once these quotas are in place, gender representation is evident, which leads to further questions such as the extent and under what conditions women politicians make a difference or add value in politics or in women's lives.¹⁷

It follows that these quantitative and qualitative aspects of the gender quotas could be translated to women in agricultural governance. The quantitative aspect refers to the presence of women leaders as members of agricultural governance institutions, such as women legislators or women leaders in relevant executive structures, which gives them the right to directly influence decision-making and the outcomes of such institutions. The other refers to women being part of the pool of stakeholders that are consulted by agricultural governance institutions, and their views considered as being representative of women generally,

¹³ Dahlerup, 'Introduction' 8.

¹⁴ Aili Tripp, 'Women's mobilisation for legislative political representation in Africa' 43(149) *Review of African Political Economy*, 2016, 382.

¹⁵ Aili Tripp, 'Women's mobilisation for legislative political representation in Africa' 382.

¹⁶ Aili Tripp, 'Women's mobilisation for legislative political representation in Africa' 383-384.

¹⁷ Dahlerup, 'Introduction,' 13.

prior to or during decision-making. This section primarily addresses the link between the former and the gender-responsiveness of the outcomes of agricultural institutions.

Moreover, the fast track discourse, which this study gives keener attention, does not end at equal opportunity but demands in-depth answers to whether equality of result is achieved.¹⁸ This chapter outlines the gender profiles of instrumental agricultural governance offices, and examines the agricultural governance outcomes yielded by the office bearers. Particularly, whether these outcomes have any effect on structural gender discrimination in agricultural governance in Kenya, lead to substantial change or unintended consequences.¹⁹

Instructively, proponents of gender quotas have warned of their complexities as units for research. Dahlerup warns that 'quota provisions do not solve all problems for women in politics and that they may even create new ones'.²⁰ Other than compulsory legislated quotas being the main reason behind increase in women in politics in Africa, Tripp lists more explanations such as women mobilisation and international actors that put pressure for the adoption of the gender quotas.²¹ Interestingly, she notes that there were no causal connections between female education or labour force participation and women's legislative outcomes.²² This illustrated the importance of understanding the diverse contexts in which these quotas are implemented.

Gender quotas have found widespread acceptance through ratification of international legal agreements and national laws. The United Nations Economic and Social Council's recommendation of having 30% women in positions at decision-making levels by 1995 ignited the wave of acceptance.²³ Notably, the figure of 30% women of

¹⁸ Dahlerup, 'Introduction,' 10.

¹⁹ Dahlerup, 'Introduction,' 10.

²⁰ Dahlerup, 'Introduction,' 14.

²¹ Tripp, 'Women's mobilisation for legislative political representation in Africa,' 384-385.

²² Tripp, 'Women's mobilisation for legislative political representation in Africa,' 388.

²³ United Nations Economic and Social Council, *Recommendations and conclusions arising from the 1st review and appraisal of the implementation of the Nairobi Forward-*

the decision-makers at the time, also referred to as critical mass, was believed to be necessary for women to achieve equal representation.²⁴ Later in 2003, Article IX of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) set out the state obligation to ensure the right to equal representation and effective representation of women at all levels of decision-making through affirmative action and enabling national legislation. Likewise, in this chapter, the bulk of the analysis assesses national legislation, judicial decisions, policies and first hand experiences from farmers in the three study counties.

Contextualising agricultural governance in Kenya

The Asian Development Bank defines governance as the management of a country's economic and social resources to enhance development as exercised by the public sector, in collaboration with the private sector (including companies) and civil society, and also it concerns the institutional environment in which citizens interact among themselves and with government agencies or officials.²⁵ Subash Dasgupta and Indrajit Roy define agricultural governance as follows:

Agricultural governance is concerned with augmentation of growth and development of a country's agriculture sector and managing the consequences of this process through the effective functioning of its institutions, the application of technology and scientific innovations,

looking Strategies for the Advancement of Women to the year 2000, E/RES/1990/15, Adopted at the 13th plenary meeting, 24 May 1990. 'Governments, political parties, trade unions and professional and other representative groups should each aim at targets to increase the proportion of women in leadership positions to at least 30 per cent by 1995, with a view to achieving equal representation between women and men by the year 2000, and should institute recruitment and training programmes to prepare women for those positions'.

²⁴ Elizabeth Asiedu, Claire Branstette, Neepa Gaekwad Babulal and Nanivazo Malokele, 'The effect of women's representation in parliament and the passing of gender sensitive policies' Presentation at Allied Social Science Association, 5 January 2018, 3.

²⁵ Asian Development Bank, *Governance: Sound development management*, August 1995, 3.

the implementation of policies, adherence to acts and regulations, and active participation of all involved stakeholders.²⁶

Therefore, while the government is usually the main actor when it comes to agricultural governance, leveraging other actors such as the private sector and civil society enables the government to provide public goods more efficiently.²⁷ Therefore, the involvement of other actors in the provision of public agricultural goods, such as farmers' groups, associations and cooperatives, field units of extension, research organisations, non-governmental organisations, micro-finance institutions or cooperative societies is what sets governance apart from government.²⁸ The above notwithstanding, this chapter focuses on governance as undertaken by the Government of Kenya.

Agricultural governance in Kenya is executed by legislative and executive structures at both the national and the county levels. While the National Legislature entails the National Assembly and the Senate (as well as their committees), the National Executive operates mainly through the Ministry of Agriculture and Livestock Development, comprised of two State departments: Crop Development and Livestock Development. At the county level, agricultural governance institutions include the county assemblies (and their committees) and the county executive committees (CECs) and their respective agriculture departments and entities.

Constitutional basis for agricultural governance in Kenya

Kenya adopts a multi-level system of government under its constitutional framework referred to as devolution. Article 186 (as read with the Fourth Schedule) of the Constitution of Kenya, 2010 (2010 Constitution) assigns functions and powers to both the national and county governments that are the basis for all governmental action. In this case, the nature and scope of the mandates of the various institutions of

²⁶ Subash Dasgupta and Indrajit Roy, *Good agricultural governance: A resource guide focused on smallholder crop production*, Food and Agriculture Organisation, 2011, 3.

²⁷ Dasgupta and Roy, 'Good agricultural governance' 3.

²⁸ Dasgupta and Roy, 'Good agricultural governance,' 3.

agricultural governance at the national and county levels is determined by the specific agriculture-related function or power assigned to them.

Besides having an overall mandate over national economic policy and planning,²⁹ the National Government is assigned jurisdiction over agricultural policy as well as veterinary policy.³⁰ Moreover, the National Government holds a general mandate over the protection and conservation of the environment and natural resources with a view to ensuring sustainable development.³¹ This mandate, while broadly stated under Article 69(1)(a), it is specific to fishing, hunting and gathering as well as the protection of animals and wildlife under Part 1 of the Fourth Schedule. In addition to these mandates, the National Government is generally tasked with providing capacity-building and technical assistance to counties in the performance of their functions.³² A combination of these constitutional mandates, therefore, constitute the basis for action by governance institutions on matters relating to agriculture both at the national and county levels.

While the above National Government functions may, save for those functions related to Article 69(1), be construed as constrained to policy formulation, the 2010 Constitution confers a generic agriculture mandate on the counties.³³ This has been the basis for the argument that agriculture is primarily a county government function. The agriculture function in this case is detailed as including crop and animal husbandry, livestock sale yards, county abattoirs, and plant and animal disease control and fisheries. In addition to these, counties have a mandate over animal control and welfare,³⁴ trade development and regulation, including the regulation of markets, trade licences and cooperative

²⁹ Constitution of Kenya (2010), Fourth Schedule, Part 1, Section 9.

³⁰ Constitution of Kenya (2010), Fourth Schedule, Part 1, Sections 29 and 30.

³¹ Constitution of Kenya (2010), Fourth Schedule, Part 1, Section 22.

³² Constitution of Kenya (2010), Fourth Schedule, Part 1, Section 32.

³³ Constitution, Fourth Schedule, Part 2, Section 1.

³⁴ Constitution, Fourth Schedule, Part 2, Section 6.

societies³⁵ as well as the implementation specific National Government policies relating to natural resources and environmental conservation.³⁶

While the above constitutional provisions form the basis of the mandates of the various agricultural governance institutions at both levels, the scope and boundaries of each of these functions are far from clear. This is compounded by the fact that clarity is yet to be provided as to which specific functions may be classified as being concurrent to the two levels of government as well as the nature of obligations that arise from such classification. The result has been that National Government institutions, particularly, have ended up engaging in, performing or assigning to National Government entities functions that have otherwise been argued as falling within the domain of county governments. An example is the establishment of the Agriculture and Food Authority whose functions have been contested by county governments as encroaching on those of counties.³⁷ Additionally, a review of the Fisheries Management and Development Act of 2016 also reveals potential encroachments by the National Government on otherwise county mandates over fisheries.

Notwithstanding the controversies above, the exercise of agricultural governance is required to be guided and constrained by the above constitutional provisions that confer agriculture-related mandates.

Constitutional basis for gender-responsive agriculture

While the 2010 Constitution does not contain a specific provision mandating gender mainstreaming or gender responsiveness in agriculture, it makes provision for gender equity and equality, prohibits gender-based discrimination, provides minimum gender thresholds in

³⁵ Constitution, Fourth Schedule, Part 2, section 7.

³⁶ Constitution, Fourth Schedule, Part 2, section 10.

³⁷ Mdathir Timamy 'Is agriculture a National or County Governments' policy function in Kenya? Interrogating Section 4 of the AFA Act together with the Fourth Schedule and Article 191 of the Constitution' 4 *Strathmore Law Review* (2019) 155, 162-163.

leadership positions and requires the Government to take measures to redress past discrimination. These provisions provide a solid basis for ensuring that the outputs of agricultural governance institutions are gender responsive thereby ensuring the mainstreaming of gender in agriculture.

As part of the National Values and Principles of Governance, Article 10 of the 2010 Constitution requires all State organs, State officers, public officers as well as all persons tasked with enacting or applying the Constitution or any law as well as those engaged in making or implementing public policy decisions to adhere to principles of equity, social justice, inclusiveness, equality, non-discrimination, protection of the marginalised as well as participation of the people.

Additionally, Article 232 details the values and principles of public service applicable to State organs at both levels of Government. These include responsive and equitable provision of services, involvement of the people in policy-making as well as affording adequate and equal opportunities for appointment, training and advancement, at all levels of public service to, among others, men and women.

In addition to the above: Article 27(1) guarantees the equality of all people before the law and their entitlement to equal protection and benefit; Article 27(3) guarantees the right to equal treatment and equal opportunities to both women and men; Article 27(8) requires that no more than two out of three members of elective and appointive bodies should be of the same gender;³⁸ Article 27(4) outlaws any discrimination by the State on any basis including gender while Article 27(6) requires that the State takes legislative and other measures including affirmative action to redress disadvantages suffered by groups because of past discrimination.

All the above constitutional provisions, therefore, provide a solid basis for ensuring that gender is a primary consideration in the composition of the leadership of the various agricultural governance institutions at both the national and county levels. They further serve

³⁸ See also Constitution of Kenya, 2010, Article 197(1).

to ensure that gender is mainstreamed in all areas towards realising gender equity and equality thereby ensuring that the outcomes of agricultural governance institutions are gender responsive.

The challenge, however, is that while the gender-responsiveness of agricultural governance outcomes may be influenced by the presence of women in the group of people tasked with making governance-related decisions, mere presence, especially along the constitutional minimum gender representation threshold of one-third, may not guarantee the gender-responsiveness of governance outcomes. This is especially so given the majoritarian orientation of decision-making in most governance institutions. Moreover, this also demonstrates the need for more critical applications of compulsory legislated gender quotas to guarantee the gender-responsiveness of outcomes as argued by Tripp and Dahlerup.³⁹

Gender representation in Kenya's agricultural governance institutions

Despite the constitutional imperative for the State to take measures to implement the principle that not more than two-thirds of the members of elective and appointive bodies should be of the same gender, and past court judgments, Parliament is yet to take any legislative measures to give effect to the principles. Consequently, State institutions at both levels of Government have to date struggled to comply with the two-third gender principle. Only county assemblies have thus far managed to comply, although this is by constitutional design⁴⁰ rather than the discretion of electorates or appointing authorities.

In 2017, the High Court in *Centre for Rights Education and Awareness & another v Speaker of the National Assembly and 2 others*,⁴¹ found that the

³⁹ Dahlerup, 'Introduction,' 14. Tripp, 'Women's mobilisation for legislative political representation in Africa,' 384-385.

⁴⁰ Constitution of Kenya, 2010, Article 177(1)(b).

⁴¹ *Centre for Rights Education and Awareness and another v Speaker of the National Assembly and 2 others*, Petition No 397 of 2017, Judgement of the High Court at Nairobi, 24 August 2017.

failure of the Legislature to pass legislation to ensure implementation of the two-third gender principle is a violation of the 2010 Constitution and women's rights and *directed Parliament to pass the necessary legislation to implement the principle*.⁴² Following failure to enact the requisite laws, in September 2020, then Chief Justice David Maraga advised the President to dissolve Parliament 'irrespective of its consequences, [as it was] clearly the radical remedy Kenyans desired to incentivise the political elites to adhere to and fully operationalise the transformational agenda of the Constitution they bequeathed to themselves in 2010'.⁴³ However, the Government has continued to disregard court orders on the implementation of the two-thirds gender rule.⁴⁴

Notwithstanding the above, this section provides an analysis of the gender composition of national and county level institutions that play a role in agricultural governance. The objective is to provide a basis for interrogating the link, if any, between the conclusions drawn under this part and those drawn under the part analysing the gender-responsiveness of the outputs of these institutions, with a view to establishing whether there is any observable trend or correlation.

Gender representation in national-level institutions

Given the National Government's overall constitutional role in agricultural policy formulation and which in practice has been extended to include aspects of policy implementation, the gender profiles of its agricultural governance institutions are crucial. The main institutions involved in agricultural governance are Parliament and the Executive. The gender profiles of these two institutions are detailed below.

⁴² *Centre for Rights Education and Awareness & another v Speaker of the National Assembly & 2 others*, para 66.

⁴³ David Maraga, 'Chief Justice's advice to the president pursuant to Article 261(7) of the Constitution' 21 September 2020, paras 26-27.

⁴⁴ Kenya National Commission on Human Rights, *Shadow report of the Kenya National Commission on Human Rights on the implementation of the African Charter on Human and Peoples' Rights and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*, September 2021, 76-78.

i. The gender profile of National Executive structures

The National Executive, comprising the President, Deputy President, and the rest of Cabinet, plays a crucial role in formulating agricultural policies and making high-level decisions relating to policy implementation as well as the implementation of key agriculture-related projects.

However, in terms of its gender profile, the National Executive is largely male-dominated.⁴⁵ In the Cabinet appointed in 27 October 2022, out of 24 substantive Cabinet positions, only eight (the constitutional minimum) were held by women.⁴⁶ These included: Gender, Culture, the Arts and Heritage; Lands, Public Works, Housing and Urban Development; Investments, Trade and Industry; Environment and Forestry; East African Community, the Arid and Semi-Arid Lands and Regional Development; Labour and Social Protection; Health and the position of Secretary to the Cabinet. The women in Cabinet were, hence, outnumbered three times over. Therefore, were a gender-related question be the subject of Cabinet-level majoritarian decision-making, women were likely to have scope for persuasion but no determinative majority. However, it is notable that these women held positions directly related with agricultural governance such as Irrigation, Gender, Land, Labour and Environment.⁴⁷

⁴⁵ Constitution of Kenya, 2010, Article 130(1).

⁴⁶ Kenya Gazette, CXXIV (224) 26 October 2022, 13033, 13034 and 13035.

⁴⁷ Eds.

Table 4A: President William Ruto's first Cabinet as at 26 October 2022

Cabinet position	Person holding the position	Gender
Prime Cabinet Secretary	Musalia Mudavadi	Male
Interior and National Administration	Kithure Kindiki	Male
Lands, Housing and Urban Development	Zachariah Mwangi Njeru	Male
Trade, Investments and Industry	Moses Kuria	Male
Environment and Forestry	Soipan Tuiya	Female
Labour and Social Protection	Florence Bore	Female
Health	Susan Nakhumicha Wafula	Female
Roads, Transport and Public Works	Kipchumba Murkomen	Male
Mining, Blue Economy, and Maritime Affairs	Salim Mvurya	Male
Youth Affairs, Sports and Arts	Ababu Namwamba	Male
Defence	Aden Duale	Male
Co-operatives and Micro Small and Medium Enterprises (MSMEs) Development	Simon Chelugui	Male
National Treasury and Economic Planning	Njuguna Ndung'u	Male
Water, Sanitation, and Irrigation	Alice Wahome	Female
Agriculture and Livestock Development	Mithika Linturi	Male
Energy and Petroleum	Davis Chirchir	Male
Information Communication and the Digital Economy	Eliud Owalo	Male
Public Service, Gender and Affirmative Action	Aisha Jumwa Karisa Katana	Female
Education	Ezekiel Machogu	Male
Tourism, Wildlife and Heritage	Peninah Malonza	Female
East Africa Community, Arid and Semi-Arid Lands and Regional Development	Rebecca Miano	Female
Foreign and Diaspora Affairs	Alfred Mutua	Male
Secretary to the Cabinet	Mercy Kiiru Wanjau	Female
Attorney-General	Justin Muturi	Male

President William Ruto has reshuffled his Cabinet three times since assuming office in September 2022, with significant and unintended consequences for women's representation in agricultural governance.

The first reshuffle on 4 October 2023 largely resembled a game of musical chairs among existing cabinet secretaries. Only nine members were affected, with notable changes including Moses Kuria's move from Trade to the newly created Public Service docket, replaced by Rebecca Miano from the East African Community Ministry. Rebecca Miano's former position was assigned to Peninah Malonza, previously in charge of Tourism, Wildlife, and Heritage, who in turn was replaced by Alfred Mutua. Alfred Mutua's departure from the Foreign and Diaspora Affairs Ministry saw its responsibilities absorbed into Prime Cabinet Secretary Musalia Mudavadi's portfolio. Additionally, Alice Wahome (Water) swapped roles with Zacharia Njeru (Lands), while Ababu Namwamba's docket was adjusted from Youth Affairs, Sports, and Arts to Youth Affairs and Sports. These changes also saw Aisha Jumwa's role evolve from Public Service, Gender, and Affirmative Action to Gender, Culture, Arts, and Heritage.

The second reshuffle on 7 August 2024 followed the unprecedented dismissal of the entire Cabinet (including the Attorney General) on 11 July 2024, except for the Prime Cabinet Secretary and the Cabinet Secretary for Foreign Affairs.⁴⁸ When the new Cabinet was announced, four of the eight women in the original lineup were not reinstated. The ministries of Gender (previously led by Aisha Jumwa) and East African Community (previously led by Peninah Malonza) were left vacant. Additionally, Florence Bore, the former Labour Cabinet Secretary, was replaced by Alfred Mutua, while Susan Nakhumicha (Health) was succeeded by another woman, Deborah Barasa. Roselinda Soipan retained her role as Cabinet Secretary for Defence, but her prior Environment docket was reassigned to Aden Duale, removing a key female presence in agricultural governance. Rebecca Miano was moved from the Investment and Trade Ministry to Tourism and Wildlife, with Salim Mvurya taking over her previous post. However, Alice Wahome

⁴⁸ Kenya Gazette, CXXVI (102) 12 July 2024, 8440.

(Lands) and Mercy Wanjau (Secretary to the Cabinet) retained their positions, and Margaret Ndung’u was appointed Cabinet Secretary for Information, Communication, and the Digital Economy.

On 20 August 2025, Dorcas Oduor was sworn in as Kenya’s first female Attorney General, and Beatrice Moe was appointed to lead the East African Community Ministry, partially addressing the earlier gaps in women’s representation.

Table 4B: President William Ruto’s Cabinet as at 20 August 2024

Cabinet position	Person holding the position	Gender	New post?
Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs	Musalia Mudavadi	Male	No
Interior and National Administration	Kithure Kindiki	Male	No
Gender, Culture, the Arts, and Heritage	Vacant		
Lands, Public Works, Housing, and Urban Development	Alice Wahome	Female	No
Investments, Trade, and Industry	Salim Mvurya	Male	Yes, he was in Mining
Environment, Climate Change, and Forestry	Aden Duale	Male	Yes, replaced Soi-pan Tuyu
Labour and Social Protection	Alfred Mutua	Male	Yes, he was in Tourism and Wildlife
Health	Deborah Mulongo Barasa	Female	Yes, new appointment replaced Nakumicha
Roads and Transport	Davis Chirchir	Male	Yes, replaced Murkomen he was in Energy and Petroleum
Mining, Blue Economy, and Maritime Affairs	Hassan Ali Joho	Male	Yes, new appointment
Youth Affairs, Creative Economy, and Sports	Kipchumba Murkomen	Male	Yes, he was in Roads
Defence	Roselinda Soi-pan Tuiya	Female	Yes, she was in Environment (swapped with Duale)

Cabinet position	Person holding the position	Gender	New post?
Co-operatives and Micro Small and Medium Enterprises (MSMEs) Development	Wycliffe Ambetsa Oparanya	Male	Yes, new appointment replaced Simon Chelugui
National Treasury and Economic Planning	John Mbadi Ng'ongo	Male	Yes, new appointment replaced Njuguna Ndung'u
Water, Sanitation, and Irrigation	Eric Muriithi Muuga	Male	Yes, new appointment replaced Zacharia Njeru
Agriculture and Livestock Development	Andrew Karanja	Male	Yes, new appointment replaced Mithika Linturi
Energy and Petroleum	James Opiyo Wandayi	Male	Yes, new appointment, replaced David Chirchir
Information Communication and the Digital Economy	Margaret Nyambura Ndung'u	Female	Yes, new appointment replaced Eliud Owalo
Public Service and Human Capital Development	Justin Bedan Njoka Muturi	Male	Yes, new appointment replaced Moses Kuria
Education	Julius Migos Ogamba	Male	Yes, replaced Ezekiel Machogu
Tourism and Wildlife	Rebecca Miano	Female	Yes, she replaced Alfred Mutua and she was in Trade
East Africa Community, Arid and Semi-Arid Lands and Regional Development	Beatrice Moe Askul	Female	Yes, previously held by Peninah Malonza but was left vacant
Secretary to the Cabinet	Mercy Kiiru Wanjau	Female	No
Attorney-General	Dorcas Agik Oduor	Female	Yes, replaced Justin Muturi

The third reshuffle was announced on 19 December 2024. Margaret Nyambura was replaced by William Kabogo as the President nominated her to be Kenya's High Commissioner to Ghana. Similarly, Andrew Karanja was replaced by Mutahi Kagwe in the Agriculture Ministry as he was nominated to serve as Kenya's Ambassador to Brazil. Lastly, Lee Kinyanjui was appointed to the Investments Ministry replacing Salim Mvurya who was moved to the Sports Ministry, which

was held by Kipchumba Murkomen who was then appointed to the Interior Ministry. No one was appointed to the Ministry of Gender, and at the time of finalising this chapter, the office was still vacant.⁴⁹ The Kenya Human Rights Commission has described this two-time vacancy a blatant promotion of gender discrimination.⁵⁰ Moreover, it is alleged that the constant reshuffling is a show of politics and optics: the constant changes are seen as part of President Ruto’s strategy to please his political allies, who are always in flux, and secure his presidential position.⁵¹

Table 4C: President William Ruto’s Cabinet as at 16 January 2025

Cabinet position	Person holding the position	Gender
Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs	Musalia Mudavadi	Male
Interior and National Administration	Onesimus Kipchumba Murkomen	Male
Gender, Culture, the Arts, and Heritage	Vacant	
Lands, Public Works, Housing, and Urban Development	Alice Wahome	Female
Investments, Trade, and Industry	Lee Maiyani Kinyanjui	Male
Environment, Climate Change, and Forestry	Aden Duale	Male
Labour and Social Protection	Alfred Mutua	Male
Health	Deborah Mulongo Barasa	Female
Roads and Transport	Davis Chirchir	Male
Mining, Blue Economy, and Maritime Affairs	Hassan Ali Joho	Male
Youth Affairs, Creative Economy, and Sports	Salim Mvurya	Male
Defence	Roselinda Soipan Tuiya	Female

⁴⁹ Kenya Gazette, CXXVII (10) 16 January 2025, 379.

⁵⁰ Kenya Human Rights Commission, ‘Ruto’s latest cabinet changes violate ethnic, gender balance’ 21 December 2024, available at < <https://khrc.or.ke/press-release/rutos-latest-cabinet-changes-violate-ethnic-gender-balance/> > on 27 February 2025.

⁵¹ Victor Abuso, ‘Kenya: Ruto expands government, appoints more Raila allies to key positions’ *The Africa Report*, 21 March 2025, <https://www.theafricareport.com/379597/kenya-ruto-expands-government-appoints-more-raila-allies-to-key-positions/> 25 March 2025.

Cabinet position	Person holding the position	Gender
Co-operatives and Micro Small and Medium Enterprises (MSMEs) Development	Wycliffe Ambetsa Oparanya	Male
National Treasury and Economic Planning	John Mbadi Ng'ongo	Male
Water, Sanitation, and Irrigation	Eric Muriithi Muuga	Male
Agriculture and Livestock Development	Mutahi Kagwe	Male
Energy and Petroleum	James Opiyo Wandayi	Male
Information Communication and the Digital Economy	William Kabogo	Male
Public Service and Human Capital Development	Justin Bedan Njoka Muturi	Male
East Africa Community and Regional Affairs	Beatrice Asukul Moe	Female
Education	Julius Migos Ogamba	Male
Tourism and Wildlife	Rebecca Miano	Female
Secretary to the Cabinet	Mercy Kiiru Wanjau	Female
Attorney-General	Dorcas Agik Oduor	Female

The Ministry responsible for agriculture, all the departments established under it, as well as all other key institutions that are responsible for agriculture governance in Kenya are male dominated. To begin with, the current Cabinet Secretary for Agriculture and Livestock Development is male, that is, Mr Mutahi Kagwe. With the exception Dr Sally Kosgei, who held the docket of agriculture between 2010 and 2013, the Ministry has only had male ministers since 1955 as Table 4D shows.⁵²

Table 4D: Ministers responsible for Agriculture in Kenya since 1955 to March 2025

Minister	Years Served
Michael Blundell	1955–1959
Bruce Mackenzie	1959–1961
Michael Blundell	1961–1962
Bruce Mackenzie	1963–1970
Jeremiah JM Nyagah	1971–1979
Gilbert Kabere M'mbijiwe	1980–1982
Munyua Waiyaki	1982–1984
William Odongo Omamo	1984–1987

⁵² <https://info.mzalendo.com/person/sally-kosgei/experience/> on 27 February 2023.

Minister	Years Served
Elijah Mwangale	1987–1992
Simeon Nyachae	1993–1996
Darius Msagha Mbela	1997
Musalia Mudavadi	1998
Christopher Obure	1999–2001
Bonaya Godana	2001–2002
Kipruto Rono Arap Kirwa	2003–2007
William Ruto	2008–2010
Dr Sally Kosgei	2010–2013
Felix Koskei	2013–2014
Willy Bett	2014–2017
Mwangi Kiunjuri	2017–2019
Peter Munya	2019–2022
Mithika Linturi	2022–May 2024
Dr Andrew Karanja	Aug 2024–Dec 2024
Mutahi Kagwe	Jan 2025–Present

As at the time of finalising this chapter, the heads of the two State departments established under the Ministry of Agriculture are male.⁵³ Additionally, the pervasive male majority in agricultural governance is overt as seen in the composition of the leadership of the 23 institutions under the Department of Agriculture. Below are some observable pointers of select institutions: -

- In the Agriculture and Food Authority of Kenya, three of the six directorates are headed by women.
- Only the Kenya Seed Company and the Kenya School of Agriculture are headed by women, that is, Hon Purity Ngirichi and Mrs Rosemary Nyamu respectively.
- With regard to composition, while the South Nyanza Sugar Company meets the two-thirds gender rule, the Commodities Fund does not as there are more women than men.

⁵³ Dr Kipronoh Ronoh Paul is the Principal Secretary for the State Department of Agriculture while Mr Jonathan Mueke is the Principal Secretary for the State Department of Livestock Development. See <https://kilimo.go.ke/state-department-for-agriculture/> on 27 February 2025.

- The National Biosafety Authority is at fifty-fifty owing to its even membership of four; two men and two women.⁵⁴
- Tea Board of Kenya has no women in its board membership.

Table 4E: Gender composition of agriculture institutions in Kenya as at March 2025

No.	Institution	Composition of the governing body	No of women of total
	Agriculture and Food Authority ⁵⁵	1. Dr Bruno Linyiru (Director General, Agriculture and Food Authority) 2. Mr Calistus Efukho (Ag Director, Food Crops Directorate) 3. Mr Felix Mutwiri (Ag Director, Coffee Directorate) 4. Ms Grace Kyallo (Ag Director, Fibre Directorate) 5. Ms Anne Gikonyo (Ag Director, Nuts & Oil Crops Directorate) 6. Ms Christine Chesaro (Ag Director, Horticultural Crops Directorate) 7. Benjamin Tito (Ag Director, Miraa, Pyrethrum and other Industrial Crops Directorate)	3 of 7
	Tea Board of Kenya ⁵⁶	1. Mr Ndungu Gathinji (Chairman) 2. Mr Willy K Mutai (Chief Executive Officer) 3. Mr Leonard Kubok (Director Representing Principal Secretary State Department for Agriculture) 4. Mr Anthony Nderitu (Director Representing Principal Secretary National Treasury) 5. Mr Michael Sali Mandu (Director Representing Principal Secretary Trade)	0 out of 5
	Agricultural Finance Corporation ⁵⁷	1. Mr George Kubai (Managing Director) 2. Mr Tom O Akeno, CPA (K) (Chief Strategy, Business Development & Planning Officer) 3. Mrs Betty Chemutai Suge (Chief Finance & Investments Officer) 4. Mr Jackson Opat Echoka (Chief Risk & Compliance Officer), Mr. Nicholas Njeru (Head of Procurement) 5. Mr Daniel O Olilo (Chief ICT Officer) 6. Mr Christopher K Kiburu (Ag Chief Credit Officer)	1 of 6
	Agricultural Development Corporation ⁵⁸	1. Dr Abdillahi Alawy (Chairman) 2. Dr Wilson Tonui (Managing Director) 3. Ms Joyce Muchena (Board Member) 4. Col (Rtd) Iya Jillo Gababo (Board Member) 5. Mr John Gitari (Board Member) 6. Ms Brenda Engomo (Board Member) 7. Ms Sophie Sang (Board Member) 8. Mr Isaac Maiyo (Board Member) 9. Mr Elisha Mwei (Board Member) 10. Mr Tom Atingo (Board Member) 11. Mr George Kariuki (Alternate Director, National Treasury) 12. Mr Bishar Elmi (Alternate Director, Ministry of Agriculture and Livestock Development) 13. Eng Nicodemus Mwonga (Alternate Director, Ministry of Agriculture and Livestock Development) 14. Mr Rodgers Karumpu (Corporation Secretary & Head of Legal Service)	3 of 14

⁵⁴ Eds.

⁵⁵ <https://www.afa.go.ke/afa-management/> on 27 February 2025.

⁵⁶ <https://www.teaboard.or.ke/about-us/board-members> on 27 February 2025.

⁵⁷ <https://agrifinance.org/management/> on 27 February 2025.

⁵⁸ <https://adc.go.ke/board-of-directors/> on 27 February 2025.

No.	Institution	Composition of the governing body	No of women of total
	Kenya Seed Company ⁵⁹	<ol style="list-style-type: none"> Hon Purity Ngirici (Chairperson Kenya Seed Group of Companies) Hon Bernard Wambwa (Independent Director) Dr Wilson Tonui (Director, Representative of Agricultural Development Corporation) Ms Ednah Atisa (Alternate Director, Representative of National Treasury) Mr Job Kibagendi Ndemo (Director) Mr Edwin Kipchirchir Tum (Director) Mr Symon Kipchumba Cherogony (Director, Representative of Kenya Farmers Association) Mr James Wanjohi (Alternate Director, Representative of Ministry of Agriculture) 	2 of 8
	Kenya Plant Health Inspectorate Services (KEPHIS) ⁶⁰	<ol style="list-style-type: none"> Hon Joseph M'erauki M'uthari (Chairman) Ms Jean Njiru (Director) Prof Theophilus M Mutui, PhD (Managing Director) Mr Julius Mutua (Director) Ms Sylvia Mulama Kamande (Director) Mr Silas M Kilingo (Director) Mr James Wanjohi (Director) Prof Albert Kimutai (Director) Mr Samuel Manja (Director) Hon CPA Hussein Adan Haji (Director) Ms Roselyne Chepngeno Langat (Director) 	3 of 11
	Nyayo Tea Zones Development Corporation ⁶¹	<ol style="list-style-type: none"> Mr Joseph Gitonga M'Limbiine (Chair) Mr Peter Korir (Managing Director) Mr Raymond Kemei (Independent Member) Mr Andrew Nyachonga (Independent Member) Mr Paul Kiagu (Alternate PS National Treasury) Mr Julius Inyingi (Independent Member) Mr David Kithale (Alternate PS Agriculture) Ms Joyce Wambui Njogu (Independent Member) Ms Rukia A Mohamed (Independent Member) Mr Andrew Njenga Karumbo (Independent Member) 	2 of 10
	South Nyanza Sugar Company ⁶²	<ol style="list-style-type: none"> Hon Jared Odhiambo Opiyo (Chairman) Mr Martine Dima (Managing Director & CEO) Ms Theodora Gichana (Inspector General, State Corporations) Ms Laura Abishag Matiko (Director) Mr Kipkoech Kirui (Director) Mr Silas Jakakimba (Director) CPA Elizabeth Shungula (Rep National Treasury) Ms Mary Akoth Were (Director) Ms Catherine Nanjala Wangamati (Director) Mr Douglas Kailanya (Director) Mr Tobias Okongo Osano (Rep Ministry of Agriculture) 	5 of 11
	Nzoia Sugar Company	<ol style="list-style-type: none"> Hon Alfred Khang'ati (Chairman) Mr Benson Madebe Chahasi (Director) Hon Bonface Okhiya Otsiula (Director) Mr Daniel Muimi (Director Rep Kenya Development Corporation) Mr Owakau Ino Jonathan (Director) Mr Patrice Chumba (Director) Mr Richard Njoba (Alt Director) Ms Elizabeth Mudukiza Iminza (Director) Ms Millicent Anyango Abudho (Director) Ms Theodora Gichana (Director Rep Inspector General, State Corporations) 	3 of 10

⁵⁹ <https://kenyaseed.com/about-us/our-board-of-directors/> on 27 February 2025.

⁶⁰ <https://kephis.go.ke/board-directors> on 27 February 2025.

⁶¹ Office of the Auditor General, *Report of the Auditor General on the Nyayo Tea Zones Development Corporation for the year ended 30 June 2023*, vi-viii.

⁶² <https://sonysugar.co.ke/sonysugar-board-of-directors> on 27 February 2025.

No.	Institution	Composition of the governing body	No of women of total
	Bukura Agricultural College ⁶³	<ol style="list-style-type: none"> 1. Mr Paul K Njogu (Ag. Principal/ CEO) 2. Mr Wanyama Musiambo CBS, EBS (Chairman) 3. Mr Michael Cedric Mukanzi (Alternate Director, Cabinet Secretary - National Treasury) 4. Mr Tom Otieno Olang'o (Alternate Director, Principal Secretary - State Department of Technical, Vocational Educational Training) 5. Mrs Faith Wangui (Alternate Director, Director of Live-stock Development - State Department of Livestock) 6. Dr Florence Muinde (Alt. Director, Principal Secretary - Public Service and Youth Affairs) 7. Mr Batram Muthoka (Director, Agriculture Industry) 8. Dr Joan Wakasa (Director, Public Universities) 9. Dr Patrick Ongadi Mudavadi (Alternate Director-Director General KALRO) 10. Mr Douglas Kangi (Director, Crop Management) 	3 of 10
	Kenya School of Agriculture ⁶⁴	<ol style="list-style-type: none"> 1. Rosemary Nyamu (Director) 	
	Commodities Fund ⁶⁵	<ol style="list-style-type: none"> 1. Mr Duke Mainga Ondiba Echate (Chairman, Board of Trustees) 2. Ms Nancy C. Cheruiyot, FCCA (Managing Trustee/CEO) 3. Ms Winnie Molonko (Alternative Trustee to PS, National Treasury) 4. Ms Jane Likimani Gachanja (Member Board of Trustees) 5. Ms Edith Wanjiku Kimani (Member Board of Trustees) 6. Ms Mary Nyachae (Member Board of Trustees) 7. Mr Yunis Ibrahim (Sheikh Member Board of Trustees) 	5 out of 7
	Agro-Chemical and Food Company ⁶⁶	<ol style="list-style-type: none"> 1. Dr. Wilson Tonui (Chairman, Board of Directors) 2. Ms Mbatha Mbithi (Director) 3. Mr Rodgers Karumpu (Director) 4. Mr John Karia (Director) 5. Mr Suresh Sharma (Director) 6. Mr John Kiruthu (Director) 7. Mr James Wanjohi (Director) 8. Ms Margaret Wamuyu (Director) 9. Ms Theodora Gichana (Rep. Inspectorate of State Corporations) 10. Mr Ashok Agrawal (Resident Director & Chief Executive) 	3 of 10
	Pest Control Products Board ⁶⁷	<ol style="list-style-type: none"> 1. Mr Kuria Gatonye (Chair) 2. Mr Andrew Kinyua (Member) 3. Dr Elijah Gichuru (Member) 4. Mr Collins Marangu (Member) 5. Dr Ayub Macharia (Member) 6. Ms Esther Ngari (Member) 7. Mr Al Gakweri (Member) 8. Mr Geoffrey Mwikamba (Member) 9. Mr Eric Kimungunyi (Member) 10. Ms Sarah Ali (Member) 11. Esther Kimani, PhD (CEO) 	2 of 11
	National Biosafety Authority ⁶⁸	<ol style="list-style-type: none"> 1. Prof Jenesio Kinyamario (Chair) 2. Dr Roselida Owour (Rep of PS Science and Technology) 3. Ms Caroline Mweni (Representative of the National Treasury) 4. Mr Archibald Munyi (Member) 	2 of 4

⁶³ <https://bukuracollege.ac.ke/board-of-directors> on 27 February 2025.

⁶⁴ <https://ksa.ac.ke/directors-message/> on 24 March 2025.

⁶⁵ <https://www.comfund.co.ke/about-us/board-of-trustees/> on 27 February 2025.

⁶⁶ <https://acfc.co.ke/management-team/> on 27 February 2025.

⁶⁷ Office of the Auditor General, *Report of the Auditor General on the Pest Control Products Board for the year ended 30 June 2022*, v-viii.

⁶⁸ https://www.biosafetykenya.go.ke/index.php?option=com_content&view=article&id=35&Itemid=169 on 27 February 2025.

No.	Institution	Composition of the governing body	No of women of total
	Kenya Agricultural and Livestock Research Organisation (KALRO) ⁶⁹	<ol style="list-style-type: none"> 1. Dr Thuo Mathenge (Chair) 2. Prof Walter Oyawa 3. Ms Clara Mwangi 4. Ms Teresia Wambui Karanja 5. Mr Johana Kipkorir Cheruiyot 5. Dr Mukiri Wa Githendu 6. CPA Margaret Wamuyu 7. Mr George Ombua (Represents Inspector General, State Corporations-no voting rights) 8. Dr Eliud Kiplimo Kireger (Director General/CEO) 	3 of 9

The male dominance of the National Executive structures, including the Cabinet, the Ministry of Agriculture, as well as critical national-level institutions, therefore, pose a real challenge to the prospects of ensuring that the outcomes of these agricultural governance institutions are gender-responsive.

ii. The gender profile of Parliament

Kenya has a bicameral Parliament made up of the National Assembly and Senate. The National Assembly is generally in charge of passing national legislation, appropriating funds for expenditure by the National Government and other State organs as well as exercising oversight over national revenue and its expenditure.⁷⁰ The Senate represents counties and serves to protect the interests of counties.⁷¹ More specifically, the Senate takes part in the passing of Bills concerning counties and exercises oversight over the expenditure of national revenue allocated to counties.⁷² All these mandates are crucial in terms of shaping agricultural policy and guiding the implementation of agriculture-related projects at both the national and county levels of Government.

The National Assembly has a total of 349 members consisting of 290 elected members representing constituencies, 47 women representatives elected at the county level, 12 nominated members representing special

⁶⁹ <https://www.kalro.org/about-us/kalro-board/> on 27 February 2025.

⁷⁰ Constitution of Kenya, 2010, article 95.

⁷¹ Constitution of Kenya, 2010, article 96(1).

⁷² Constitution of Kenya, 2010, article 96(2) and (3).

interests such as the youth, persons with disabilities and workers; and the Speaker who is an ex-officio member.⁷³

In the 2017 general elections, 21.8% of the National Assembly seats were held by women. This increased to 23% in the 2022 general elections. According to the Inter-Parliamentary Union (IPU) Parline data analysis, cumulatively (both elected and appointed), there were 268 male representatives in the Kenyan National Assembly as compared to the 82 female members as of 8 September 2022.⁷⁴ Despite the increase in the proportion of women in the National Assembly in 2022 relative to 2017, male dominance of the House is still persistent.

On its part, the Senate has a total of 67 members consisting of 47 members elected to represent each county, 16 women members nominated by political parties; two members (a man and a woman) representing the youth, and two members (a man and a woman) representing persons with disabilities.⁷⁵ It also includes the Speaker who is an ex-officio member. The total number of men after the 2022 General Election was 47 as compared to 21 female members.⁷⁶ This translated to about 31% representation of women in the Senate.

In addition to the overall membership of the two Houses, representation in the various leadership cadres in Parliament holds considerable influence over the issues that are presented to the Legislature and how and with what weight such matters are processed. However, essential House leadership positions in Parliament including Speakers, Deputy Speakers, Majority Party Leaders and Chief Whips are still male dominated. Presently, top National Assembly leadership is predominantly male save for the Deputy Speaker, Hon Gladys Boss

⁷³ Constitution of Kenya, 2010, article 97(1).

⁷⁴ UP Parline, *Global data on national parliaments*, Kenya – National Assembly 2022, available at <https://data.ipu.org/parliament/KE/KE-LC01/election/KE-LC01-E20220809/> on 27 February 2025.

⁷⁵ Constitution of Kenya (2010) article 98.

⁷⁶ UP Parline, *Global data on national parliaments*, Kenya – National Assembly 2022, available at <https://data.ipu.org/parliament/KE/KE-LC01/election/KE-LC01-E20220809/> on 27 February 2025.

Shollei, and Hon Millie Odhiambo who is Minority Party Whip.⁷⁷ The situation at the Senate is worse given that the positions of Speaker, Deputy Speaker, Majority Party and Minority Party leaders as well as the Majority Whip and Minority Whip are all male.⁷⁸ The trend was the same in 2017 and 2013, with the only woman in the National Assembly leadership being Hon Joyce Laboso, who served as the Deputy Speaker from 2013 to 2017.⁷⁹

Table 4F: Parliamentary leadership, 2013 - 2022

House	Election year	Percentage of women representation	Total number of male representatives	Total number of female representatives	House leadership
National Assembly	2013 General Elections	6.58%	228	16	Hon Justin Muturi-Speaker (male) Hon Joyce Laboso-Deputy Speaker (female)
	2017 General Elections	21.8%	273	76	Hon Justin Muturi-Speaker (male) Hon Moses Cheboi-Deputy Speaker (male)
	2022 General Elections	23%	268	82	1. Rt. Hon. (Dr) Moses M. Wetang'ula-Speaker (male) 2. Hon Gladys Boss Sholei-Deputy Speaker (female) 3. Hon. Kimani Ichung'wah-Leader of the Majority Party (male) 4. Hon. Silvanus Osoro Onyiego- Majority Party Whip (male) 5. Hon. Millie Odhiambo, Minority Party Whip (female) 6. Mr. Samuel Njoroge, Clerk of the National Assembly (male)

⁷⁷ See, <http://www.parliament.go.ke/the-national-assembly> on 27 February 2025.

⁷⁸ See, <http://www.parliament.go.ke/the-senate> on 31 December 2023.

⁷⁹ Jeremiah Kiplang'at, 'Joyce Laboso a woman of many firsts' *Nation*, 28 June 2020, <https://nation.africa/kenya/news/joyce-laboso-a-woman-of-many-firsts-190342> on 24 March 2025.

House	Election year	Percentage of women representation	Total number of male representatives	Total number of female representatives	House leadership
Kenyan Senate	2013 General Elections	27%	50	18	Hon Sen David Ekwee Ethuro-Speaker (male)
	2017 General Elections	31%	47	21	Hon Kenneth Makelo Lusaka-Speaker (male)
	2022 General Elections	31%	47	21	1. Rt Hon Amason Jeffah Kingi-Speaker (male) 2. Hon Sen Kathuri Murungi- Deputy Speaker (male) 3. Sen Aaron Kipkirui Cheruiyot-Majority Leader (male) 4. Sen (Rtd) Justice Stewart Madzayo-Minority Leader (male) 5. Sen Boni Khalwale-Majority Whip (male) 6. Sen Olekina Ledama-Minority Whip (male) 7. Mr Jeremiah M Nyege-nye-Clerk (male)

With respect to committee leadership, it is still a challenge for women to hold committee chairperson positions.⁸⁰ In the rare circumstances where they are chairpersons, they are usually chairs of less prestigious and poorly funded committees such as gender, youth, and children affairs.⁸¹ In the National Assembly, for instance, the Committee on Agriculture and Livestock has 15 members out of which only three are women.⁸² As the core committee in so far as agricultural governance within the National Assembly is concerned,

⁸⁰ Zedekiah Sidha, 'Despite increased representation Kenyan politicians still face gender barriers' *London School of Economics Blogs*, 7 August 2023, available at <https://blogs.lse.ac.uk/africaatlse/2023/08/07/despite-increased-representation-kenyan-politicians-still-face-gender-barriers/> on 27 February 2025.

⁸¹ <https://blogs.lse.ac.uk/africaatlse/2023/08/07/despite-increased-representation-kenyan-politicians-still-face-gender-barriers/> on 27 February 2025.

⁸² The committee is chaired by Dr Mutunga John Kanyuithia and deputised by Hon Yego Brighton Leonard. The only three female members of the committee are: Hon Njeru Pamela Njoki, Hon Marubu Muthoni Monica and Hon Chege Sabina Wanjiru. See <http://www.parliament.go.ke/the-national-assembly/committees/12/agriculture-livestock> on 27 February 2025.

this membership may point to a substantial failure to consider and mainstream gender in the National Assembly's agricultural outcomes.

The trend is also replicated in other agriculture-related National Assembly committees, including: the Committee on Finance and National Planning (critical for mainstreaming gender in financial planning and resource allocation) which comprises 15 members with no female representation;⁸³ the Budget and Appropriations Committee comprising 27 members with only seven being women;⁸⁴ the Committee in charge of Trade, Industry and Cooperatives comprising 15 members with only three being women (including the Vice Chairperson);⁸⁵ the Lands Committee comprising 15 members with only three being women (including the Vice Chairperson);⁸⁶ the Labour Committee comprising 15 members with five being women;⁸⁷ the Environment, Forestry and Mining Committee made up of 15 members with only four being women;⁸⁸ the Blue Economy and Irrigation Committee comprising 15 members with only four being women and lastly but importantly, as it deals with the day-to-day running of Parliament, the House Business Committee which has 14 members, of which only two are women.⁸⁹ An overriding yet worrisome trend in all these National Assembly committees is that none of them is headed by a woman, and only two committees have female vice chairpersons.

⁸³ <http://www.parliament.go.ke/the-national-assembly/committees/12/finance-and-planning> on 27 February 2025.

⁸⁴ <http://www.parliament.go.ke/the-national-assembly/committees/12/budget-and-appropriations-committee> on 27 February 2025.

⁸⁵ <http://www.parliament.go.ke/the-national-assembly/committees/12/trade-industry-and-cooperatives> on 27 February 2025.

⁸⁶ <http://www.parliament.go.ke/the-national-assembly/committees/12/lands> on 27 February 2025.

⁸⁷ <http://www.parliament.go.ke/the-national-assembly/committees/12/labour-and-social-welfare> on 27 Feb 2025.

⁸⁸ <http://www.parliament.go.ke/the-national-assembly/committees/12/environment-natural-resources> on 27 Feb 2025.

⁸⁹ <http://www.parliament.go.ke/the-national-assembly/committees/committee-house-business> on 27 Feb 2025.

Table 4G: Gender representation in National Assembly committees

No.	Committee name	Total members	Women members	Percentage of women	Committee headed by a woman?
1	Committee on Finance and National Planning	15	0	0%	No
2	Budget and Appropriations Committee	27	7	25.9%	No
3	Committee on Trade, Industry, and Cooperatives	15	3	20%	No
4	Lands Committee	15	3	20%	No
5	Labour Committee	15	5	33.3%	No
6	Environment, Forestry, and Mining Committee	15	4	26.7%	No
7	Blue Economy and Irrigation Committee	15	4	26.7%	No
8	House Business Committee	14	2	14.3%	No

In the Senate, with regard to agricultural governance related committees, women’s presence is dismal. Out of the Senate Business Committee’s ten members only four are women;⁹⁰ of the Committee on Agriculture, Livestock and Fisheries’ nine members, only one is a woman;⁹¹ of the Committee on Finance and Budget’s nine members, only three are women;⁹² of the Committee on Labour and Social Welfare’s nine members, only two are women;⁹³ and of the Committee on Lands, Environment and Natural Resources’ nine members, only

⁹⁰ <http://www.parliament.go.ke/the-senate/committees/house-keeping-committee/12/the-senate-business-committee> on 27 February 2025.

⁹¹ <http://www.parliament.go.ke/the-senate/committees/house-keeping-committee/12/the-senate-business-committee> on 27 February 2025.

⁹² <http://www.parliament.go.ke/the-senate/committees/standing-committees/12/committee-on-finance-commerce-and-budget> on 27 February 2025.

⁹³ <http://www.parliament.go.ke/the-senate/committees/standing-committee/12/committee-on-labour-and-social-welfare> on 27 February 2025.

three are women.⁹⁴ As in the case of the National Assembly, none of the committees above is headed by a woman.

Table 4H: Gender representation in Senate committees

No.	Committee name	Total members	Women members	Percentage of women	Committee headed by a woman?	Vice chairperson female?
1	Senate Business Committee	10	4	40%	No	No
2	Committee on Agriculture, Livestock and Fisheries	9	1	11.1%	No	No
3	Committee on Finance and Budget	9	3	33.3%	No	Yes
4	Committee on Labour and Social Welfare	9	2	22.2%	No	No
5	Committee on Lands, Environment, and Natural Resources	9	3	33.3%	No	No

The pervasive male dominance in the composition of Parliament demonstrated in the discussion above undermines women's involvement in legislative and policy-making processes and holds the potential to impact the gender-responsiveness of any agriculture-related governance outcomes emanating from Parliament negatively.

Gender representation in county-level institutions

Counties shoulder the larger obligation in so far as the implementation of the agriculture mandate is concerned. It follows, therefore, that agricultural governance institutions at the county level also bear a greater obligation to ensure that their outputs are gender-responsive. As discussed above, the gender profiles of agricultural governance institutions are key in facilitating gender mainstreaming. As such this part discusses the gender composition of CECs as well as county assemblies (CAs), which are the core agricultural governance institutions at the county level. The part focuses on the profiles of these

⁹⁴ <http://www.parliament.go.ke/the-senate/committees/standing-committees/12/committee-on-and-and-natural-resources> on 27 February 2025.

two institutions across the three counties examined during the visits to Baringo, Kitui and Nakuru Counties (the study counties) in the period under review.

iii. The gender profiles of County Executive Committees

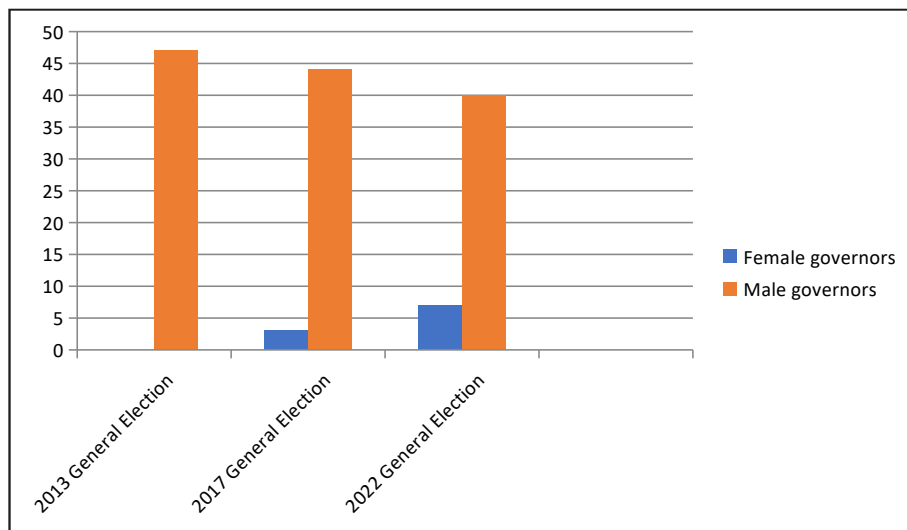
A CEC consists of the governor, deputy governor and county executive committee members (CECMs) appointed to head departments (ministries) at the county level. It is the equivalent of a county's cabinet. Article 179 (2) of the 2010 Constitution states that persons appointed as CECMs should 'not exceed (a) one-third of the number of members of the county assembly (CA), if the assembly has less than thirty members; or (b) ten, if the assembly has thirty or more members'.

Overall, the number of women elected to lead CECs, as governors, has increased since the 2013 General Elections, despite the number being significantly low when observed against the total number of counties. In the 2013 General Election, the first general election involving county leadership, none of the 47 counties elected a woman as its governor. In the General Election of 2017, only three counties elected women as their governors: Kirinyaga, Kitui (one of our study counties) and Bomet counties.⁹⁵ This number increased to seven counties⁹⁶ (including one of our study counties, Nakuru) in the 2022 General Election, the highest number since the implementation of the devolved system of government in 2013.⁹⁷ This trend has signified that more counties have more women leading their executive structures between 2013 and 2022, thereby, extending them an opportunity to spearhead gender mainstreaming in agricultural governance as well as in the adoption of relevant policies and implementation of key projects within their respective counties.

⁹⁵ Ann Waiguru, Ngilu Charity and Dr Joyce Laboso, respectively.

⁹⁶ Kwale (Fatuma Achani), Meru (Kawira Mwangaza), Embu (Cecily Mbarire), Machakos (Wavinya Ndeti), Kirinyaga (Anne Waiguru), Nakuru (Susan Kihika) and Homa Bay (Gladys Wanga).

⁹⁷ Wycliffe Nyamasege, 'List of 7 elected female governors in August polls' *People Daily*, 13 August 2022, <https://peopledaily.digital/august-9/female-governors-august-polls> on 24 March 2025.

Figure 4A: Gubernatorial leadership by gender following the 2013, 2017, and 2022 General Elections

Following the 2022 General Election, Baringo County's CEC is the most male dominated of the three counties examined. Both the Governor and Deputy Governor are male.⁹⁸ Moreover, out of the County's ten ministries, only three are led by women thereby failing to meet the constitutional minimum gender representation threshold (one-third).⁹⁹ These are: Youth Affairs, Sports, Gender, Culture and Social Services;¹⁰⁰ Devolution, Public Service and Administration,¹⁰¹ and Agriculture, Livestock and Fisheries.¹⁰² The County is, however, the only one of the three study counties whose agriculture ministry is led by a woman, thereby, presenting it with a better opportunity to ensure that its agricultural policies are gender-responsive.

⁹⁸ His Excellency (HE) Hon Benjamin Cheboi and HE Hon Felix Maiyo. See, <https://www.baringo.go.ke/county-executive-committee/> on 27 February 2025.

⁹⁹ See, <https://www.baringo.go.ke/county-executive-committee/> on 27 February 2025.

¹⁰⁰ Maurine Karelo Limashep.

¹⁰¹ Peninah Jepkorir Bartuin.

¹⁰² Risper K. Chepkonga.

While the gender composition of the Kitui CEC meets the constitutional minimum gender representation threshold (one-third), it nonetheless is dominated by male CECMs. To begin with, following the 2022 General Election, both the Governor and Deputy Governor of Kitui County are male.¹⁰³ Additionally, out of the County's ten departments, four are headed by women.¹⁰⁴ These are: Culture, Gender, Youth, ICT, Sports and Social Services;¹⁰⁵ Lands, Housing and Urban Development;¹⁰⁶ Trade, Industry, MSMEs, Innovation and Cooperatives;¹⁰⁷ and Health and Sanitation.¹⁰⁸ While land is in the hands of a woman, the Agriculture and Livestock Department is headed by a male CECM.¹⁰⁹

Nakuru County is one of the few counties, and the only one among the study counties, to elect a female governor in the 2022 General Elections, Susan Kihika. Governor Kihika is deputised by a male deputy governor,¹¹⁰ hence, ensuring gender balance in the County's top leadership. Out of Nakuru's ten departments, four are headed by women thereby checking the constitutional minimum gender representation threshold (one-third) box.¹¹¹ These are: Public Service Training and Devolution;¹¹² Gender, Culture, Sports and Social Services;¹¹³ Education, Information Communication and Technology and E-Government;¹¹⁴ and Health Services.¹¹⁵ However, Nakuru County's Department of Agriculture, Livestock, Fisheries and Cooperatives is headed by a male CECM.¹¹⁶

¹⁰³ Hon Dr Julius Malombe and HE Augustine Wambua.

¹⁰⁴ <https://kitui.go.ke/county-executive-committee/> on 27 Feb 2025.

¹⁰⁵ Phoebe Mutemi.

¹⁰⁶ Joyce Titus.

¹⁰⁷ Ruth Mwanzia.

¹⁰⁸ Rose Mutuku.

¹⁰⁹ Stephen Mbaya Kimwele.

¹¹⁰ David Kones.

¹¹¹ See, <https://nakuru.go.ke/county-executive/> on 31 December 2023.

¹¹² Roselyne Wanjiru Mungai.

¹¹³ Josephine Atieno Achieng.

¹¹⁴ Zipporah Ngugi.

¹¹⁵ Jaquiline Mongina Osoro.

¹¹⁶ Leonard Bor.

Table 4I: County executive committee leadership in the study counties by gender after 2022 General Election

County	Governor	Deputy Governor	Total departments	Departments headed by women	Percentage of departments headed by women	Department of Agriculture led by a woman?	Constitutional gender representation (one-third) met?	Likelihood of gender-responsive agricultural outcomes?
Baringo	Male	Male	10	3	30%	No	No	Low
Kitui	Male	Male	10	4	40%	No	Yes	Moderate
Nakuru	Female	Male	10	4	40%	No	Yes	High

Generally, from the examination of the three counties above, it is clear that their CECs are male-dominant in a manner that, according to the literature, does not hold the promise of gender-responsive policies and programmes. The situation is even worse when focus is tuned on the leadership of the agriculture docket given that out of the three counties, only one has its agriculture department led by a female CECM. Nonetheless, while this is the picture presented, the discussion below on the gender-responsiveness of the agricultural policies and programmes of the three counties will provide a more accurate assessment of the extent to which these two variables, departmental leadership and gender-responsiveness, correlate.

iv. The gender profiles of county assemblies

County assemblies (CAs) are the governance institutions upon which the legislative authority of counties in Kenya is vested.¹¹⁷ County assemblies have the powers to adopt laws that are necessary for the effective performance of the agriculture-related functions and powers conferred on county governments under the 2010 Constitution.¹¹⁸ These include any laws touching on either the implementation of agriculture or

¹¹⁷ Constitution of Kenya, 2010, Article 185(1).

¹¹⁸ Constitution of Kenya, 2010, Article 185(2).

gender mainstreaming or public participation, including in agriculture-related matters, at the county level.

Unlike the situation with Parliament, the 2010 Constitution makes explicit provisions on what should be done if the constitutional minimum gender representation threshold is not met in the CAs.¹¹⁹ In this case, the political parties represented in the respective county assemblies are required to nominate more women to top up the gap in the constitutional minimum. As a result of this, following the 2022 General Elections, 34% of Members of County Assemblies (MCAs) were women.¹²⁰ However, this has resulted in about 84% to 87% of women owing their presence in CAs to nomination rather than to direct election, a factor argued to be furthering a negative narrative that they are not 'real' MCAs.¹²¹ The aspect of tokenism is also a core factor in the fast track model in Dahlerup's gender quotas with regard to assessing whether these perceptions have the potential to impact so-called 'token women's' ability to push for gender-responsive laws at the CAs.¹²² Besides, gender quotas, Dahlerup advised, do not fix structural issues such as prejudice against women in society absolutely. In the same vein, Tripp noted that tokenism could occasion the failure or success of gender quotas in politics of women empowerment in Africa.

Following the 2022 General Elections, the County Assembly of Baringo has 15 women out of a total of 44 members.¹²³ Of the 15, four were elected to the CA while political parties nominated the remaining 11 to

¹¹⁹ Zedekiah Sidha, *'Despite increased representation Kenyan politicians still face gender barriers'* 2023.

¹²⁰ Zedekiah Sidha, *'Despite increased representation Kenyan politicians still face gender barriers'* 2023.

¹²¹ Lucianna Thuo & J Osogo Ambani 'Devolution and the promise of democracy and inclusion: An evaluation of the first decade of county governments, 2013-2022' in J Osogo Ambani & Caroline Kioko (eds) (2022) *Decentralisation and inclusion in Kenya: From pre-colonial times to the first decade of devolution*, Kabarak University Press, 2022, 247.

¹²² Dahlerup, 'Introduction' 13-14.

¹²³ <https://baringoassembly.go.ke/index.php/about-us/assembly-members> on 27 February 2025.

meet the constitutional minimum gender representation threshold.¹²⁴ Further, concerning the CA's ten leadership positions (consisting of the Speaker, Majority Leader, Minority Leader, Majority Whip, Minority Whip and their deputies), women occupy two positions, the Minority Whip and the Deputy Majority Whip.¹²⁵ Additionally, the Clerk of the County Assembly is a woman.¹²⁶

Regarding the gender profile of the committees related to agricultural governance, women are more present. First, in the seven-member Agriculture, Livestock and Fisheries Committee of the Baringo CA, the Vice Chairperson¹²⁷ and two members¹²⁸ are women.¹²⁹ The Labour and Social Welfare, Children, Youth and Sports Committee has four women out of the nine members, including the Vice Chairperson.¹³⁰ Third, the Lands, Housing and Urban Development Committee has two women, including the Vice Chairperson, of the nine members.¹³¹ Fourth, the County Heritage, Gender, Culture and Community Services Committee is made up of seven members, four of whom are women, including the Chairperson and Vice Chairperson.¹³² In the Water and Irrigation Committee, two out of the nine members are women (none as chairs).¹³³ Lastly, in the Environmental and Natural Resources

¹²⁴ <https://baringoassembly.go.ke/index.php/about-us/assembly-members> on 27 February 2025.

¹²⁵ <https://baringoassembly.go.ke/index.php/about-us/office-of-the-speaker#> on 27 February 2025.

¹²⁶ <https://baringoassembly.go.ke/index.php/about-us/office-of-the-clerk> on 27 February 2025.

¹²⁷ Hon Cynthia Kiptui.

¹²⁸ Hon Everlyne Korir and Hon Diana Siriti.

¹²⁹ <https://www.baringoassembly.go.ke/index.php/committees/sectorial-committees> on 27 February 2025.

¹³⁰ Hon Everlyne Jepkoech Korir (Vice Chair) Hon Julia Kumbelel, Hon Venaline Jerop and Hon Linah Sote.

¹³¹ Hon Sharon Keter (Vice Chair) and Hon Purity Tallam.

¹³² Hon Purity Tallam – Chair; Hon Caroline Sumerian Lesaaya - Vice Chair; Hon Cynthia Kiptui; and Hon Maria Losile

¹³³ Hon Everlyne Jepkoech Korir and Hon Venaline Jerop.

Committee, three out of the nine members are women, including the Vice Chairperson.¹³⁴

Table 4J: Composition and leadership of Baringo County Assembly by gender after 2022 General Election

Category	Total positions	Men	Women	Percentage of women
County Assembly (CA) Members	44	29	15	34.1%
- Elected CA Members	15	11	4	26.7%
- Nominated CA Members	29	18	11	37.9%
CA Leadership Positions	10	8	2	20%
- Minority Whip	1	0	1	100%
- Deputy Majority Whip	1	0	1	100%
Clerk of the County Assembly	1	0	1	100%
Agriculture, Livestock, and Fisheries Committee	7	4	3	42.9%
- Deputy Chair	1	0	1	100%
- Committee Members	6	4	2	33.3%
Labour and Social Welfare, Children, Youth, and Sports Committee	9	5	4	44.4%
- Vice Chair	1	0	1	100%
- Committee Members	8	5	3	37.5%
Lands, Housing, and Urban Development Committee	9	7	2	22.2%
- Vice Chair	1	0	1	100%
- Committee Members	8	7	1	12.5%
County Heritage, Gender, Culture, and Community Services Committee	7	3	4	57.1%
- Chair	1	0	1	100%
- Vice Chair	1	0	1	100%
- Committee Members	5	3	2	40%
Water and Irrigation Committee	9	7	2	22.2%
- Committee Members	9	7	2	22.2%
Environmental and Natural Resources Committee	9	6	3	33.3%
- Vice Chair	1	0	1	100%
- Committee Members	8	6	2	25%

¹³⁴ Hon Loice Kipseba - Vice Chair; Hon Julia Kumbelet and Hon Caroline Lesaaya.

Out of Kitui County's 40 wards, only one ward elected a woman to the CA, with 39 wards electing male MCAs following the 2022 General Election.¹³⁵ Consequently, the political parties nominated 19 women of the 20 nominated members to meet the minimum constitutional gender representation threshold.¹³⁶ While this brings the total number of women in Kitui's CA to 20, the Assembly is still dominated by men who are the majority (40, including the male nominated MCA). Similarly, with the exception of the Acting Clerk, the overarching CA leadership is male-dominated with no single woman appearing in any of its main leadership positions.¹³⁷

There is better representation in the membership of the Kitui CA committees working on issues related to agriculture closely. To begin, the Agriculture, Water and Irrigation Committee has three women out of its 11 members (none of whom are chairs).¹³⁸ The Environment, Energy and Minerals Development Committee has four women, including the Vice Chairperson, of the 11 members.¹³⁹ Six of the 11 members of the Labour and Social Welfare Committee are women, including the Vice Chairperson.¹⁴⁰ Lastly, both the Chairperson and Vice Chairperson of the Culture, Youth, Sports, Gender, and Social Services Committee

¹³⁵ <https://kituiassembly.go.ke/about-us/> on 31 December 2023; Zipporah Ngwatu, 'Kitui: Big loss for women as only 1 female MCA is elected' *People Daily*, 13 September 2022, <https://peopledaily.digital/august-9/18-women-nominated-to-kitui-county-assembly> on 24 March 2025.

¹³⁶ <https://kituiassembly.go.ke/members/> on 27 February 2025.

¹³⁷ Mrs Lucy Nduku Waema is Ag Clerk of Kitui CA. See the rest of the County Assembly of Kitui, House Leadership <https://kituiassembly.go.ke/house-leadership/> on 27 February 2025.

¹³⁸ The female members are: Hon Immaculate Wanza John, Hon Fastina Mwende Solomon Salu and Hon Jacquelyne Cate Kalenga. See, <https://kituiassembly.go.ke/agriculture-water-and-irrigation-committee/> on 27 February 2025.

¹³⁹ Hon Rose Kasyoka Kathoka- Vice Chairperson; Hon Deborah Katungwa Mutuku, Hon Fastina Mwende Solomon Salu; and Hon Charity S Mwangangi. See, <https://kituiassembly.go.ke/environment-energy-and-mineral-investments-development-committee/> on 27 February 2025.

¹⁴⁰ Hon Charity Kathathi Musyoka - Vice-chairperson; Hon Fridah Maua Mutinda; Hon Mary P Ndumbu; Hon Mary Mbithe Musili; Hon Elizabeth Ndunge Peter; and Hon Priscila Martha Makumi.

are women, with another two female members of the total 11.¹⁴¹ This improves the role of women in the CA’s decision-making largely as their increased presence in the committees is likely to enhance the gender-responsiveness of Kitui CA’s agriculture-related laws.

Table 4K: Composition and leadership of Kitui County Assembly by gender after the 2022 General Election

Category	Total positions	Men	Women	Percentage of women
County Assembly (CA) Members	60	40	20	33%
- Elected CA Members	40	39	1	2.5%
- Nominated CA Members	20	1	19	95%
CA Leadership positions	10	10	0	0%
- Speaker	1	1	0	0%
- Deputy Speaker	1	1	0	0%
- Majority Party Leader	1	1	0	0%
- Deputy Majority Party Leader	1	1	0	0%
- Minority Party Leader	1	1	0	0%
- Deputy Minority Party Leader	1	1	0	0%
- Majority Whip	1	1	0	0%
- Deputy Majority Whip	1	1	0	0%
- Minority Whip	1	1	0	0%
- Deputy Minority Whip	1	1	0	0%
Ag Clerk of the County Assembly	1	0	1	100%
Agriculture, Water, and Irrigation Committee	11	8	3	27.3%
- Deputy Chair	1	0	1	100%
- Committee Members	10	8	2	20%
Environment, Energy, and Minerals Development Committee	11	7	4	36.4%
- Vice Chair	1	0	1	100%
- Committee Members	10	7	3	30%
Labour and Social Welfare Committee	11	5	6	54.5%
- Vice Chair	1	0	1	100%

¹⁴¹ Hon Judith Wanza Kasyoka –Chairperson; Hon Immaculate Wanza John –Vice-Chairperson; Hon Fridah Maua Mutinda; and Hon Jacinta Mary Mwoni. See, <https://kituiassembly.go.ke/culture-youth-sports-gender-and-social-services-committee/> on 27 February 2025.

Category	Total positions	Men	Women	Percentage of women
- Committee Members	10	5	5	50%
Culture, Youth, Sports, Gender, and Social Services Committee	11	3	8	72.7%
- Chair	1	0	1	100%
- Vice Chair	1	0	1	100%
- Committee Members	9	3	6	66.7%

Lastly, the Nakuru County Assembly has 24 women out of its 75 members, with 16 women being nominated and 8 directly elected.¹⁴² Although no woman is represented as either Speaker or Deputy Speaker, women seem to be more evenly represented in other top CA leadership positions compared to the situation in Baringo and Kitui County Assemblies. For example, the positions of Deputy Majority Party Leader, Deputy Minority Party Leader, Deputy Majority Party Whip and Minority Party Whip are held by women.¹⁴³ Further, the Acting Clerk is a woman, Jane Waweru.¹⁴⁴ It also has sectoral departments headed by women, with the most pertinent to our study being Agriculture; Labour, Gender, Youth and Social Welfare; Land, Housing and Physical Planning; and Energy, Environment and Natural Resources.¹⁴⁵

From an overview of the gender profiles of the three county assemblies, therefore, it is evident that male dominance is prevalent notwithstanding the constitutional mechanism that has institutionalised gender top-ups to ensure that at least one-third of the memberships of county assemblies consists of women. While the Nakuru CA membership continues the male dominance trend observed in Baringo CA and Kitui

¹⁴² <https://nakuruassembly.go.ke/about-assembly/county-assembly-members/> on 27 February 2025.

¹⁴³ Hon Rose Gathoni Njoroge-Deputy Leader of Majority Party; Hon Keziah Akinyi Okumu-Deputy Minority Party Leader; Hon Virginia Wamaitha Gicanga-Minority Party Whip; and Hon Bethsheba Kerubo Onkoba-Deputy Minority Party Whip. See, <https://nakuruassembly.go.ke/about-assembly/county-assembly-members/> on 27 February 2025.

¹⁴⁴ <https://nakuruassembly.go.ke/management/clerks-department/> on 24 March 2025.

¹⁴⁵ <https://nakuruassembly.go.ke/committees/mandate-and-classification/> on 24 March 2025.

CA, its leadership seems to hold more promise for an increased role for women in ensuring the gender-responsiveness of any agriculture-related laws of the CA. This is similar to the conclusion on the gender profiles of the CECMs in the previous section, where the composition of the Nakuru CECM demonstrated had a slightly higher likelihood of yielding gender-responsive agricultural policies than Baringo and Kitui CECMs.

Analysis of the gender responsiveness of the outcomes of key agricultural governance institutions in Kenya

Against the backdrop above, it is important to undertake an analysis of the extent to which the outputs of governance institutions are responsive to the unique needs and/or experiences of women involved and/or benefiting from the agricultural sector or that are impacted by these outputs. This section examines the outputs of the national-level as well as county-level agricultural governance institutions discussed above.

The gender-responsiveness of agricultural outcomes of national-level institutions

As discussed above, the National Government is primarily in charge of adopting agriculture-related policies and laws that are then required to be applied uniformly across the 47 county governments. In this respect, this section examines the extent to which both the gender and agriculture-related policies and laws emanating from the National Executive and Parliament integrate the needs, concerns and experiences of women in their design, implementation as well as in any processes of their monitoring and evaluation.

From the outset, the manner in which the National Government has handled its obligation to take measures, including the adoption of policies and laws, to give effect to the constitutional imperative to ensure the two-thirds gender rule in the composition of all elective and appointive bodies, leaves very little to expect in terms of its commitment to mainstreaming gender in agricultural governance.

For context, about 14 years after the adoption of the 2010 Constitution, there have been about 11 court orders addressing the two-thirds gender principle, including an advisory from the Chief Justice to the President to dissolve Parliament for its failure to comply with the principle as Table 4L illustrates.

Table 4L: Summary of court orders addressing the two-thirds gender principle

#	Case name	Case number	Date of delivery of decision	Summary
	In the Matter of Gender Representation in the National Assembly and the Senate	Supreme Court Advisory Opinion 2 of 2012	11 December 2012	This was an application filed by the Attorney General (AG) at the Supreme Court regarding the implementation of the two-thirds gender principle. The Supreme Court was asked whether Article 81(b) of the 2010 Constitution required progressive realisation for the enforcement of the two-thirds gender rule or if it could be implemented in the General Elections scheduled for 4 March 2013. The Supreme Court concluded that the principle would be realised progressively and not immediately. However, it stated that legislative measures to give effect to the principle must be taken by 27 August 2015. The Supreme Court also noted that if the gender threshold was not achieved in the elections as per the constitutional dictates, it would be difficult to correct the deficit.
	FIDA Kenya & others v Attorney General and another	Nairobi High Court Petition 102 of 2011.	25 August 2011	This case challenged the gender composition of the Supreme Court, arguing that it violated the two-thirds gender principle under the 2010 Constitution. The High Court dismissed the petition due to lack of evidence and as it would be an overreach of its mandate to legislate or make policies on the appointment of judges. ¹⁴⁶
	Milka Adhiambo Otieno & another v Attorney General & 2 others	Kisumu High Court Petition No. 44 of 2012.	28 February 2012	This case challenged the election process to the Kenya Sugar Board for non-compliance with the two-thirds gender principle. The High Court disallowed the petition as the full board was yet to be constituted, hence, it would be premature to rule out its non-compliance with the gender principle. ¹⁴⁷ The High Court, however, stressed the significance of the AG's state duty to legislate on Article 27(8).

¹⁴⁶ Page 40-42.

¹⁴⁷ Page 9-10.

#	Case name	Case number	Date of delivery of decision	Summary
	Centre for Rights Education and Awareness (CREAW) and 8 others v Attorney General & another	Petition Nos 207 & 208 of 2012	24 February 2012	The Centre for Rights Education and Awareness (CREAW) sought to nullify the appointment of county commissioners for non-compliance with the two-thirds gender principle. Justice Mumbi Ngugi held that the President did not have power to appoint the county commissioners and the illegal appointment violated Article 10 and 27 of the 2010 Constitution. ¹⁴⁸
	National Gender and Equality Commission v Independent Electoral Boundary Commission (IEBC) and another	Nairobi High Court Petition No 147 of 2013	15 April 2013	This case challenged the process of allocation of party list seats under Article 90 of the 2010 Constitution, particularly the exclusion of women, youth, and persons with disabilities from the process. The High Court found that the IEBC failed to supervise the election of those nominated to the special seats, by their respective political parties, under Article 90, by issuing sufficient guidelines. ¹⁴⁹
	Centre for Rights Education and Awareness (CREAW) v Attorney General & another	Nairobi High Court Petition No 182 of 2015	26 June 2015	CREAW challenged the failure of the Attorney General and Commission on Implementation of the Constitution to prepare the bill to give effect to Article 100 of the 2010 Constitution, which relates to the representation of marginalised groups in Parliament. The High Court issued an order of mandamus directing the Attorney General and the Commission on Implementation of the Constitution to prepare the relevant Bill(s) for tabling before Parliament for purposes of implementation of Articles 27(8) and 81(b) of the 2010 Constitution as read with Article 100 and the Supreme Court Advisory Opinion (Reference Number 2 of 2012) within forty days from the date of the delivery of the decision (26 June 2015). ¹⁵⁰
	Marilyn Muthoni Kamuru and two others v Attorney General and another	Nairobi High Court Petition No 552 of 2012	20 December 2016	This case challenged the violation of the two-thirds gender rule in the appointment of Cabinet Secretaries successfully, but the declaration of invalidity was suspended for eight months from the date of judgment. ¹⁵¹

¹⁴⁸ Centre for Rights Education and Awareness (CREAW) and 8 others v Attorney General & another, Ruling of the High Court at Nairobi, 27 July 2012, para 2.

¹⁴⁹ Para 88-89.

¹⁵⁰ Para 113 b and c.

¹⁵¹ Paras 38-61.

#	Case name	Case number	Date of delivery of decision	Summary
	Centre for Rights Education and Awareness (CREAW) and 2 others v Speaker of the National Assembly and 6 others	Nairobi High Court Petition No 371 of 2016	29 March 2017	This petition sought to implement Article 261 of the 2010 Constitution to compel Parliament to pass legislation seeking to implement Article 100, otherwise it would stand dissolved. The High Court granted the petition ordering the AG and Parliament to enact the legislation within 60 days of the judgment. Further, the High Court ordered that in the event of failure to enact the law, after the 60 days, the petitioner (or anyone) could petition the Chief Justice to dissolve Parliament. ¹⁵²
	Leina Konchellah and others v Chief Justice and President of the Supreme Court and others; Speaker of National Assembly and others (Interested parties)	Petition E291 of 2020 (Consolidated with Petitions E300 of 2020, E302 of 2020, E305 of 2020, E314 of 2020, E317 of 2020, E337 of 2020, 228 of 2020, 229 of 2020 & JR E1108 of 2020)	18 February 2021	Following several petitions to the Chief Justice to advise the President to dissolve Parliament for failing to pass the required legislation under Article 100 of the 2010 Constitution, the Chief Justice issued an advisory to the President on 21 December 2020. This advisory was challenged in these consolidated petitions (see case number), especially the fact that the Deputy Chief Justice and not the Chief Justice appointed the bench to determine the petitions. The High Court judges found that the Deputy Chief Justice acted within their mandate. ¹⁵³
	Katiba Institute v Independent Electoral and Boundaries Commission	Nairobi High Court Petition No. 19 of 2017	20 April 2017	The High Court ruled on the obligation of the Independent Electoral and Boundaries Commission (IEBC) to ensure political parties comply with the two-thirds gender rule in the nomination process. The High Court affirmed that the IEBC had the power to reject non-compliant party lists, although the implementation was deferred to the 2022 General Elections.
	Cliff Marube Ombeta and Adrian Kamotho Njenga v IEBC	Constitutional Petition No E211 of 22 (Consolidated with Nairobi High Court Judicial Review Misc. NoEO71 of 2022)	13 June 2022	The High Court ruled that the IEBC's letters dated 27 April and 5 May 2022, which required political parties to comply with the two-thirds gender principle in their nomination lists, were unconstitutional. The High Court found that these decisions violated Article 10 of the 2010 Constitution due to lack of public participation and Article 47 for failing to meet standards of fairness and reasonableness. Additionally, the High Court determined that the letters contravened Articles 27, 38, and 91 by infringing on political rights. The High Court issued an order of certiorari, quashing both letters and the decisions therein.

Some bills proposed to provide a mechanism for compliance with the two-thirds gender principle in Parliament have failed to

¹⁵² Page 15-16.

¹⁵³ Para 97.

garner enough support from both men and women in three successive parliaments now.¹⁵⁴ In the National Assembly, some of the notable attempts were the Two-Thirds Gender Rule Laws (Amendment) Bill 2015 and the Constitution of Kenya (Amendment) Bill 2015 (also known as Chepkonga Bill of 4 April 2015); Constitution of Kenya (Amendment) Bill No 4 of 2015 (also known as the Technical Working Group Bill or Duale 1 Bill); the Constitution of Kenya (Amendment) Bill No 6 of 2015 (also known as the Compromise Bill or Duale 2 Bill); and Constitution of Kenya (Amendment) Bill 2018. At Senate level, there was the Constitution of Kenya (Amendment) Bill No 16 of 2015 (also known as the Sijeny Bill). Other than lack of quorum in the respective parliamentary houses to pass these bills, the collapse could also be attributed to shifts in political allegiances and poor framing of the proposed laws – sometimes, the legislative proposals contravened the 2010 Constitution.¹⁵⁵

v. *Agricultural outcomes of the National Executive*

Several policies touching either on agriculture-related matters or on gender and development or on general matters such as public participation have been adopted at the national level. Table 4M on gender and agriculture policies in Kenya outlines various policy frameworks aimed at mainstreaming gender considerations within the agricultural sector. These policies, spanning from 2008 to 2021, were developed by different Government ministries and agencies to address gender disparities in agriculture.

The Vision 2030 Blueprint (2008) incorporates gender mainstreaming objectives within its social pillar, ensuring a 30% representation of women in policies and the collection of sex-disaggregated data. It introduces affirmative action policies and initiatives such as the Uwezo Fund to promote women-led enterprises, which may include agriculture-related businesses. The Guide for Mainstreaming Gender in the Agricultural Sector (2010) provides a structured approach to integrating gender in agricultural programs,

¹⁵⁴ Centre for Rights Education and Awareness (CREAW), *Tracing the journey: Towards implementation of the two thirds gender principle*, 2019, 38-46.

¹⁵⁵ CREAW, *Tracing the journey*, 38-46.

identifying challenges such as the lack of gender-sensitive budgeting and sex-disaggregated data.

The Agricultural Sector Development Strategy (ASDS) (2010) recognises the persistence of gender inequalities and proposed interventions such as gender-based budgeting. It was the first policy to advocate a gender policy in agriculture. The National Agricultural Sector Extension Policy (NASEP) (2012) emphasises gender mainstreaming as essential in ensuring inclusive and equitable agricultural extension services. The Agricultural Sector Gender Policy (2013) builds on ASDS recommendations and seeks to evaluate gender inequalities. It highlights issues such as the lack of political will, weak institutional support, and the under-representation of women in leadership. It calls for mandatory collection of gender-disaggregated data to inform policy and program implementation.

The County Public Participation Guidelines (2016) provided a general framework for gender inclusivity in public participation. However, they primarily categorised women as a marginalised group rather than addressing gender as a broad structural concern. The Agricultural Sector Transformation and Growth Strategy (ASTGS) (2018-2029) acknowledged that 75% of Kenyan women were employed in agriculture but lacked land ownership, limiting their access to cooperatives and better markets. The strategy aimed to empower women through knowledge-building programs and digital extension services.

The National Policy on Gender and Development (2019) takes a holistic approach to gender mainstreaming, advocating women's access to land and financial resources. It calls for county gender action plans and targeted improvements in women's participation in fisheries and the blue economy. Finally, the Agricultural Policy (2021) reinforces gender-sensitive practices, equitable access to productive resources, and fair financing for women in agriculture.

Overall, these policies aim to address gender disparities in Kenya's agricultural sector by promoting inclusivity, ensuring equal access to

resources, and integrating gender-responsive budgeting and planning mechanisms. However, challenges such as weak institutional support, inadequate data collection, and the limited political will for gender mainstreaming remain key barriers.

Table 4M: Summary of key policies on gender and agriculture

Policy	Year	Description	Duty-bearer
Vision 2030 Blueprint	2008	<p>Although adopted before the promulgation of the 2010 Constitution, the Vision 2030 Blueprint incorporates gender mainstreaming goals. Its social pillar emphasises the development of a policy for gender mainstreaming, addressing gender concerns and priorities, ensuring 30% women representation in policies, and collecting sex-disaggregated data to inform programming.</p> <p>Under the Second Medium Term Plan (2013-2017), Vision 2030 tracked its implementation in agriculture and rural development by focusing on aspects like market access, fisheries infrastructure development, the establishment of the National Livestock Insurance Scheme, National Agricultural Sector Extension Programme, a fertilizer cost reduction strategy, and the preparation of necessary regulations to support agricultural legislative reforms.</p> <p>The Gender mainstreaming sub-sector emphasises the enactment of a national affirmative action policy and monitoring compliance with the constitutional two-thirds gender rule in appointive and elective positions. The Women Empowerment sub-sector aims to expand women’s access to financial services and promote women-led enterprises through the Uwezo Fund, alongside reinvigorating the Women Enterprise Fund.</p>	Director, Vision 2030

Policy	Year	Description	Duty-bearer
Guide for Mainstreaming Gender in the Agricultural Sector	2010	Developed by the Ministry of Agriculture and Livestock Development, this guide is detailed and methodical in its approach to gender mainstreaming. It elaborates on key terms such as gender mainstreaming, gender sensitivity, gender blindness, practical and strategic gender needs/interests, and gender budgeting. The policy identifies critical gender-related issues at both the programmatic and institutional levels. At the program level, it highlights the failure of the sector to integrate gender into programme objectives and implementation plans, along with the lack of sex-disaggregated data on access to productive resources and leadership. At the institutional level, the policy points out a lack of high-level support for gender mainstreaming, inadequate gender-sensitive budgets, and the absence of a sector-specific gender policy.	Ministry of Agriculture and Livestock Development
Agricultural Sector Development Strategy (ASDS)	2010	The ASDS, developed with leadership from ten ministries demonstrated a clear focus on gender-related issues in the agricultural sector. Despite the persistence of gender inequality in the sector, the policy acknowledges women's significant role. It proposes non-traditional gender-focused interventions, such as gender-based budgeting, to promote equality and equity of outcomes, not just equal treatment. These interventions aim to improve efficiency, sustainability, empowerment, and equity. The ASDS was also the first policy to propose the development of a gender policy for the agricultural sector to facilitate gender mainstreaming and ensure equal benefit for all genders.	Ministry of Agriculture and Livestock Development
National Agricultural Sector Extension Policy (NASEP)	2012	Prepared jointly by the Ministries of Agriculture, Livestock Development, Fisheries Development, and Cooperative Development and Marketing, NASEP identifies gender mainstreaming as an essential contemporary issue for providing effective extension services. The policy stresses the need for policy direction in gender mainstreaming to ensure that extension services are inclusive and equitable, addressing gender-related concerns in agricultural development.	Ministry of Agriculture and Livestock Development

Policy	Year	Description	Duty-bearer
Agricultural Sector Gender Policy	2013	Adopted in response to the policy recommendations in the ASDS, the Agricultural Sector Gender Policy aimed to mainstream gender in the 2011-2015 Medium Term Investment Plan. It undertakes a comprehensive evaluation of gender inequalities in agriculture and identifies challenges in gender mainstreaming in the sector. The Policy highlights issues such as lack of political will, low institutional status of gender mainstreaming, lack of a framework obligating gender mainstreaming, and the under-representation of women in leadership positions. It calls for baseline surveys to inform programme identification, as well as mandating the collection and use of gender-disaggregated data for programme focus, objectives, targets, activities, implementation, and monitoring.	Ministry of Agriculture and Livestock Development
County Public Participation Guidelines	2016	Prepared by the Ministry of Devolution and Planning in partnership with the Council of Governors, the Guidelines make general provisions for gender in public participation. However, they fall short of being a critical tool for gender mainstreaming in planning and oversight. Women are largely treated as part of the class of marginalised or vulnerable persons, despite gender being a broader concern. The Guidelines include minimum provisions, such as prohibiting participation limitations based on gender and ensuring equal participation opportunities. The structure allows for separate sessions based on participant diversity, including gender composition. The Guidelines also enable counties to hold focus group meetings targeting minorities and historically marginalised groups, including women.	Ministry of Devolution and Planning, Council of Governors, County Governments

Policy	Year	Description	Duty-bearer
Agricultural Sector Transformation and Growth Strategy (ASTGS)	2018	The ASTGS aims to transform Kenya's agricultural sector, focusing on increasing production, improving market access, and addressing environmental sustainability (2019 – 2029). It affirms that agriculture employs about 75% of Kenyan women, compared to 51% of Kenyan men. However, only half of these women own their farms, limiting their ability to join cooperatives or farmer-based organizations, thus restricting their access to better inputs and markets. This issue is especially pronounced for women in rural communities. Flagship No 7 targets the launch of knowledge and skills-building programs for about 200 government leaders and flagship implementers, including 1,000 small micro-enterprises facing farmers, and aims to establish a digitally-enabled extension program with about 3,000 county-based youth extension agents. The ASTGS guarantees that the Ministry of Agriculture will consider gender ratios at all levels to address barriers to women's participation and advancement in the sector.	Ministry of Agriculture and Livestock Development
National Policy on Gender and Development (Sessional Paper No 02)	2019	Prepared by the then Ministry of Public Service, Youth and Gender, the Policy provides an overall approach to gender mainstreaming in Kenya. It assigns the Ministry the role of spearheading policy formulation, implementation, and review, as well as ensuring that budgets, plans, and programs are gender-responsive. The Policy also mandates the Ministry to support county governments in preparing county gender action plans and guiding them on reporting mechanisms for gender outcomes. Regarding agriculture, the Policy advocates for measures to overcome barriers inhibiting women's access to and control over productive resources, such as land. It also calls for enhanced extension services benefiting vulnerable women and increased participation of women in the fisheries sector and the blue economy.	Need for re-assignment as there is no Ministry charged with gender affairs

Policy	Year	Description	Duty-bearer
Agricultural Policy	2021	Developed by the Ministry of Agriculture, Livestock, Fisheries and Cooperatives, the Agricultural Policy emphasizes the mainstreaming of gender in the agricultural sector. The Policy calls for national and county governments to promote gender-sensitive practices, increase women’s access to productive resources and markets, and ensure gender equity in agricultural financing.	Ministry of Agriculture and Livestock Development

vi. Agricultural outcomes of Parliament

The National Assembly plays a role in agricultural governance to the extent that it takes part in the passing of laws touching on various aspects of agriculture, takes part in national budget-making as well as in the appropriation of agriculture-related expenditure at the national level. Moreover, it approves any agriculture-related regulations or guidelines emanating from the National Executive. The Senate, on its part, plays a similar role with particular attention to those laws touching on devolution. It is particularly important in the context of agriculture given that counties are principally charged with the implementation of agriculture. This part assesses Parliament’s gender responsiveness through the law-making and budgeting mandates.

Some of the most important laws enacted by Parliament after 2022 include: the Agriculture and Food Authority Act (AFAA),¹⁵⁶ the Crops Act,¹⁵⁷ and the Fisheries Management and Development Act.¹⁵⁸

The AFAA, which is an Act of Parliament adopted to consolidate the laws on the regulation and promotion of agriculture, is largely written in gender-blind language with no gender-sensitive considerations. For instance, the Act imposes no obligation to consider gender neither does it provide for any gender thresholds in its provisions relating to the composition of the Board of the Agriculture and Food Authority.¹⁵⁹ Additionally, while mandating the participation of farmers in the

¹⁵⁶ No 13 of 2013.

¹⁵⁷ No 16 of 2013.

¹⁵⁸ No 35 of 2016.

¹⁵⁹ Section 5. However, the constitutional two-thirds gender rule applies to AFAA.

governance of the agricultural sector, the Act only requires consultation with registered stakeholder organisations.¹⁶⁰ Such a focus runs the risk of limiting meaningful engagement with women in the sector and perpetuating the existing inequalities in the sector where most registered stakeholders are largely male or male-led due to gender-based inequalities in access to and control over productive resources. Moreover, most women in women-headed households belong to the class of smallholder farmers that are mostly not registered, hence, the risk of their non-involvement.

Similarly, the Crops Act is written in gender-blind language with no provisions focusing on facilitating gender mainstreaming in the sector either in the mandated training programs or in the provision of incentives and facilities to growers of scheduled crops under the Act.¹⁶¹ Moreover, the objective of the Act is set in economic terms with little to no social nuances that are critical for the mainstreaming of gender.

Unlike the AFAA, however, the Fisheries Management and Development Act is specific in instructing the relevant Cabinet Secretary to have regard to gender in the appointment of members the Board of the Fish Marketing Authority.¹⁶² Additionally, members of the Board are also required to ensure that they elect a chairperson and deputy chairperson who are not of the same gender.¹⁶³ Although the language used elsewhere in the Act is largely gender-blind, these requirements contribute towards mainstreaming gender in agricultural governance.

The gender-responsiveness of agricultural outcomes of county-level institutions

In terms of the constitutional architecture, counties bear the bulk of the agriculture mandate, more so in relation to the implementation of specific aspects of agriculture, as highlighted above. To this end, counties adopt their own policies and laws intended to facilitate their

¹⁶⁰ Section 40(1).

¹⁶¹ See sections 8 & 12.

¹⁶² Section 11(4)

¹⁶³ Section 11(3).

implementation of this mandate. Additionally, county governments also have the obligation to implement at the county level agriculture-related policies and laws adopted at the national level. While counties may not have discretion over the gender-responsiveness of the latter outcomes from the national level, they may however choose to ensure that they are implemented in a gender-responsive manner. With respect to the former, however, counties have discretion not only in ensuring gender-responsive implementation but also in ensuring that the content of these outcomes (agriculture-related county-level policies, laws and programmes) is gender-responsive. The discussion below assesses the extent to which the outcomes of CECs as well as those of CAs are designed and implemented such as to facilitate gender-responsive agriculture through the lenses of Baringo, Kitui and Nakuru counties.

vii. *Agricultural outcomes of CECs*

a) *Key agriculture-related county policies are phrased in gender-blind language*

A review of the 2023-2027 County Integrated Development Plans (CIDPs), 2024/2025 Annual Development Plans (ADPs) and the 2024/2025 Programme Based Budgets (PBBs) of Baringo, Kitui and Nakuru counties reveal that county policy planning and budgeting for the agriculture sector, which is key to gender mainstreaming, is largely done using gender blind¹⁶⁴ language. Any specific gender-related planning and budgeting is mostly left to subsectors focusing on gender whose focus on mainstreaming is generic and sometimes tokenistic.¹⁶⁵ Agriculture's focus, under these key policy documents, is largely trained on food security and wealth creation hence economic development at the expense of its social development role. This significantly undermines the objective of ensuring that agriculture and the implementation of

¹⁶⁴ Gender blindness occurs when 'the importance of gender is not recognized and is completely omitted in policies, legislation, programmes, plans and actions hence eliminating the possibility, responsibility and accountability for addressing inequalities'. See, Agricultural Sector Gender Policy, 2013, 25.

¹⁶⁵ See, County Government of Kitui, *Kitui County Integrated Development Plan 2023-2027*, 106-107; County Government of Nakuru, *County Integrated Development Plan 2023-2027*, 44-45.

agriculture-related projects within these counties is done in a gender-responsive way.

Of the three counties, Nakuru makes the most references to gender and women in policy documents followed by Kitui County, which makes occasional references to such dictates.

Both the CIDPs and ADPs of each of the focus counties have a section dedicated to reviewing and presenting outcomes from the previous CIDP/ADP period prior to planning for the current period. With respect to this part of these policy documents, all the three counties reviewed and presented their outcomes utilising gender-blind language with no gender-focused data perhaps because those previous policies had no specific gender-focused outcomes or performance indicators.¹⁶⁶ Generic parameters such as annual meat yield, annual poultry yield, value of livestock products, annual fish yield, number of households, number of farmers trained, number of extension officers offered to farmers, among others, are used. This failure to disaggregate the data and use gender-specific indicators such as the number of women farmers trained, number of female extension officers recruited, number of female-headed households involved, among others, means that the counties fail to gather and be conscious of their gender baselines on various agriculture-related issues hence fail to account for any progress or regression on them thereby undermining the gender-responsiveness of agriculture and their implementation of their agriculture mandate.

In terms of setting the agriculture sector's priorities, identifying focus programmes and projects, laying out strategies for their implementation as well as setting performance indicators for their respective monitoring and evaluation (M&E) frameworks in the current

¹⁶⁶ County Government of Baringo, *Baringo County Integrated Development Plan (2023-2027)*, 30; County Government of Baringo, *County Annual Development Plan for Financial Year 2023-2024*, 20; County Government of Kitui, *Kitui County Integrated Development Plan 2023-2027*, 57-58; County Government of Kitui, *Annual Development Plan 2024-2025*, 28-30; County Government of Nakuru, *County Integrated Development Plan 2023-2027*, 37-38; and County Government of Nakuru, *Annual Development Plan 2024-2025*, 33-61.

period, Kitui County appears to maintain its gender-blind approach across the three policy documents while Baringo and Nakuru make varying levels of references to gender and/or women.¹⁶⁷ Although Baringo County's ADP makes an occasional reference to gender equality when trying to link its overall planning to the Social Pillar under Kenya's Vision 2030 as well as the African Union's Agenda 2063,¹⁶⁸ both the CIDP and the rest of the ADP, including the ADP's priority interventions, strategic objectives as well as the M&E outcomes and performance indicators are largely gender-blind.¹⁶⁹ Besides general references to gender responsiveness and gender equality while attempting to establish linkages between the CIDP and Kenya's Vision 2030 and Sustainable Development Goal (SDG) 5,¹⁷⁰ Nakuru's CIDP indicates a strategy to promote gender mainstreaming in the livestock value chain.¹⁷¹ Additionally, Nakuru's ADP proposes to support women by training them on value chains and providing them with one day old chicks, incubators and milk coolers as part of its effort to integrate SDG-related issues.¹⁷² Nakuru, therefore, becomes the only county whose policy planning in the agricultural sector makes an effort at addressing gender even though at a minimal level.¹⁷³

The net effect of the above agricultural policy planning documents, adopting a largely gender-blind approach, is that the PBBs that are subsequently adopted are unable to provide for spending on gender-related issues in the agricultural sector. Evidence of this can be

¹⁶⁷ County Government of Kitui, *Kitui County Integrated Development Plan 2023-2027*, 114 - 115, 206-215 and 289 - 301; County Government of Kitui, *Annual Development Plan 2024-2025*, 53-54, 89-92 and 111-112.

¹⁶⁸ County Government of Baringo, *County Annual Development Plan for Financial Year 2023-2024*, 22-23 and 29.

¹⁶⁹ County Government of Baringo, *Baringo County Integrated Development Plan (2023-2027)*, 78-80 and 171-173; County Government of Baringo, *County Annual Development Plan for Financial Year 2023-2024*, 27, 68 and 326-328.

¹⁷⁰ County Government of Nakuru, *County Integrated Development Plan 2023-2027*, 206-207.

¹⁷¹ County Government of Nakuru, *County Integrated Development Plan 2023-2027*, 76.

¹⁷² County Government of Nakuru, *Annual Development Plan 2024-2025*, 200.

¹⁷³ Minimal because the CIDP as well as the ADP's monitoring and evaluation outcomes and performance indicators are phrased in a gender-blind manner.

gathered from a review of the budgets of the three counties. This is true even for Kitui County notwithstanding the fact that it is the only one of the three counties that has put in place Guidelines for Mainstreaming Gender and Youth in Budget Processes. This may, therefore, illustrate the point that beyond having gender-responsive policy guidelines, their utilisation in planning and implementation is critical.

Notwithstanding the state of county-executive-led policies above, some non-state actors have supported counties such as Kitui and Nakuru to put in place some policies targeted at mainstreaming gender in the agricultural sector. In this case, the United Nations Women (UN Women) and FAO, among other non-state actors, worked with the Kitui County to develop Gender Mainstreaming Guidelines for Climate Smart Agriculture and Climate Change Adaptation (2022). The challenge, however, is that the existence of these guidelines is not reflected in the development planning and budgeting for Kitui's agriculture sector in terms of gender-responsiveness, as evidenced from the analysis of its CIDP, ADP and PBB frameworks above. Similar to Kitui, Nakuru County has also rolled out a project aimed at promoting gender-sensitive insurance products for farmers, thanks to a partnership with the Regional Centre for Mapping of Resources for Development (RCMRD) NASA and USAID, and launched a new project (Gender-sensitive Agricultural Index-based Insurance (GAIINS)) to promote gender-sensitive insurance products for farmers.¹⁷⁴ Non-state actors are hence critical in supporting county executives to facilitate the implementation of projects and initiatives in areas that may otherwise be neglected.

b) Women are not specifically targeted in public participation

Findings from the field visits conducted indicate that women are not specifically targeted by the counties in public participation processes. This leads to them not being involved at all, as was reported in Baringo,¹⁷⁵ or being involved occasionally or only when needed, as

¹⁷⁴ Dorah Nesoba, GAIINS: Making Agricultural, Climate Risk Insurance Gender Inclusive, July 2022.

¹⁷⁵ Interview with Lake Baringo Fisherfolk conducted on 30 May 2023.

was reported in Kitui.¹⁷⁶ This was largely attributed to the fact that none of the counties have a gender mainstreamed public participation policy. As a result, gender-specific concerns related to women participation such as the timings of these participatory fora are not considered.¹⁷⁷

Notwithstanding the lack of specific policy targeting women farmers across the focus counties, the visits found that women often attended the scheduled public participation fora in larger numbers than men.¹⁷⁸ The challenge, however, is that despite the views of these women being taken during such fora, they are never eventually implemented thereby undermining their going out of their way to attend these fora and disincentivising their continued meaningful engagement in subsequent fora. Additionally, many women complained that the public participation meetings often take place far away and during times when they are required to be working or attending to their children.

c) Extension services are not implemented in a gender-responsive way

Traditionally, the governance and provision of agricultural extension services has been biased towards men.¹⁷⁹ Men largely dominate the structural and organisational set up of extension service provision.¹⁸⁰ The African Development Bank observes that women only receive a paltry 7% of agricultural extension information despite their

¹⁷⁶ Interview with farmers from Ithumula Village conducted on 30 June 2023; Interview with a Kitui county government official conducted on 22 September 2023.

¹⁷⁷ Interview with an official from the Baringo County Attorney Office conducted on 31 May 2023.

¹⁷⁸ Interview with farmers from Ithumula Village conducted on 30 June 2023; Interview with a Kitui County Agricultural Officer conducted on 30 June 2023; Interview with an agricultural officer in Gilgil sub-county conducted on 12 July 2023.

¹⁷⁹ Verena Bitzer, Bertus Wennink & Bart de Steenhuijsen Piters, 'The governance of agricultural extension systems' KIT Working Paper 2016-1, 8.

¹⁸⁰ Bitzer and others, 'The governance of agricultural extension systems' 8.

immense role in the sector, for instance, their contributing up to 80% of all food production labour.¹⁸¹

Gender responsiveness in agricultural extension services requires that women farmers be specifically targeted in the provision of information about agricultural practices, new technologies and research, market opportunities as well as in any trainings relating to these. However, often, women farmers have limited access to agricultural information for reasons like: being overlooked or undervalued in the provision of extension services due to gender biases or stereotypes; being grossly underrepresented as providers of extension services thereby impacting levels of understanding of women's specific needs and challenges in agriculture; or having limited opportunities and/or time to participate in extension-related activities due to socio-cultural norms and roles.

Gender-responsive approaches to the provision of extension services will, therefore, require that women farmers are specifically targeted and trained; agricultural information is disseminated in a gender-sensitive manner; women representation in the provision of extension services is enhanced and importantly that the special needs and challenges facing women in agriculture are included in the design and implementation of extension services.

Besides the fact that, generally, as was reported across the three counties, extension service-provision is grossly understaffed¹⁸² and actual services provided are hardly enough,¹⁸³ their provision is not done with a special focus on the gender dimensions of agriculture. The

¹⁸¹ African Development Bank, *Kenya Country Gender Profile*, 2007, available at <https://www.afdb.org/en/documents/document/2007-kenya-country-gender-profile-13286> on 1 March 2024.

¹⁸² Interview with officials from the Baringo County Agriculture Department conducted on 31 May 2023; Interview with a Kitui County Government official conducted on 22 September 2023.

¹⁸³ Interview with a farmers' self-help group in Mogotio, Baringo County conducted on 29 May 2023. Interview with a community based organisation in Loboï in Baringo County conducted on 30 May 2023.

provision of services is done based either on farm families¹⁸⁴ or farmer groups¹⁸⁵ or even entire communities and sometimes based on the economic value of the agricultural activity undertaken¹⁸⁶ with no specific attention to the gender compositions of the groups or whether the farm families are female headed. Any impact of these services on women farmers is therefore incidental, for instance based on the argument that even though the focus is not on women (nor are the services tailored to the specific needs of women), a large proportion of the groups offered extension services are made up of women.¹⁸⁷

Despite female extension workers being critical to the effective provision of extension services to women farmers,¹⁸⁸ women are largely underrepresented as agricultural extension services providers in Kenya. While some counties such as Nakuru have women agricultural officers,¹⁸⁹ women are generally underrepresented across the sector. The underrepresentation was explained as being informed by the difficult nature of the work, for instance the fact that movement across the county is by riding motorbikes, coupled with the fact that this is sometimes incompatible with gender roles.¹⁹⁰ This, therefore, impacts the ability of women to effectively interact with and benefit from women-specific agriculture-related issues.¹⁹¹

¹⁸⁴ Interview with officials from the Baringo County Agriculture Department conducted on 31 May 2023; Interview with a Kitui County Government official conducted on 22 September 2023.

¹⁸⁵ Interview with a Livestock Officer in Elementaita Ward in Nakuru conducted on 12 July 2023.

¹⁸⁶ Interview with a Honey Marketing Cooperative Society in Radat, Baringo County conducted on 29 May 2023.

¹⁸⁷ Interview with a Kitui County Government official conducted on 22 September 2023; Interview with an agricultural officer in Gilgil Sub-County conducted on 12 July 2023.

¹⁸⁸ Cathy Rozel Farnworth, *Gender aware approaches in agricultural programmes: A Study of Sida-supported agricultural programmes*, Sida, 2010, 30.

¹⁸⁹ Interview with a Livestock Officer in Elementaita Ward in Nakuru conducted on 12 July 2023.

¹⁹⁰ Interview with a Kitui county government official conducted on 22 September 2023.

¹⁹¹ Farnworth, *Gender aware approaches in agricultural programmes*, 30.

Notwithstanding the failure by county governments to specifically target women and their needs in the provision of extension services, non-state actors have been able to step in and provide this in some counties. The Seed Savers Network, for example, is cited by self-help groups in Baringo and Nakuru as having conducted trainings and provided support to farmers.¹⁹² Similarly, UN Women provides support to farmers in Kitui County with a focus on farmers group whose membership is 80% women.¹⁹³ This, while not sufficient, has provided gender-responsive services and support to women farmers.

d) Implemented projects do not specifically target women farmers or female-headed households

The implementation of major county agriculture-focused flagship projects do not specifically target women, nor do they have minimum gender thresholds for the projects' beneficiaries. Of the three focus counties, Kitui is the only one that has implemented a women-focused flagship project. In 2023, Kitui County rolled out and made budgetary allocations for an agri-nutrition project that sought to promote nutrition-sensitive agriculture that targeted women and girls.¹⁹⁴ Among other things, the Kitui County Agri-Nutrition Implementation Strategy 2023 – 2027 spells out the economic empowerment of women as one of its core objectives. Besides this, the other counties' projects such as those aimed at providing subsidies to farmers or seedlings or livestock or farm inputs do not focus on either women farmers or female-headed households only or even ensuring that at least a set percentage of its beneficiaries are women.¹⁹⁵ Even for those gender-neutral projects such as the building of fish-processing sheds along Lake Baringo by

¹⁹² Interview with a farmers self-help group in Mogotio, Baringo County conducted on 29 May 2023; Interview with farmers in Nakuru conducted on 12 July 2023.

¹⁹³ Interview with a Kitui county government official conducted on 22 September 2023.

¹⁹⁴ Interview with a Kitui county government official conducted on 22 September 2023. See also, Ministry of Agriculture and Livestock, Kitui County Agri-Nutrition Implementation Strategy (CANIS) County Government of Kitui May 2023.

¹⁹⁵ Interview with officials from the Baringo County Agriculture Department conducted on 31 May 2023; Interview with a Kitui county government official conducted on 22 September 2023.

the County Government, the implementation does not account for the specific needs of women such as sanitation among others.¹⁹⁶ As a result, therefore, the needs of women in various areas of agriculture are therefore hardly met and they continue to have disproportionate access to government projects.

viii. Agricultural outcomes of county assemblies

Similar to Parliament, CAs are the legislative authorities at the county level and are responsible for the translation of executive policy into county legislation, allocating resources to agriculture-related projects and initiatives within the counties and exercising oversight over the implementation of projects (including implementation plans) within the county. Much as CIDPs, ADPs and budgets emanate from the executive and constitute the outputs of county executives, they as well extend to and qualify as outcomes of CAs to the extent that the county legislatures have the mandate to approve and adopt them. These, together with county legislation, constitute the core outcomes of CAs to which the measure of gender-responsiveness will be applied. Having discussed CIDPs, ADPs and county budgets above, this part will focus on county laws relating to agriculture and the extent to which these are gender responsive.

It is worth noting, however, that the research encountered a challenge accessing CA legislations across the three counties. For each of the three counties, their approved county legislations are not freely available on their respective websites, not even in the CAs or the county executives. Kitui County led in this as there was no dedicated place where county legislation could be found within the website. While Baringo and Nakuru county assemblies' websites provide dedicated sites for 'county approved Acts'¹⁹⁷ or 'county legislations' (county Acts)¹⁹⁸ what was available on these pages were documents in 'bill' formats. There was hence a challenge authenticating the texts and legal status

¹⁹⁶ Interview with Lake Baringo Fisherfolk conducted on 30 May 2023.

¹⁹⁷ <https://www.baringoassembly.go.ke/index.php/order> on 22 May 2024.

¹⁹⁸ <https://assembly.nakuru.go.ke/web/about-assembly/county-acts/> on 22 May 2024.

of some of the ‘bills’ below with only those available at the Kenya Law website being the only texts published in the Gazette as ‘Acts’.

e) The gender responsiveness of the outcomes of Baringo County Assembly

With respect to the agriculture-related outcomes of Baringo County Assembly, the chapter reviews the: Baringo County Livestock Sales Yard Bill, 2020; Baringo County Projects Implementation and Management Bill, 2019; Baringo County Youth, Women and Persons with Disabilities Fund Bill, 2019, and the Baringo County Public Participation Act, 2015. While the Livestock Sales Yard Bill is largely written in gender-blind language, little attention is given to ensuring that the membership of the Baringo Youth, Women and Persons with Disabilities Fund Management Committee is mainstreamed for gender.¹⁹⁹ Despite the constitutional imperative to ensure at least one-third gender representation in appointive positions, and despite the Bill being cited as targeted at the empowerment of women, this is not included as a criteria in the appointment of this Committee. The Projects Implementation Bill does a better job at this by requiring the chairpersons and deputies of County Project Management and Implementation Units to be of the opposite gender²⁰⁰ and further requires a minimum one-third gender representation in the membership of the Project Management Unit.²⁰¹

The guiding principles under the Baringo County Public Participation Act make generic references to the protection and promotion of the needs, interests and rights of the marginalised and minority groups, which when read with Section 87 of the County Government Act (to which the Act refers) may be translated as including women.²⁰² This, nonetheless, falls short of the explicit provision for gender equity in participation, which would have gone a long way in ensuring that public fora convened for agriculture-related issues are

¹⁹⁹ Baringo County Youth, Women and Persons with Disabilities Fund Bill, 2019, section 7.

²⁰⁰ Section 5(2)(b) & 6(1)(b).

²⁰¹ Section 6(5).

²⁰² Section 4(i) as read with Section 4(f).

mainstreamed for gender, hence, contributing towards the gender-responsiveness of the outcomes of those fora. The Public Participation Act, however, makes an effort to specifically require gender balance in the composition of the Committee of Publicity and Public Participation that is tasked with facilitating and coordinating public participation.²⁰³

e) The gender responsiveness of the outcomes of Nakuru County Assembly

With respect to Nakuru County, the following agriculture-related outcomes of the CA are reviewed: the Gender Equality and Women Empowerment Bill, 2014; the Public Participation Act, 2016; the Urban Agriculture Promotion and Regulation Bill, 2015; the Agricultural Training and Mechanisation Service Bill, 2019; the Urban Food and Agriculture Bill, 2021, and the Animal Welfare Bill, 2021.

Although its operational nature is unclear, as a result of the challenge highlighted above, the Nakuru County Gender Equality and Women Empowerment Bill comes across as the most gender-responsive and ambitious legislation (or legislative proposal). Though not specific to agriculture, it makes extensive provisions of a general nature that would be applicable in the context of agriculture. For instance, the Bill sets a 50% gender representation target and mandates designated public and private bodies to, within two years of the Act being operational, develop and implement measures towards its progressive realisation.²⁰⁴ It also requires designated public and private bodies to develop and implement gender mainstreaming measures and to establish gender focal points that would be charged with ensuring mainstreaming.²⁰⁵ These, if they were to be implemented, would translate to significant gender-responsiveness in the agricultural sector.

However, the Nakuru County Public Participation Act is less explicit and less robust in terms of gender responsiveness. The Act comes short of specifically mandating gender considerations in

²⁰³ Section 6(2).

²⁰⁴ Sections 8(1), 10(1) and (2), 11(1) and (2).

²⁰⁵ Section 9 as read with Section 16.

public participation with the closest entry point being its reference to Article 10 of the 2010 Constitution which mandates equality and non-discrimination as well as its generic reference to the protection and promotion of the interests and rights of minorities and marginalised groups, as guiding principles for public participation.²⁰⁶ The less than explicit provision for gender equality and equity in participation runs the risk of being forgotten and/or underplayed in decision-making regarding public participation related to agriculture.

With regard to the remaining four,²⁰⁷ they consistently fail to make provision for gender representation in bodies established under them and as well fail to provide for equitable access, to both men and women, to Government services intended to be offered under their provisions. There is no requirement for women to constitute at least one-third of the membership of the County Animal Welfare Committee,²⁰⁸ the Urban Food and Agriculture Advisory Board,²⁰⁹ or the Agricultural Development Fund Board,²¹⁰ although it could be assumed that the constitutional two-thirds rule applies. Additionally, there is no obligation for the Agricultural Development Fund Board to facilitate equitable access by women to the Fund nor is there a similar obligation for women to be granted equitable access to machinery provided by the County.²¹¹ In a like manner, the Urban Agriculture Promotion and Regulation Bill adopts gender-blind language and makes no provision for equitable access by both men and women to County Government-provided water and farm inputs for urban agriculture.²¹² This, therefore, stands to perpetuate the gender-based inequalities that prevail in the agricultural sector.

²⁰⁶ Sections 4(c), 4(j), 6(4)(c) and 15.

²⁰⁷ Urban Agriculture Promotion and Regulation Bill, 2015; Agricultural Training and Mechanisation Service Bill, 2019; Urban Food and Agriculture Bill, 2021 and Animal Welfare Bill, 2021.

²⁰⁸ Nakuru County Animal Welfare Bill, 2021, Section 6(1).

²⁰⁹ Urban Food and Agriculture Bill, 2021, Section 11(2).

²¹⁰ Agricultural Training and Mechanisation Service Bill, 2019, Section 9.

²¹¹ Agricultural Training and Mechanization Service Bill, 2019, sections 10 & 20(2),

²¹² Sections 12-15.

Conclusion

This chapter has demonstrated that despite Kenya's constitutional and policy commitments to gender equality, the implementation of gender-responsive governance in the agricultural sector remains inadequate. The examination of agricultural governance institutions—both at the national and county levels—reveals persistent gender gaps in representation, decision-making, and policy formulation. While some progress has been made, particularly through legislative provisions and targeted gender mainstreaming strategies, significant challenges remain.

The findings indicate that while gender quotas have facilitated increased female representation in decision-making structures, the impact on policy outcomes remains uneven. National and county-level legislative frameworks often adopt gender-blind language, failing to explicitly integrate the needs and experiences of women farmers. Moreover, implementation gaps, weak institutional support, and limited budgetary allocations for gender-responsive initiatives undermine efforts to create an inclusive agricultural sector.

To achieve meaningful gender mainstreaming in agricultural governance, it is essential to go beyond representation and ensure that the voices of women are actively integrated into policy formulation and implementation. This necessitates strengthening legal frameworks, enhancing accountability mechanisms, and investing in gender-disaggregated data collection to inform policy decisions. Furthermore, county governments must take a more proactive role in ensuring that gender-sensitive policies translate into tangible benefits for women farmers and other marginalised groups.

Ultimately, the pursuit of gender-responsive agricultural governance in Kenya must be anchored in a holistic approach that combines legislative reforms, institutional capacity-building, and community engagement. Without deliberate and sustained efforts to address structural barriers, the potential of women in agriculture will remain constrained, and the broader goals of inclusive and sustainable development will remain unfulfilled.

CHAPTER 5

Ecofeminism and agripreneurship: Reconciling profit, sustainability, and gender equity in Kenya's agricultural sector

.....
Cedric Kadima and Rahab Wakuraya

Introduction

Many centuries ago, man, in this part of Africa, went into partnership with the termites to process copper. The Balunda, the Baluba, the Basanga of ancient Zaire used the clay produced by termites to help smelt copper and produce implements of agriculture, weapons of war, sometimes decorations, and money for exchange. A long long time ago, a strange partnership. And then the Europeans came. Did they want to learn from the technology they found here? Oh no. At least the Balunda, the Baluba had consulted the technology of the termites and benefited from it. But the Europeans' technology was more arrogant, more self-confident, less compromising. It abolished the old technological order and in its wake, it left new forms of desolation in Africa. Yes, the British arrived in Africa with a bang. The soil recoiled in a whimper. Britain's colonial policy maker, Lord Lugard, argued that Europe had a double mission in Africa. One was to develop Africa's resources for Africa's own benefit. The other was to use those resources to meet the growing industrial requirements of the Western world. Lugard called these two goals the dual mandate. Our story is about this dual mandate; this intended partnership between Africa and the West and how far it has been fulfilled. Europe's new technology has descended upon Africa in search of the continent's virgin wealth. The African landscape will never be the same again.¹

¹ Ali Mazrui, 'The Africans: A Triple Heritage-Program 4: Tools of exploitation', 1:50 - 4:15.

Ali Mazrui's introductory words in the fourth episode of his 1986 nine-part documentary brings to the fore the colonial plunder of Africa's technological prowess, which in turn aptly begins this chapter's narrative on the influence of agripreneurship on women in agriculture in Kenya. Entrepreneurship in agriculture, otherwise known as 'agripreneurship' or 'agropreneurship', aims to make agriculture an attractive and profitable venture, where its potential to create business ventures, increase jobs, create wealth, and develop rural areas (especially in the Global South) and national economies typify its success.² In a sentence, 'agripreneurship is the profitable combination of agriculture and business'.³ Instructively, private companies, both local and foreign, are key influencers in agribusiness in Sub-Saharan Africa with the mission of 'moving away from state-controlled agricultural market systems'.⁴ Even so, whatever the label or player, commercialisation of agriculture is the mainstay, with mere mention of the place of women.

African women have always been agripreneurs. African women's trading activities usually began as an extension of their fundamental role in guaranteeing food security expressed through provision of significant agricultural labour.⁵ This role would then extend to actual participation in real commerce as demonstrated by the historical fact that East African women, among them, the Kamba, Kikuyu, Chagga, Maasai, Embu and Ndorobo, were vital in establishing long distance trade routes.⁶ Depending on the gender divisions at play, these women cultivated and marketed their agricultural produce across vast

² Shoji Lal Bairwa Kerobim Lakra, S Kushwaha, LK Meena and Pravin Kumar, 'Agripreneurship development as a tool to upliftment of agriculture' 4(3) *International Journal of Scientific and Research Publications* (2014) 1 and 4.

³ Kevin Okoth Ouko, John Robert O Ogola, Charles Adino Ng'on'ga and Jane Ruheni Wairimu, 'Youth involvement in agripreneurship as nexus for poverty reduction and rural employment in Kenya' 8(1) *Cogent Social Sciences* (2022) 3.

⁴ Steven Jaffee and John Morton, 'Africa's agro-entrepreneurs: Private-sector processing and marketing of high-value foods' *Africa Region Findings and Good Practice Infobriefs*, No 50, World Bank, Washington DC, 1994, 1.

⁵ Claire Roberston, 'Gender and trade relations in Central Kenya in the late Nineteenth Century' 30(1) *International Journal of African Historical Studies* (1997) 25.

⁶ Claire Roberston, 'Gender and trade relations in Central Kenya in the late Nineteenth Century' 25.

territories.⁷ Although they may not always have had full control over the profits of their agricultural knowledge and labour, this history (*herstory*) demands a better depiction of women in defining agripreneurship.

Colonialism and its legacies have not only contributed to the erasure of women's centrality in agripreneurship but also to a shift in the social and economic conditions that enabled this centrality. Fredrick Lugard's dual mandate marshalled the authoritarian possibilities of the native culture to achieve the twinned civilising mission and economic development.⁸ For example, when colonialism encountered gender (in)equalities in farming knowledge and agricultural trade within native communities in Kenya, its proclivity was to capitalise on them rather than eradicate them.

Largely, Tabitha Kanogo notes, the dual mandate presented both adversities and possibilities for women and their economic advancement. One clear example is the effects of containerisation of the colonial subjects, where Kenyan women were restricted to live in native reserves and not urban areas, as well as forced to participate in particular trading activities. Native legislators enforced the colonial laws ensuring that any woman who wanted to move out of these colonial spaces had to seek permission from 'a range of patriarchs including fathers, husbands, guardians, chiefs or headmen'.⁹ For others, the new colonial spaces like mission education or vocational training yielded new lifestyles but at a great cost, a social death, as they were secluded from community life.¹⁰

As the next section will show, agripreneurship is sometimes at odds with this book's feminist framework on ecofeminism but it must be analysed as it is the dominant view on assessing Kenyan women's entrepreneurship bent in agriculture. Recall that ecofeminism as

⁷ Claire Roberston, 'Gender and trade relations in Central Kenya in the late Nineteenth Century' 25.

⁸ Frederick Lugard, *The dual mandate in British Tropical Africa*, William Blackwood and Sons, London, 1922, 617-618.

⁹ Tabitha M. Kanogo, *African womanhood in Colonial Kenya, 1900-50*, Ohio University Press, 2000, 6-8.

¹⁰ Kanogo, *African womanhood in Colonial Kenya*, 206.

espoused by Vandana Shiva and Maria Mies is a critique of industrialised agriculture that aims at destroying women's central role in nurturing the earth (nature) for survival. What Shiva and Mies deduce as subsistence perspective, Mazrui terms a partnership. African women were in partnership with nature while agripreneurship, as practised with the focus of profit-making, dismantles this partnership and places women as subordinates of nature.

Ecofeminism provides a framework for addressing the tensions between agripreneurship and women's empowerment in agriculture by advocating a sustainable and inclusive approach. It critiques industrial farming for its harmful impact on biodiversity, emphasising the need to nurture nature holistically rather than sectors (fragmentation) like livestock and forestry. Ecofeminism also acknowledges women as traditional custodians of seeds and biodiversity, recognising their critical role in decision-making for sustainable agriculture.

Unlike agripreneurship, which prioritises profit and innovation, ecofeminism promotes cooperation and mutual care as essential for sustaining life. It challenges patriarchal systems that limit women's access to land, capital, and decision making, instead highlighting the deep connection between women's knowledge and ecological stability. Furthermore, ecofeminism redefines ownership, viewing the world not as a resource to exploit but as an active subject requiring stewardship. By integrating ecofeminist principles, agricultural systems can move toward greater gender inclusivity, sustainability, and recognition of women's contributions to biodiversity and food security.

Table 5A: Agripreneurship, Women’s Empowerment in Agriculture Index and ecofeminism

Factor	Agripreneurship	Women’s Empowerment in Agriculture Index	Ecofeminism
Product offered	A variety of agricultural products enhances innovation and proactivity in agripreneurship.	Women’s decision-making in agriculture is essential, including autonomy in choosing inputs, crops, harvest times, and livestock management.	Industrial farming harms biodiversity. Nature’s potential must be nurtured and conserved without dividing sectors like livestock farming and forestry.
Business plan	A well-structured business plan promotes innovation, risk-taking, and proactive decision-making in agribusiness.	Control over income allows women to influence entrepreneurial decisions, including product choices and developing a business plan.	Women should be recognised as age-old seed custodians and strategic decision-makers regarding biodiversity.
Opportunities for partnerships	Partnerships with suppliers and stakeholders encourage innovation and entrepreneurial mindsets.	Leadership in group activities and positions enhances women’s involvement in agribusiness.	An ecofeminist perspective promotes cooperation and mutual care to sustain life in nature.

Factor	Agripreneurship	Women's Empowerment in Agriculture Index	Ecofeminism
Gender	Patriarchal bias limits women's access to land, capital, and decision-making.	The WEAI measures empowerment and gender parity, tracking progress over time.	Women's work in agriculture connects ecological stability and productivity, rooted in gender-specific knowledge.
Ownership	Business ownership impacts access to credit and financing.	Ownership, purchase, and control over assets like land and livestock are key elements in women's empowerment.	Ecofeminism views the world as an active subject, not a resource to exploit.
Years of operation	Older businesses may show less innovation and proactivity due to assumed maturity.	Time allocation between productive and domestic tasks affects empowerment and leisure satisfaction.	Women's work and knowledge should drive agricultural advancements, emphasising biodiversity.

There is a generally accepted criterion for measuring women's involvement in agriculture, namely, Women's Empowerment in Agriculture Index (WEAI). Launched in 2012 by the Oxford Poverty and Human Rights Index, the United States Agency for International Development, and International Food Policy Research Institute, the WEAI was developed from scholarship on the indicators of agency and empowerment based on individual-level data collected through

interviews of men and women in their households.¹¹ This resulted in five domains of empowerment (also known as 5DE); namely, decisions about agricultural production; access to and decision-making power about productive resources; control of use of income; leadership in the community; and time allocation.¹² As of March 2025, 279 organisations in 69 countries had used these criteria to evaluate and promote women's empowerment in the agricultural sector, hence its notoriety.¹³

To some extent, international human rights law resonates with ecofeminism and WEAI. For example, the Committee on Elimination of All Forms of Discrimination Against Women (CEDAW Committee) underscored the importance of recognising rural women as a distinct population of women vulnerable to discrimination.¹⁴ Recognising that rural women face unique challenges, the CEDAW Committee appointed a working group on rural women, which identified the specific challenges that rural women face. These include access to key productive resources, access to and control of land, social rights and basic services, political participation, protection from violence and sexual exploitation, migration out of rural areas, and access to justice.¹⁵

¹¹ Some of the scholarly works that were analysed are, Deepa Narayan and Patti Petesch, 'Agency, opportunity structure, and poverty escapes' in Deepa Narayan and Patti Petesch (eds) *Moving out of poverty: Cross disciplinary perspectives on mobility*, Palgrave Macmillan and World Bank, 2007, 28; Ruth Alsop, Mette Bertelsen, and Jeremy Holland 'Empowerment in practice from analysis to implementation', World Bank, 2006; Ibrahim, Solava and Sabina Alkire, 'Agency and empowerment: A proposal for internationally comparable, indicators' 35(4) *Oxford Development Studies* (2007) 379-403; Ruth Alsop, Mette Bertelsen, and Jeremy Holland, *Empowerment in practice: From analysis to implementation*, World Bank, 2006.

¹² <https://weai.ifpri.info/versions/weai/> on 10 March 2025.

¹³ <https://weai.ifpri.info/weai-resource-center/countries-using-weai/> on 10 March 2025.

¹⁴ Committee on the Elimination of Discrimination Against Women, General Recommendation 34 of 2016 on the rights of rural women, 7 March 2016, CEDAW/C/GC/34, CEDAW, paras 1, 5 and 6; Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, 1249 UNTS 13, Article 14.

¹⁵ Committee on the Elimination of Discrimination Against Women, General Recommendation 34 of 2016 on the rights of rural women, para 16 (political participation) and para 24 (sexual exploitation); Ambassador Naela Gabr Mohamed Gabr, 'CEDAW and the role of rural women's land rights' Presentation: Interactive

This issue also finds articulation as a state duty in Article 14 of CEDAW, which requires all state parties to consider the particular problems rural women face and the significant roles they play in their families' economic survival.¹⁶ Further, state parties are required to take all appropriate measures to ensure that women participate and benefit from rural development based on equality with men.¹⁷ Elaborating on Article 14, the CEDAW Committee noted that the mandate includes ensuring that 'macro-economic policies, including trade, fiscal, and investment policies ... are responsive to the needs of rural women and strengthen the capacities of small-scale women producers'.¹⁸ Many states have identified agricultural entrepreneurship as a viable way to meet their obligations under Article 14 of CEDAW.¹⁹

Additionally, the CEDAW Committee in General Recommendation No 37 of 2018 on the gender-related dimensions of disaster risk reduction in the context of climate change took on an ecofeminist lens to women's role in agriculture, noting that:

... the traditional knowledge held by women in agricultural regions is particularly important in that respect, because those women are well positioned to observe changes in the environment and respond to them through adaptive practices in crop selection, planting, harvesting, land conservation techniques and careful management of water resources.²⁰

In similar vein, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) has robust protection for women in agriculture. Article 19 promotes women's access to and control over productive resources (land); access to credit,

Expert Panel on the role of rural women's land rights and land tenure security in reaching the SDGs, Commission on the Status of Women Sixty-Second Session, 16 March 2018, 1 (specifically addressing the lack of access and control of land).

¹⁶ Convention on the Elimination of All Forms of Discrimination Against Women, Article 14(1).

¹⁷ Convention on the Elimination of All Forms of Discrimination Against Women, Article 14(2).

¹⁸ CEDAW, *General Recommendation 34 of 2016*, para 11.

¹⁹ CEDAW, *General Recommendation 34 of 2016*, para 72.

²⁰ Para 33.

training, skills development, and extension services at rural and urban levels; and protection from any adverse effects of globalisation and the implementation of trade and economic policies and programmes.²¹ State parties are mandated to promote training of women in science and technology as well as enable the development of women's indigenous knowledge systems.²²

Therefore, Kenya's context on women in agriculture demands a nuanced approach to agripreneurship based on its colonial history, ecofeminism, and the international human rights perspectives outlined above. First, entrepreneurship in agriculture has been identified as one of the most viable tools for poverty eradication in rural communities in the Global South (colonially referred to as least developed and developing countries).²³ Consequently, for rural women in agriculture, agripreneurship is seen as an essential pathway to their empowerment and gender equality.²⁴ However, such empowerment, from an ecofeminist lens, should not be blind to the socio-political realities or the dangers of imperialistic greed (read profit).

Given the preceding, this chapter sets out its framework, showing the conflict at play in applying WEAI to agripreneurship, with ecofeminism as a mediator. That said, using the 5DE under WEAI as a measure, this chapter studies the extent to which rural women in Baringo, Kitui, and Nakuru counties engage in agricultural entrepreneurship to improve their lives and those of their families. The last section puts forward some recommendations.

²¹ Maputo Protocol, Article 19 (c), (d) and (f).

²² Article 12(2)(b) on right to education and training and Article 18(2)(c) on right to a healthy and sustainable environment respectively.

²³ Sabina Alkire, Ruth Meinzen-Dick, Amber Peterman, Agnes Quisumbing, Greg Seymour and Ana Vaz, 'The Women's Empowerment in Agriculture Index' 52 *World Development* (2013) 72.

²⁴ MS Nain, Rashmi Singh, JR Mishra and JP Sharma, 'Theoretical foundations of agripreneurship development process: A study of best practices, facilitative factors and inhibitive factors of achiever farmers' 14(2) *Journal of Community Mobilization and Sustainable Development* (2019) 373-377.

Mediating conceptual tensions between agripreneurship and women empowerment in agriculture through an ecofeminist lens

This section aims to lay bare the conflicts at play in the two main concepts undergirding the study, that is, agripreneurship, a concept that is largely devoid of gendered perspectives, and women empowerment in agriculture, which centres women. It shows that there are some synergies in the two concepts, however, where there is dissonance, tenets of ecofeminism settle it.

Agripreneurship

Many schools of thought characterise the conceptualisation of entrepreneurship. There seems to be consensus that there is no universally accepted definition of entrepreneurship.²⁵ Joseph Schumpeter proposed one of the most influential attempts at defining the modern concept of entrepreneurship.²⁶ Schumpeter describes entrepreneurship based on what an entrepreneur does: identification of opportunities, creation of organisations, profit-making, provision of leadership, and risk-taking.²⁷ Arthur Cole elaborated on this definition, focusing on the individual's agency.²⁸ Cole defined entrepreneurship as:

[T]he purposeful activity of an individual or group of associated individuals, undertaken to initiate, maintain, or aggrandise a profit-oriented business unit for the production or distribution of economic goods and services with pecuniary or other advantage the goal or measure of success, in interaction with the internal situation of the

²⁵ Margaret Kobia and Damary Sikalieh, 'Towards a search for the meaning of entrepreneurship' 34(2) *Journal of European Industrial Training* (2010) 122.

²⁶ Joseph A Schumpeter, *The theory of economic development: An inquiry into profits, capital, credit, interest, and the business cycle*, Oxford University Press, 1934.

²⁷ Farrokh Emami Langroodi, 'Schumpeter's theory of economic development: A study of the creative destruction and entrepreneurship effects on economic growth' 4(3) *Journal of Insurance and Financial Management* (2021) 65–81.

²⁸ Arthur H Cole, 'An approach to the study of entrepreneurship: A tribute to Edwin F Gay' 6 *Journal of Economic History* (1946) 1–15.

unit itself or with the economic, political, and social circumstances of a period which allows an appreciable measure of freedom of decision.²⁹

Later definitions of entrepreneurship maintain this trend, suggesting that the individual attributes and actions of the entrepreneur cannot be separated from the understanding of entrepreneurship. More recent authors like Scott Shane and Sankaran Venkataraman have proposed a popular definition of entrepreneurship, describing it as 'how, by whom and with what effects opportunities to create future goods and services are discovered'.³⁰ A historical survey of scholarship on the attributes of the entrepreneur has culminated in a taxonomy of entrepreneurs' characteristics and what they do.³¹ According to this survey, the entrepreneur assumes the risk associated with uncertainty, supplies financial capital, innovates, is the decision-maker, is an industry leader, a manager or superintendent, an organiser and coordinator of economic resources, the owner of an enterprise, an employer of factors of production, a contractor, an arbitrageur, and allocator of resources among alternative uses.³²

Emerging thinking around entrepreneurship adds elements to, rather than contradicts, previous definitions.³³ This is observed in concepts like social entrepreneurship and sustainable entrepreneurship. Social entrepreneurship leverages entrepreneurial behaviours to deliver a desired social value to the less privileged through an enterprise that is financially independent, self-sufficient, or sustainable.³⁴ Although this definition is debatable, there is convergence that social entrepreneurship is mission-driven (with the mission being to create social value and not

²⁹ Cole, 'An approach to the study of entrepreneurship' 1-15.

³⁰ Scott Shane and Sankaran Venkataraman, 'The promise of entrepreneurship as a field of research' 25(1) *Academy of Management Review* (2000) 217-226.

³¹ Robert F Hébert and Albert N Link, *A history of entrepreneurship*, Routledge: Taylor and Francis, 2009.

³² Hébert, *A history of entrepreneurship*, 100-101.

³³ Michael Peneder, 'The meaning of entrepreneurship: A modular concept' 9(2) *Journal of Industry, Competition and Trade* (2009) 77-99.

³⁴ Samer Abu-Saifan, 'Social entrepreneurship: Definition and boundaries' 2(2) *Technology Innovation Management Review* (2012) 22-27.

private value) and embodies accountability to society for the outcomes.³⁵ Sustainable entrepreneurship is ‘the discovery and exploitation of economic opportunities through the generation of market disequilibria that initiate the transformation of a sector towards an environmentally and socially more sustainable state’.³⁶ It is characterised by balancing profit, social equity, and environmental resilience through entrepreneurial behaviour. Notably, the characteristics of the entrepreneur established earlier in this section are central.

Another emerging genre is entrepreneurship in agriculture, otherwise known as agripreneurship or agropreneurship, which has been noted for its potential to create new business ventures, increase jobs, create wealth, and develop rural areas.³⁷ Through ‘agro-entrepreneurship’, farmers use creative ways to improve the quality and quantity of agricultural produce or become involved in agro-industry activities.³⁸

Acknowledging that start-up and small-scale agri-input suppliers play a critical role in Kenya’s agricultural sector, Daniel Musyoka, Edith Gathungu and Eric Gido examined the entrepreneurial orientation of these suppliers in Nakuru County’s agricultural sector.³⁹ Their study found that agri-input suppliers are often manufacturers of

³⁵ Benjamin Huybrechts and Alex Nicholls, ‘Social entrepreneurship: Definitions, drivers and challenges’ in Christine K Volkmann, Kim Oliver Tokarski and Kati Earnst (eds) *Social entrepreneurship and social business: An introduction and discussion with case studies*, Springer Science and Business Media, 2012.

³⁶ Kai Hockerts, Rolf Wüstenhagen ‘Greening Goliaths versus emerging Davids: Theorising about the role of incumbents and new entrants in sustainable entrepreneurship’ 25 *Journal of Business Venturing* (2010) 481-492.

³⁷ Shoji Lal Bairwa Kerobim Lakra, S Kushwaha, LK Meena and Pravin Kumar, ‘Agripreneurship development as a tool to upliftment of agriculture’ 4(3) *International Journal of Scientific and Research Publications* (2014) 1; Kevin Okoth Ouko, John Robert O Ogola, Charles Adino Ng’ong’a and Jane Ruheni Wairimu, ‘Youth involvement in agripreneurship as nexus for poverty reduction and rural employment in Kenya’ 8(1) *Cogent Social Sciences* (2022) 3.

³⁸ Jaffee and Morton, ‘Africa’s agro-entrepreneurs’ 1.

³⁹ Daniel Musyoka, Edith Gathungu and Eric Gido, ‘Factors influencing entrepreneurial orientation levels among agri-input suppliers in Nakuru County, Kenya’ 30 *African Crop Science Journal* (2022) 172.

seeds, fertilisers, pesticides, and act as a link between farmers and manufacturers. Entrepreneurial orientation, the three describe, is 'an extensively acknowledged instrument for capturing an agri-enterprise's proclivity towards agripreneurship' along the common aspects of entrepreneurship, namely, innovation, risk-taking and proactivity.⁴⁰ The study identified some factors that either positively or negatively influence or drive entrepreneurial orientation, including the product or service offered, owning a business plan, opportunities for partnerships, gender differences, ownership status, and years of operation.⁴¹

So far, only agripreneurship attempts to centre the woman, necessitating an appreciation of WEAI. The gender difference factor suggests that 'male agripreneurs are more extrinsically motivated to become entrepreneurial oriented while females are intrinsically motivated' owing to Kenyan society's perception of entrepreneurship as masculine.⁴² Hence, it is instructive to use a more robust instrument, like WEAI, which is a gendered tool, in analysing the findings from the study counties.

Empowerment of women in agripreneurship in Baringo, Kitui, and Nakuru counties

As mentioned in the introduction, WEAI as an assessment tool has established five domains of empowerment (5DE). This subsection discusses these domains in the specific contexts of Baringo, Kitui and Nakuru counties. The study reviews literature on entrepreneurship in agriculture and the 5DE under WEAI with nuances from an ecofeminist lens, and incorporates the information captured from discussions held with farming communities in the study counties between March 2023 and July 2023.⁴³

⁴⁰ Musyoka and others, 'Factors influencing entrepreneurial orientation levels' 172.

⁴¹ Musyoka and others, 'Factors influencing entrepreneurial orientation levels' 171 - 183.

⁴² Musyoka and others, 'Factors influencing entrepreneurial orientation levels' 180.

⁴³ See Chapter 1 for a detailed discussion on the methodology.

The findings under this section require a certain context, especially on land ownership and norms regarding division of labour, to be understood. The main contemporary challenges that women experience concerning land arose during the colonial epoch.⁴⁴ Colonialism privileged the white settlers with large tracts of land in the fertile highlands, and, at the same time, relegated the native Africans to the reserves where land was less in terms of acreage and fertility.⁴⁵ Colonialism also introduced its version of patriarchy, which placed the little land left in the reserves in the hands of single individuals, usually the male family heads.⁴⁶ With the introduction of formal title and commodification of land, such family heads could disinherit generations at whim by simply disposing of such assets. The exclusion of women's land ownership is maintained in local laws, with globalisation aggressively relegating women to family agricultural land or small-holding farming activities.⁴⁷ This impacts their agricultural performance, as land remains the sector's main production factor.⁴⁸

Regarding small-scale agriculture, discriminative divisions of labour along gender lines persist despite the feminist and human rights insistence on gender equality. Depending on the place and society, women and men play specific roles in agriculture. For instance, in

⁴⁴ Fatuma B Guyo, 'Colonial and post-colonial changes and impact on pastoral women's roles and status' 7 *Pastoralism* (2017) 6-9; Leif Manger, 'Human adaptation in East African drylands: The dilemma of concepts and approaches pastoral', OSSREA, 1996, 13.

⁴⁵ J Osogo Ambani and Caroline Kioko, 'Introduction' in J Osogo Ambani and Caroline Kioko (eds) *Decentralisation and inclusion in Kenya: From pre-colonial times to the first decade of devolution*, Kabarak University Press, 2022, 1.

⁴⁶ Patricia Kameri-Mbote, 'Gender dimensions of law, colonialism and inheritance in East Africa: Kenyan women's experiences' 35(3) *Verfassung Und Recht in Übersee / Law and Politics in Africa, Asia and Latin America* (2002) 383.

⁴⁷ Ademola Oluborode Jegede and Ndzumbululo Mulaudzi, 'Article 19: Right to sustainable development' in Annika Rudman Celestine, Nyamu Musembi and Trésor Muhindo Makunya (eds) *The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa: A commentary*, Pretoria University Law Press, 2023, 409.

⁴⁸ Wilkista Lore and Geoffrey Baragu, 'Promoting land ownership among women in Kenya' KIPPRA Blog, 2024; Dan Basil and Judy Kaaria, 'Resolving the paradox of land tenure for rural women in Kenya', KIPPRA Blog, 2022.

animal farming in Baringo and Kitui, the general rule is: the smaller the animal or the fewer its pair of legs, the more likely it is the responsibility of women. Thus, poultry is women's business (unless it is done on a large scale), just as cattle farming is for men. Beekeeping is a male affair, except where modern technology is incorporated. Fishing is done by men while fishmongers are female; but where the fish has to be transported across regions, the men take over. Cash crop farming is male-dominated while women dominate in family farming and in the domestic sphere, for instance, as family caregivers, which is termed non-labour or non-agricultural activity. On this last point, the Maputo Protocol mandates state parties to 'take the necessary measures to recognise the economic value of the work of women in the home'.⁴⁹ For ecofeminists, the unit of women's work is diversity rather than rigid containerisation or localisation because women perform multiple tasks across multiple sectors at any given time.⁵⁰ Table 5B summarises the above realities of divisions of agricultural labour.

Table 5B: Gendered divisions of agricultural labour

Agricultural activity	Male role(s)	Female role(s)
Land ownership	Ownership and control	Access and working the farms
Animal farming	The bigger, mostly four-legged, animals	The smaller, mostly two-legged, animals - e.g. poultry
Fish farming	Fishing Transporting fish mostly in vehicles over longer distances	Fish mongering
Beekeeping	Making beehives Installing beehives Harvesting honey	Perceived as men's work but women are increasingly involved where modern beehives are used
Crop farming	Cash crop farming	Family farming
Domestic production	Perceived as women's role	Predominant but counted as non-work or of no economic value

⁴⁹ Article 13(h).

⁵⁰ Maria Mies and Vandana Shiva, *Ecofeminism*, 165-167.

Instructively, cultural norms are the main explanation for the gender-biased division of labour. For instance, in Baringo and Kitui, beekeeping was/and remains the province of men for the following reasons: a) Bees are dangerous and can kill, b) beehives are usually installed on trees, which women are prohibited from climbing, c) beehives are usually installed far away from human settlements, where the farmer risks being attacked by animals and humans, and d) bees are sensitive to women experiencing menstruation, and could vacate colonised beehives on this basis. These explanations are fast disappearing with the introduction of modern beehives that can be installed in homesteads and not on trees; hence more women are getting involved in beekeeping. Besides, our respondents often clarified that a lot of the aspects discussed under this heading also depend on the individual families and the agreement between spouses.

Production

The first domain of WEAI focuses on decision-making in agricultural production. This involves examining two factors that affect agricultural production: the extent of women's involvement in decision making, and their levels of autonomy in the production process.⁵¹ To assess the extent of women's involvement in decision making, we need to answer two key questions: (i) whether women make production-related decisions alone or in collaboration with others, and (ii) whether they have the freedom to make independent decisions about agricultural production.⁵² When examining the role women play in production-related decisions, whether alone or in collaboration with others, this contribution considers different types of farming, such as family farming, cash crop farming, livestock farming, fish farming, and beekeeping.⁵³ Furthermore, in terms of autonomy in decision making,

⁵¹ Alkire and others, 'The Women's Empowerment in Agriculture Index' 73; Duah Dwomoh and others, 'Modeling inequality in access to agricultural productive resources and socioeconomic determinants of household food security in Ghana: A cross-sectional study' 11 *Agriculture Economics* (2023) 7.

⁵² Alkire and others, 'The Women's Empowerment in Agriculture Index' 73.

⁵³ Alkire and others, 'The Women's Empowerment in Agriculture Index' 73.

women's involvement in determining aspects such as which inputs to purchase, which crops to grow, when to harvest them, how to market them, and whether to keep livestock is crucial.⁵⁴

This domain is closely connected to the products or services offered, a factor influencing entrepreneurial orientation. The greater the variety of agricultural products and services offered, the more positive the influence on agripreneurship. This in turn increases innovation and proactivity. Therefore, the greater the independence women have in decision making in different types of farming, the greater the products and their level of involvement in agripreneurship.

During our visits to agricultural communities, we explored two factors that impact agricultural production in the five main types of farming in the study counties, namely; family farming, cash crop farming, animal farming, fish farming, and beekeeping. In keeping with WEAL, we sought to discover (i) whether women make decisions related to production alone or in collaboration with others, and (ii) whether they had the freedom to make independent decisions about agricultural production, for example, which inputs to purchase, which crops to grow, when to harvest them, how to market them, and whether to raise livestock.

We found that whether women can make important production decisions depends on the sector in question, and the extent to which it falls in their spheres of operation. Since land ownership is the province of men, women do not make important decisions about this factor of production without their husbands' approval. However, there are exceptions such as in the cases where women own the land.

Lack of ownership of land impedes the rate at which women adopt new and inclusive farming methods. Due to this perceived 'disability', women, despite being the majority of attendees at training sessions on new farming methods, must seek their husbands' permission to implement these techniques. Other than the lack of sufficient extension

⁵⁴ Alkire and others, 'The Women's Empowerment in Agriculture Index' 74.

officers and demonstration plots, a major impediment to the uptake of new methods depends on married women's ability to convince their husbands.

Generally speaking, as in the case of land, married women do not make important decisions concerning cash crops without consulting their spouses even where they are involved in the farming actively. However, when it comes to family farming, women require little to no intervention from their husbands.

In Nakuru, land ownership determines the extent to which women are involved in production decisions. Men have the power to decide whether to sell or buy land or livestock. But women and children are involved in the activities needed to maintain such land and livestock. Indeed, in our discussions with the farming communities, there was agreement that when a man owns land, it means that the resource could be used as family land.

The discussions in Nakuru confirmed further that cultural norms, including rules on the division of labour, affect women's ability to participate in production decisions. For instance, in a marriage setting, culture dictates that a wife must submit to her husband and keep the family together, hence, major production decisions are left to men. As a result, many women submit to their husbands' will regarding production decisions. Similarly, in Baringo, due to cultural considerations, major decisions regarding land, such as buying, selling or even leasing, rest with the man as the head of the family. Even where most women belong to agricultural self-help groups and cooperatives, they have to seek their husbands' permission to farm.

In Kitui, women's involvement in production decisions depends on the type of farming. Most women are mainly involved in making decisions regarding the farming of green grams and cereals but not in producing mangoes, tomatoes, French beans, baby corn, and kale – mostly horticulture. Women are engaged in decisions regarding green grams and other cereals and pulses because that is considered their domain. The main reason this field is left to women is because it

is labour-intensive, and it is thought that women are suitable for such tasks. The issue of the magnitude of potential earnings also plays a role, which is why mango and horticulture farming for export is dominated by men.

Cultural rules on the division of labour and related norms also influence women's participation in decision making on livestock farming. For instance, in Baringo, most homes have cows, goats, sheep, bees, chicken, and rarely, other types of birds, including ducks and geese. Decisions regarding whether to buy or sell cows, goats, and sheep are for men mainly, while women have discretion in rearing and disposing of poultry. Both men and women in Baringo make decisions regarding beekeeping, despite it being a cultural province for men. This shift is attributable to the trainings the beekeeping communities have received, the introduction of modern beehives, and the membership of both men and women in cooperative societies.

Beekeeping in Kitui is a profitable venture, which due to cultural factors, is dominated by men. Due to the belief in the spiritual connection between bees and purity, women are not allowed to go near colonised beehives during their periods traditionally; same to young unmarried but sexually active men. However, a physical visit to a community farm with modern box hives in Mutomo, where women had received the relevant training, including on the use of protective gear when handling bees, showed that women could keep bees and harvest honey, just like men.

Further, traditional cultural norms impacted decisions on fish farming in Baringo. Men cast nets in the middle of the night to catch fish; they also transport fish over long distances. However, decisions regarding the mongering of fish are a woman's province to the extent that men feel ashamed to be involved in such decisions.

In summary, in Baringo, Kitui and Nakuru, land ownership is a major factor influencing women's decision making on production. However, the more significant the production or farming as per the contextual understandings, the more the women have to consult their

husbands, the land owners, when making such decisions. The inverse is also true; women do not always need their husbands’ views or permission to make decisions concerning family farming or other areas under their domain.

Although women have less autonomy when making certain decisions on production owing to cultural rules on the division of labour and related norms, when women and men are part of formally organised associations such as cooperatives and receive training on new farming methods, they tend to defy the restrictions based on cultural norms. Consequently, the trained women are enabled to engage in decision making autonomously or equally with men in the respective area of production.

Figure 5A summarises the trend in decision making and autonomy in production; figure 5B is on women’s autonomy in different farming types; and figure 5C illustrates the hierarchy of factors affecting women’s decision making.

Figure 5A: Decision making and autonomy in production

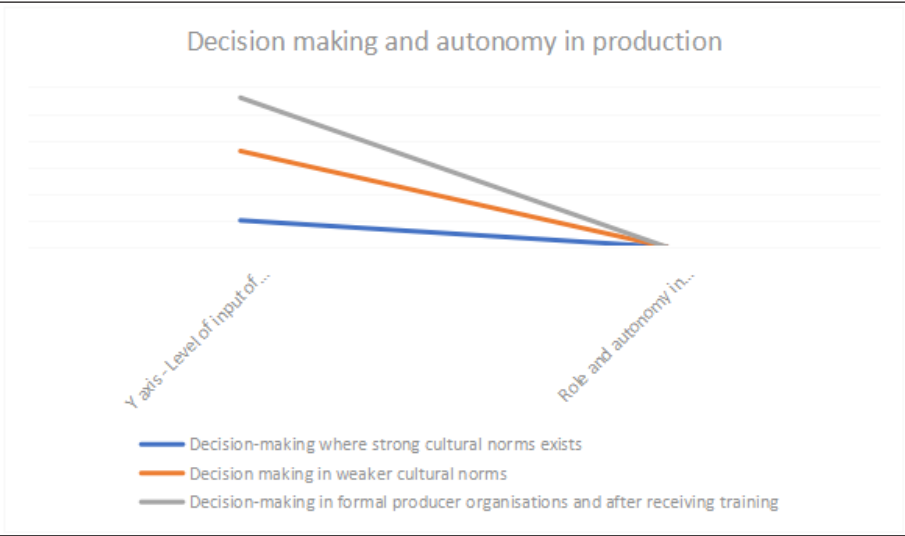


Figure 5B: Women’s autonomy in different farming types

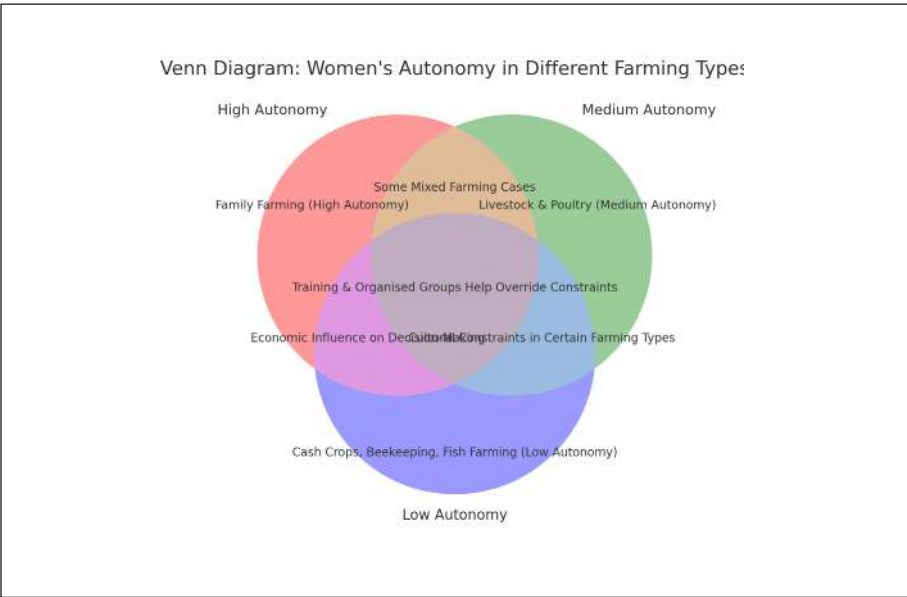
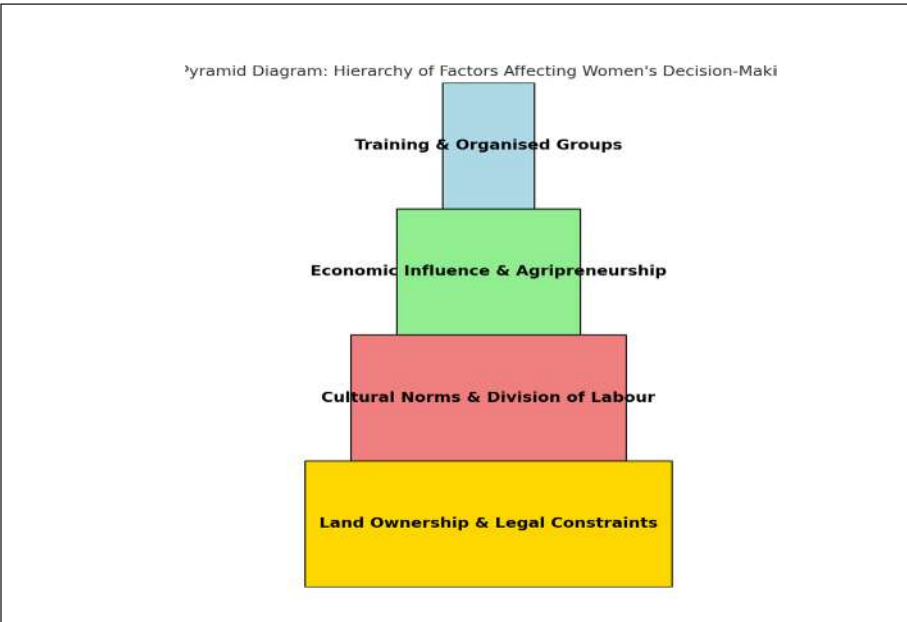


Figure 5C: Hierarchy of factors affecting women’s decision making



Resources

The second domain under WEAI relates to resources. Its components include ownership of land and important assets such as livestock and farm equipment, making decisions on their purchase, sell and transfer as well as access to and ability to decide on credit.⁵⁵ To measure this, we studied three main factors, namely: (a) whether women have sole or joint ownership of at least one major asset, such as agricultural or non-agricultural land, livestock, or farm equipment; (b) whether women have autonomy to purchase, sell, or transfer land, livestock, or farm equipment; and (c) whether women have access to credit (personal, household or group) and its use.

On ownership of land, livestock, and farm equipment, our findings correspond with the findings under the production domain discussed above. In Baringo, Kitui, and Nakuru, land is owned by men – predominantly. Additionally, men own the larger animals like goats, sheep, and cows mainly, while women own the smaller animals such as poultry. Traditional beehives are owned by men although new beekeeping technology has introduced box hives, which have enabled women to own beehives as well. Regarding fish farming in Baringo, women own most of the assets required for fish mongering such as stalls and baskets, while men own fishing equipment including boats. Further, as discussed under the domain on production, ownership of assets between men and women is linked to their magnitude: women are relegated to small-scale holdings mostly.

Similar findings were registered regarding the second factor on decisional autonomy over land and related assets. Men influence the sale of land and livestock significantly, while women have the power to dispose of poultry. However, in Baringo and Kitui, where we visited formal cooperative societies trading in beekeeping, men and women own and have autonomy equally according to their shares. Both technology and corporatisation are enabling women to defy cultural norms that erstwhile reserved beekeeping for men. Unlike in the case

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Alkire and others, 'The Women's Empowerment in Agriculture Index' 74.

of beekeeping, women in Baringo have no autonomy over decisions on fishing equipment and technology as their reach is limited to the stalls and other assets used in fish mongering.

Regarding the third factor, the study investigated whether women have access to credit as individuals, as part of a household, or as members of a group. It also looked into whether they have a say in obtaining credit and using the funds. As a general rule, most rural women have no access to credit by mainstream commercial banks first because their products are not tailored for them, and, second, because women have no collateral – invariably – as land titles are in the hands of men. Moreover, even those with land title deeds are reluctant to use them as collateral for credit for fear of losing the crucial natural resource if auctioned. Thus, most rural women access credit through producer organisations, savings and credit cooperatives (SACCOs), commercial bank products tailored for them specifically, and table banking facilities, among others.

Various financial organisations, such as Skyline SACCO, Boresha SACCO, Kenya Commercial Bank Foundation, and Equity Bank, afford credit to rural women farmers mostly based on their associations.⁵⁶ In Nakuru, women confirmed participating in SACCOs actively, which enables them to access credit based on their savings from selling farm produce. One such women-led organisation is the Seed Savers Women SACCO, which was established in 2022 to empower its members through saving and credit. It has nearly 300 members, a majority of whom are women. At the time of conducting the farm visits in Nakuru County, the SACCO had issued credit to 19 farmers (17 female and 2 male) to advance their agricultural production.⁵⁷

Baringo County is no different. Our discussions with the leaders of Rachemo Honey Co-operative Society accentuated that it accessed credit from banks such as Kenya Commercial Bank and donations from corporate institutions like Safaricom PLC to support the setting up of its honey processing plant. The same is true for Kamaki Farmers'

⁵⁶ Discussions with women from Marigat and Nakuru.

⁵⁷ Discussion with Mr Kimani, Seed Savers Network.

Cooperative Society (of Kitui County) whose leaders similarly confirmed acquiring a honey processing plant through credit. In the rural settings, credit is often availed to organised groups of farmers rather than individual farmers, and women farmers benefit because they are active in such groups. Additionally, women are involved in managing their associations, meaning that they have a say in the acquisition and use of credit at those cooperative levels. Although the credit figures from these sources are often limited, ranging from Ksh 30 000 to Ksh 1 000 000, the monies have been used to purchase important assets like water tanks, pumps, generators, and drips.

Based on the findings above, one thing stands out: Although men have control over decisions regarding significant production, ownership, and access to land and other important agricultural assets, the strength of women when it comes to access to credit is in their unity, in their associations, in their SACCOs. This strength extends to attracting credit, grants and charities from the National Government, county governments, corporates, and non-governmental and intergovernmental organisations.

Control of the use of income

The third domain gauges the level of involvement women have in decisions about their income and expenditure. This includes control of income from food crop production, cash crop production, livestock rearing, non-farm activities, wages, and even how to spend on household expenses. Therefore, if a woman has a say in decisions related to income generation, provided that she is participating in the activity, she is considered to have control.

It follows that if a woman has more control over the use of income she is more likely to make decisions affecting her entrepreneurial orientation, such as developing a business plan. Having a well-thought out business plan tracks levels of innovation, risk-taking and proactive

decision-making in agripreneurship while the absence of a business plan lowers the entrepreneurial orientation levels.⁵⁸

During our visits, we assessed how much control women in the study counties have over decisions related to the income generated from their participation in the given activity. These activities include; growing food crops, cultivating cash crops, raising livestock, and engaging in non-farm activities, among others.

We found that women's control over the use of income generated from their participation in cash crops and livestock depends on land ownership, which, as discussed earlier, is a preserve of men. Further, since women access land through marriage mainly, they are culturally bound to submit to their husbands' decisions over land. For example, many women in Kitui do not have exclusive control over income from the sale of green grams because most of such land is owned by men. This is even though women do most of the labour associated with farming the cash crop. Discussions with women in Kitui engaged in green gram farming revealed that men dislike the intensive labour associated with green gram farming. It is also believed that women are better at marketing and selling the green grams, that they attract more customers than men. Many women have to bring back the proceeds of the sale of the green grams and either surrender the money to their husbands or submit to consultations or instructions on how to appropriate the money. However, there are some women who own land and can decide how to use the money earned from it.

In Baringo and Nakuru as well, although women do most of the agricultural work, they have to consult their spouses on how to use the income derived from their own labours in cash crop farming. Women agree to these consultations, which often extend to the income women earn in other sectors, to maintain their marriages, and to heed the cultural requirement of submission to their husbands.

⁵⁸ Musyoka and others, 'Factors influencing entrepreneurial orientation levels' 178.

On the other hand, men have control over the income generated from their participation in agribusiness mostly. For example, in Baringo County, discussions with farmers at Perkerra Irrigation Scheme revealed that men receive payments into their bank accounts from companies like Kenya Seed directly. Similarly, women are unlikely to question their spouse's expenditure of income obtained from selling cows. As noted earlier, women have control over their income when farming is for sustenance and/or on small-scale. Additionally, since fish mongering is considered feminine, husbands would be ashamed to inquire about their wife's income from such trade.

In conclusion, women's control over income and expenditure decisions varies depending on land ownership, cultural norms, and the nature of their economic activities. While they contribute to agricultural labour significantly, especially in cash crop farming and livestock rearing, men often retain financial control, particularly where land is male-owned. In contrast, women exercise more autonomy in small-scale farming, subsistence agriculture, and traditionally female-dominated trades like fish mongering.

Leadership

The fourth domain is community leadership through membership in a social or economic group, and comfort in public speaking.⁵⁹ Membership in a social or economic group is not restricted to agriculture-related communities as it is recognised that women draw their social capital from a variety of circles such as mutual help or religious groups.⁶⁰ Public speaking concerns a woman's 'agency in exerting voice and engaging in collective action'.⁶¹

Partnerships influence entrepreneurial orientation positively, which resonates with this domain. Collaborating and combining resources enables agri-entreprises to manage risks effectively and access

⁵⁹ Alkire and others, 'The Women's Empowerment in Agriculture Index' 74.

⁶⁰ Alkire and others, 'The Women's Empowerment in Agriculture Index' 74.

⁶¹ Alkire and others, 'The Women's Empowerment in Agriculture Index' 74.

a wider pool of resources and expertise.⁶² On the converse, absence of partnerships diminishes the entrepreneurial spirit.⁶³

During our discussions with farming communities in the study counties, we examined women's participation in leadership, activism and other activities for associations in which they belong, and whether this results in benefits. We found that many women belong to one or more social groups; that most of the leadership positions in these groups include women, and further that many women are comfortable speaking in public and engaging with their male counterparts.

Many women farmers in Kitui are members of associations such as SACCOs and self-help groups, and many hold key leadership positions even in groups that are not women-specific. Many of these associations convene farmers based on the kind of farming they engage in, and support them in areas like training and access to extension services, thus, expanding women's knowledge and skills in agripreneurship. Some self-help groups also address the welfare of their members by supporting members' families in areas such as funeral contributions.⁶⁴ Further, more women take part in government public participation initiatives in Kitui than men owing to their membership in the groups, which enables them to access information.

Although associations of farmers in Kitui comprise a high percentage of women, there are few women groups involved in the high-value export of horticultural crops.⁶⁵ An example is Syombisya Horticultural Self-help Group, which exports French beans, baby corn, and tomatoes. As at the time of visiting, this group had three women out

⁶² Musyoka and others, 'Factors influencing entrepreneurial orientation levels' 178-179.

⁶³ Musyoka and others, 'Factors influencing entrepreneurial orientation levels' 178-179.

⁶⁴ For example, self-help groups in Kitui like Wendo wa Mwika, Atumia Athiani and Ikanga Retirees.

⁶⁵ The crops referred to here are French beans, tomatoes, baby corn and mangoes which are usually exported.

of its total membership of 18. Only six members were active in export trade and none of these members were women.⁶⁶

In Baringo, women are active members and even leaders of the various associations. Apart from marketing produce, many self-help groups also use table banking, which offers their members avenues to save and take small loans. Women also lead associations producing high-value products like honey, which exposes them to marketing and capacity-building opportunities. Similar to Kitui, through the farmers' associations, women in Baringo reported to have received training on food preservation, drought-resistant seed varieties, soil preservation, and farm hygiene.

In summary, women's participation in community leadership is facilitated through membership in social and economic groups, enhancing their voice and collective action. Many women hold leadership positions in farmer associations, which provide training, financial support, business opportunities, and social support. These groups also improve women's access to information, enabling greater involvement in government public participation initiatives.

Time

The fifth domain is about time use. It looks at the workload (domestic and productive) within 24 hours, and satisfaction with time available for leisure.⁶⁷

Just like making decisions on production, ownership of resources such as land, and control of income use, the division of workload is gendered along economic and cultural norms. Therefore, this domain allows us to appreciate the intensity and diversity of the jobs set out for women in terms of time.

Throughout the visits and discussions, we noted that women perform multiple tasks on a daily basis within their small-holding

⁶⁶ Discussion with Joseph Kioko Nzuki, Chairperson, Syombisy Horticultural Self-help Group.

⁶⁷ Alkire and others, 'The Women's Empowerment in Agriculture Index' 74-75.

agricultural space from attending to the needs of their families, to fetching water and fire for their families and farms, to participating in their associations, to cultivating land. Green gram farming, which is the only cash crop dominated by women in the Kitui County, is perhaps the most labour intensive engagement that preoccupies women in as many as nine stages: Land preparation, seed selection, planting, weeding, irrigation, fertilisation, harvesting, post-harvest handling, and marketing. Desertification in areas such as Baringo and Kitui has only exacerbated matters whether one is thinking about accessibility to water or even basic household food stuffs.

These findings highlight the heavy workload women bear, balancing farming, household duties, and community roles with little time for leisure. Environmental challenges like desertification in Baringo and Kitui further increase their burden. Green gram farming in Kitui exemplifies this labour intensity, with women managing multiple demanding stages. Addressing these disparities requires policies and technologies that ease women's workload and promote fairer labour distribution.

Conclusion

The analysis of women's empowerment in agripreneurship in Baringo, Nakuru, and Kitui counties underscores the complex interplay between historical legacies, socio-cultural norms, economic structures, and environmental realities. Women's significant contributions to agriculture, both in labour and entrepreneurial ventures, remain constrained by systemic gender disparities, particularly in land ownership and control over productive resources. The persistence of patriarchal land tenure systems continues to relegate women to roles that, while vital to food security and rural economies, remain undervalued and insufficiently supported by institutional frameworks. The transformation of agripreneurship into a genuinely inclusive and equitable economic model, therefore, necessitates the dismantling of these entrenched inequalities through legal reforms, policy interventions, and targeted empowerment programmes.

Despite these barriers, women have exhibited remarkable resilience and agency in navigating restrictive socio-economic landscapes. Their active participation and leadership in farmers' associations, cooperatives, and community-based savings and credit schemes demonstrate an adaptive strategy to access financial resources, training, and market opportunities. These associations serve as pivotal platforms for fostering entrepreneurial acumen, challenging traditional gender norms, and promoting alternative economic pathways that affirm women's agency. Furthermore, women's increasing involvement in male-dominated agricultural activities, such as beekeeping and commercial farming, signifies a progressive shift towards gender inclusivity in agribusiness. However, this shift remains partial and uneven, requiring sustained advocacy and support to ensure broader structural change.

From an ecofeminist perspective, the intersection between gender, agriculture, and environmental sustainability highlights the need for an agripreneurial model that balances economic growth with ecological stewardship. Industrial agribusiness models, driven by profit maximisation, often marginalise women's indigenous knowledge systems and their historically significant roles in ecological conservation. By integrating ecofeminist principles into agripreneurship, policymakers and stakeholders can promote sustainable agricultural practices that prioritise biodiversity, resource conservation, and equitable land use. Such an approach not only enhances food security but also positions women as central actors in the transition towards resilient and climate-responsive agricultural systems.

Moreover, the neoliberal forces of globalisation and commercialisation present both opportunities and challenges for women in agripreneurship. While market liberalisation has expanded access to new agricultural value chains, it has also reinforced gendered disparities in capital accumulation and economic decision making. Women's marginalisation in high-value agribusiness sectors, particularly in export-oriented horticulture, reflects broader structural exclusions that limit their upward mobility within agricultural economies. Addressing

these challenges necessitates policy frameworks that enhance women's access to financial credit, technical skills, and market linkages while simultaneously ensuring that agricultural commercialisation does not erode local food systems and cultural traditions.

Ultimately, agripreneurship must be reconceptualised as more than a vehicle for profit generation; it should be a transformative force that reconfigures gender power dynamics and fosters economic justice. Women's empowerment in agriculture should not be contingent on navigating restrictive patriarchal structures but should be institutionally embedded through progressive land reforms, gender-sensitive agricultural policies, and inclusive governance mechanisms. By centering women's voices, experiences, and expertise, agripreneurship can become a catalyst for sustainable development, gender equality, and socio-economic resilience in Kenya's rural economies. The journey towards a gender-just agripreneurial landscape is ongoing, but with strategic interventions and unwavering commitment, it is an achievable aspiration.

CHAPTER 6

Colonial legacies and gendered labour inequities: A critical examination of women in Kenya's agricultural sector

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J Osogo Ambani

Background

The role of rural women in agricultural production and food security in Kenya, as in much of Africa, is both fundamental and indispensable.¹ Women not only cultivate food for household consumption but also contribute to the commercial agricultural sector significantly. Their labour underpins both subsistence farming and cash crop production, whether through direct ownership and management of agricultural land or as labourers for those who control the means of production. Although their roles are neither static nor uniform, varying across temporal and geographical contexts, women remain central to farming, storage, marketing, and distribution of agricultural produce. Empirical studies suggest that women contribute between 40% and 65% of Kenya's agricultural labour force, underscoring their pivotal role in sustaining national food security and economic stability.² Without their participation, the agricultural sector would face an unparalleled labour crisis.

¹ Paul Otieno Onyalo, 'Women and agriculture in rural Kenya: Role in agricultural production' 4(4) *International Journal of Humanities, Art and Social Studies* (2019) 1.

² Onyalo, 'Women and agriculture in rural Kenya: Role in agricultural production', 1.

Given the significance of this workforce, one might expect policies and institutional frameworks to prioritise their empowerment. However, evidence suggests otherwise. Systemic challenges, rooted in patriarchal structures and capitalist exploitation—both of which were entrenched during the colonial era—continue to marginalise women in agriculture.³ Women remain largely excluded from policy-making processes, and their access to land ownership and tenure security remains precarious. Even when they cultivate land, obstacles such as limited access to agricultural extension services, modern technology, and crucial agronomic information hinder their productivity. Issues such as climate change, soil erosion, and evolving agricultural techniques require a knowledge base that many rural women are denied due to entrenched socio-economic barriers. Compounding these challenges is the absence of gender-sensitive financial mechanisms: many women struggle to access affordable credit, farm inputs, and mechanised equipment, further exacerbating their economic vulnerability.

Beyond structural barriers, women in agriculture are often subjected to labour rights violations. Gender-based wage disparities persist, with their male counterparts frequently earning higher wages for equivalent work. The mechanisation of agriculture, rather than serving as an equalising force, has invariably deepened gendered inequalities by displacing women from the workforce disproportionately. This exclusion is aggravated by inadequate training opportunities for women in machinery operation and entrenched societal perceptions that mechanised agricultural labour is the preserve of men. As a result, women's access to stable and remunerative employment in agriculture remains constrained, perpetuating cycles of economic dependency and inequality.

³ Mahmood Mamdani shows that what he calls decentralised despotism was necessary to construct the indirect rule of colonialism, and this construction relied on 'tapping [the] authoritarian possibilities in [African] culture'. Mahmood Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism*, Princeton University Press, 1996, 25.

A further critical challenge afflicting the agricultural labour market in Africa is the persistent prevalence of child labour, which constitutes a direct violation of international human rights standards.⁴ However, addressing this issue is far from straightforward. On one hand, economic hardship compels many children and their families to rely on agricultural work as a primary means of survival.⁵ The phenomenon of child-headed households—particularly exacerbated by the HIV/AIDS pandemic—has only intensified this dependency. On the other hand, exploitative economic structures, driven by profit-maximisation, have institutionalised the use of child labour as a cost-saving strategy. The persistence of this practice underscores the complex intersection between economic necessity and systemic exploitation, demanding a nuanced and multi-sectoral approach to policy intervention and enforcement.

Despite its fundamental role, Kenya's agricultural sector remains deeply entrenched in systemic gender inequities that hinder sustainable development. This chapter critically examines these challenges by focusing on women's labour in agriculture. Employing Ali Mazrui's triple heritage theory, it establishes that Kenya's agricultural and labour sectors continue to be shaped by colonial legacies, patriarchy, capitalism, and entrenched gender discrimination. While post-colonial policy and legal frameworks—most notably the Constitution of Kenya, 2010 (2010 Constitution)—provide avenues for reform, achieving genuine gender and economic justice necessitates decolonisation; in this case, a structural reconfiguration of land tenure systems, agricultural labour policies, and economic institutions. Decolonisation has also to be about targeted social re-engineering programmes designed to engender a sense of equality among the people.

⁴ United Nations Convention on the Rights of the Child, 20 November 1989, 1577 UNTS 3, Article 32.

⁵ Nkatha Murungi and Nqobani Nyathi, 'Article 15: Child labour' in Julia Sloth-Nielsen, Elvis Fokala and Godfrey Odongo (eds) *The African Charter on the Rights and Welfare of the Child: A commentary*, Pretoria University Law Press, 2024, 222.

The chapter first establishes a theoretical framework before analysing pre-colonial, colonial, and post-colonial agricultural developments in the context of gender and labour. The study is primarily based on a review of literature and insights drawn from discussions with agricultural communities working with Hivos (our partner in this research project) in Baringo, Kitui, and Nakuru counties (study counties). Further, the observations made during these field visits inform and deepen the analysis presented.

Theoretical context

Mazrui's triple heritage theory provides a valuable lens for understanding Africa's historical and contemporary developments.⁶ It explains the continent's colonial period, during which indigenous African values were influenced by foreign ideologies significantly, as well as its post-colonial trajectory, marked by a complex interplay between and among tradition, Islamic influences, and Western values.⁷ From a Western cultural vantage point, the colonial era accelerated a profound process of cultural dis-Africanisation, embedding Western norms into Africa's legal, political, social, and cultural fabric, and resulting in the full realisation of Africa's triple heritage.⁸

Mazrui's theory is particularly relevant in analysing African sexism, as demonstrated in his work *The black woman and the problem of gender: An African perspective*.⁹ In this contribution, Mazrui identified three interrelated levels of sexism: benevolent, benign, and malignant.¹⁰ Benevolent sexism reflects protective or generous attitudes towards women as the underprivileged gender.¹¹ Benign sexism acknowledges gender differences without conferring significant advantage or harm.¹²

⁶ Ali Mazrui, *The Africans: A triple heritage*, Little, Brown and Company, 1986, 21.

⁷ Mazrui, *The Africans*, 21.

⁸ Mazrui, *The Africans*, 11-12.

⁹ Ali Mazrui, 'The black woman and the problem of gender: An African perspective' 24(1) *Research in African Literatures*, Spring 1993, 87-104.

¹⁰ Mazrui, 'The black woman and the problem of gender' 87.

¹¹ Mazrui, 'The black woman and the problem of gender' 87.

¹² Mazrui, 'The black woman and the problem of gender' 89.

Malignant sexism, however, subjects women to economic manipulation, sexual exploitation, and political marginalisation.¹³

These levels of sexism, which shape women's lived experiences in various spheres, including agricultural labour, are deeply influenced by Africa's triple heritage. For instance, during the colonial period, malignant sexism intensified, with women experiencing dual oppression both as women and black individuals. This intersectional exploitation was severe in agriculture, where patriarchal norms reinforced by Western capitalism and colonial systems resulted in women's economic marginalisation and exploitative labour practices. By situating these dynamics within the framework of Africa's triple heritage, Mazrui's theory offers a robust foundation for understanding the cultural, political, and economic forces that continue to shape the experiences of African women within the agricultural sector.

Deconstructing historical and contemporary malignant sexism through economic marginalisation of women's labour in Kenya's agriculture sector

As conceptualised by Fredrick Lugard's 'dual mandate', the British imperial project in parts of East and West Africa sought to justify colonial rule through a combination of 'civilising' and 'developmental' objectives.¹⁴ The civilising mission was centred on instilling values through an involuntary programme of social engineering, aimed at eradicating what the colonists considered backward practices such as injustice and slavery.¹⁵ This mission was built on three key assumptions: first, that the Africans were inherently backward and required education in social and moral conduct; second, that British values were inherently superior to African traditions; and, third, that British imperialists bore a sacrosanct duty to uplift and 'civilise' African societies through their supposedly superior values.

¹³ Mazrui, 'The black woman and the problem of gender' 92.

¹⁴ Frederick Lugard, *The dual mandate in British Tropical Africa*, William Blackwood and Sons, London, 1922, 617-618.

¹⁵ Lugard, *The dual mandate in British tropical Africa*, 615.

By contrast, the developmental mandate had a materialistic focus.¹⁶ Beneath its altruistic façade, it functioned as a framework to enable the expropriation of Africa's natural resources while projecting an illusion of concern for the well-being and development of native populations. The dual mandate, thus, merged ideological paternalism with exploitative (malignant) economic practices, reinforcing colonial dominance while presenting itself as a benevolent enterprise.

Over a century after the establishment of the Kenya Colony, a critical examination of the legacy of the dual mandate—particularly in the context of gender and agricultural labour—remains both necessary and overdue, as it sheds light on the enduring inequalities rooted in pre-colonial, colonial and post-colonial ideologies and practices. This is the preoccupation of the next subsections.

The civilising mission

Colonialism did not constitute Africa's first encounter with foreign civilisations. However, there is no doubt that it was the most transformative of these encounters. During the colonial epoch, British rule altered African institutions profoundly, often beyond recognition. To the colonists, African traditions were backward and in desperate need of the 'salvation' offered by the so-called progressive or modern values of Western civilisation. To justify this perspective, the colonists often pointed to practices such as slavery and witchcraft, which they claimed required urgent intervention.¹⁷ Regarding gender specifically, the colonists targeted practices such as female circumcision and polygamy frequently, holding them up as emblematic of African society's supposed backwardness.¹⁸ This paternalistic approach not only disregarded the complexities of African societies but also served as a convenient pretext for imposing Western norms and legal structures.

¹⁶ Lugard, *The dual mandate in British tropical Africa*, 615.

¹⁷ Lugard, *The dual mandate in British tropical Africa*, 615.

¹⁸ Tabitha M Kanogo, *African womanhood in Colonial Kenya, 1900-50*, Ohio University Press, 2000, 1-4.

One of the most significant areas of colonial impact was the legal system. Throughout their occupied territories in Africa, the British operated a dual legal system. The first, formal and deemed superior, was modelled on English common law. The second, customary and subordinate, was derived from African traditions but then subjected to continuous colonial scrutiny and control. Ultimately, in former British colonies like Kenya, British values and legal principles permeated both systems extensively.

The colonial legislation that introduced British values in the territory now known as Kenya, namely the East Africa Order-in-Council of 1897 (later supplemented by the 1921 Order), established three foreign sources of law: procedural and penal codes borrowed from British India; the common law and doctrines of equity; and statutes of general application in force in England as of 12 August 1897. Notably, even as these foreign legal principles were introduced, the Order-in-Council included a proviso stipulating that the common law (and other imported laws) would apply only to the extent that local circumstances and conditions permitted.

In practice, however, little regard was given to this proviso. Instead, African traditions were modified to align with British values systematically. Where the morality of an African custom was questioned, colonial judicial officers assessed it through the lens of British standards, a practice formalised under the doctrine of repugnancy. As a British judge presiding in an East African colonial court stated candidly in 1938: 'I have no doubt whatsoever that the only standard of justice and morality which a British court in Africa can apply is its own British standard.'¹⁹

The 1917 case of *R v Amkeyo*²⁰ epitomises the judiciary's dismissive attitude towards African traditions. In that decision, the High Court of British East Africa degraded a polygamous marriage conducted under

¹⁹ Justice Wilson in *Gwao bin Kilimo v Kisunda bin Ifuti*, High Court of Tanganyika, 22 April 1938, 1 TLR (R) 403.

²⁰ *Rex v Amkeyo* (1917) 7 EALR 14.

African customary law, declaring it repugnant to justice and morality. The High Court further denigrated the institution by characterising African marriage arrangements based on dowry (and unrestricted in terms of the number of wives a man could take) as mere 'wife purchase'.

The marginalisation of African customary values was not confined to legislative and judicial institutions. Administratively, the British employed both covert and overt measures to control customary systems, in line with their broader objective of 'civilising' Africans.²¹ To entrench British norms within customary institutions, the colonial authorities co-opted local chiefs in societies where chieftaincy was a recognised institution and imposed chieftaincy where it was not. These chiefs—whether collaborators or appointees of the colonial administration—oversaw an adapted version of customary law that served the interests of the colonial state, particularly in the acquisition of land, mobilisation of labour, and regulation of social mores. This hybrid legal system, imbued with British principles, often bore little resemblance to the lived realities of Africans. Consequently, Africans found themselves interacting with a legal framework nominally based on their traditions but, in many respects, alien to their circumstances.

Through legislative, judicial, and administrative institutions, the colonial authorities effected a sweeping transformation of customary systems to the extent that many Africans—especially the emerging elite—had only a tenuous connection to their original culture and little inclination towards its restoration. Instead, their consciousness was shaped by the imported system in which they had been educated and socialised.

However, what is rarely highlighted is that colonialism found an area of congruence with African traditions in the reinforcement of patriarchy and gender roles. While traditional African societies sometimes subordinated women through structures such as initiation rites, marriage customs, and economic roles, colonialism layered these

²¹ For an insightful analysis of these colonial practices, see Mamdani's *Citizen and subject*, 18-25.

systems with Western forms of patriarchal oppression. Imported patriarchy not only reinforced women's subordination but rendered them invisible, recognisable only in relation to men as wives or daughters.²² In other words, lacking a male connection often equates to lacking identity, status, and agency.

Colonialism compounded gendered oppression through the imposition of capitalist systems, which privileged individual property ownership.²³ This new framework allowed African men to register land in their names, disinheriting women and entire communities from lands they accessed previously through communal arrangements. In many Kenyan traditions, men served as custodians of land, while women had access to cultivate it.²⁴ Additionally, traditional African societies often permitted migration in search of better opportunities. However, colonial capitalism disrupted these systems, embedding rigid structures of ownership and exclusion that continue to disadvantage women. As the following subsection on the development mandate demonstrates, exclusion from land ownership has had a detrimental impact, worsening the precarious agricultural labour conditions faced by women.

The sustained malignant influences of Western patriarchy and capitalism on the African heritage also explain the gender disparities in the division of agricultural labour. They reinforce that leadership, education, formal employment, and technical jobs are masculine, while reproduction, caregiving, and casual labour such as menial agricultural jobs are feminine. This backdrop explains why supervisory roles and tasks requiring technical expertise, especially where machines are involved, continue to be preserved for men. The colonial influences degraded women tremendously. Erstwhile, within African traditions, women were seen as the goddesses of water, queens of fire (forestry), lords of the environment (land and environment), farm magicians

²² Kanogo, *African womanhood in Colonial Kenya*, 6-8.

²³ Francis Kariuki, Smith Ouma and Raphael Ng'etich, *Property law*, Strathmore University Press, Nairobi, 2016, 163.

²⁴ Kariuki and others, *Property law*, 183.

(agricultural knowledge or expertise), and family caregivers (health), among others, which meant that no sphere was beyond their reach realistically speaking.

This subsection identifies the interplay between select African agricultural traditions and Western 'civilising' or 'modern' values as practised within the agricultural communities in the study counties. Consequently, the gendered impact of this interplay is assessed against the three levels of sexism in order to proffer, without doubt, that the impositions of the civilising mission occasion gender inequality.

In the context of animal husbandry, a clear gendered division of ownership emerges: larger, four-legged animals such as goats, sheep, donkeys, and cattle are considered the property of men predominantly, while smaller livestock, particularly poultry, are associated with women typically. This pattern is evident among the Kalenjin of Baringo County and the Kamba of Kitui County. Although women may be involved in the care of larger livestock, their role is that of caretakers, primarily, rather than owners, as the ultimate authority and ownership of these animals remain firmly in the hands of men. The traditional market dynamics, where larger animals typically command higher prices, may render this division of roles economically disadvantageous for the women. However, the rising demand for traditional poultry suggests a shift that could mitigate these disparities, potentially reframing the division as an instance of benign sexism.

The division of roles in crop agriculture can best be described as deeply malignant. The allocation of tasks between men and women is determined by two factors primarily: whether the crop is a cash crop and the intensity of labour required. Invariably, men dominate the cultivation and control of cash crops, which earn significant profits, while women are relegated to family farming which pays less, and labour-intensive cash crops such as green grams as my visit to Kitui accentuated.

Given that most crops grown in Kenya today were introduced by explorers and colonists, this entrenched division of labour reflects a

complex fusion of traditional African patriarchy with Western capitalism and patriarchy. The outcome of this intersection is not merely economic disparity but a form of systemic oppression that could be characterised as malignant sexism—a structure in which women bear the burden of labour without reaping commensurate financial benefits, further entrenching gendered inequalities in agricultural production.

It is men who apply chemicals, particularly pesticides, predominantly; a role often framed as benevolent sexism due to the associated health risks, heavy lifting, and the evening application schedule, especially on large commercial farms. However, this division becomes problematic when considering that women in these same settings are frequently required to work on the treated farms the next day—often without the protective gear provided to men. Indeed, female agricultural labourers reported to have experienced severe health effects, including neurological and spinal complications, as a result of exposure to agricultural chemicals. Reports indicate that some have even died as a result.²⁵ Therefore, the supposed benevolence in assigning men the hazardous work of applying chemicals, rather than being protective, exposes women to significant health hazards, making the division of roles malignant ultimately.

Beekeeping has traditionally been perceived as a masculine activity. However, the integration of modern technology is gradually making it more accessible to women. The primary justification for restricting beekeeping to men has been framed historically as benevolent, citing risks such as bee stings and the placement of traditional hives high up on the trees deep in the wilderness—areas considered unsafe for women.²⁶ This rationale has been challenged by the advent of improvements in beekeeping techniques, particularly the introduction of hives placed within homesteads, which has led to increased female participation in what was once a male-dominated practice.

²⁵ Discussions with Joyce Muhonja, who formerly worked for Beauty Line Farm (Naivasha) on 12 July 2023. Discussions with Florence Gitau, Ward Livestock Production Officer, Elementaita Ward, Gilgil Sub County on 12 July 2023.

²⁶ From the meetings with bee keepers in Baringo and Kitui counties.

Despite technological advancements, deeply ingrained malignant cultural beliefs continue to hinder women's full engagement in beekeeping in regions such as Baringo and Kitui. One such belief is the notion that women experiencing menstruation repel bees, potentially causing an entire colony to abandon its hive.²⁷ While modern practices are disrupting some of these gendered traditions, significant social transformation is still required to dismantle the structural and cultural barriers that sustain the exclusion of women from this field.

The fishing waters of Lake Baringo are the domain of men exclusively. Only men row boats, cast nets, and catch fish. However, once the fish is brought ashore, it falls under women's jurisdiction. Fish mongering is a woman's enterprise traditionally, and they have the autonomy to decide whether to fry the fish or sell it raw without value addition. However, when technological interventions such as refrigeration or large-scale transportation are required—particularly for distributing fish to distant markets—men reclaim their involvement. This contrast highlights the nuanced role of technology in reshaping gendered economic activities: while it is enabling women to enter traditionally male-dominated domains such as beekeeping, it is simultaneously providing men with opportunities to participate in post-harvest fish handling, an area historically reserved for women. In this sense, technology is both benevolent and even malignant.

What holds true for Lake Baringo is also applicable to Lake Victoria. However, in the case of Lake Victoria, the relationship between fishermen and fishmongers is shrouded in mystery. Although seldom acknowledged, there are indications that tradition dictates that fishermen may only sell their catch to fishmongers with whom they have sexual relations.²⁸ While this practice may have served a specific function in the pre-colonial era, in the post-colonial context, it is widely regarded as

²⁷ Meetings with bee keepers in Baringo and Kitui counties.

²⁸ Zachary Kwena, Elizabeth Bukusi, Enos Omondi Musa Ng'ayo and King Holmes, 'Transactional sex in the fishing communities along Lake Victoria, Kenya: A catalyst for the spread of HIV' 11(1) *African Journal of AIDS Research* (2012) 10.

a harmful custom.²⁹ Notably, it has been linked to the high prevalence of HIV/AIDS in communities surrounding Lake Victoria.³⁰ Although respondents in Lake Baringo denied the existence of such a practice, the rigid gendered division between fishermen and fishmongers still presents a potentially malignant and exploitative dynamic. This risk becomes pronounced particularly during periods of fish scarcity, underscoring the need for further scrutiny and intervention to prevent possible abuses.

Table 6A: Gender and division of agricultural labour

Select agricultural labour practices	Men’s roles	Women’s roles	Gendered impact
Leadership	Dominating leadership roles at all levels; key decision-makers in governance and institutions.	Underrepresented in leadership positions; often relegated to supporting roles.	<i>Malignant:</i> Exclusion of women from decision-making reinforces systemic gender inequality.
Machines/ technology	Operating machinery and engaging in technical jobs; accessing technological advancements first.	Limited access to machinery; mostly confined to manual labour.	<i>Malignant:</i> Men’s control over technology perpetuates gendered economic disparities.
Land ownership	Legal landowners under colonial and capitalist systems; women are largely disinherited.	Historically excluded from land ownership; land use is often dependent on male relatives.	<i>Malignant:</i> Women’s exclusion from land ownership perpetuates economic vulnerability and dependence.

²⁹ Kwenā and others, “Transactional sex in the fishing communities along Lake Victoria, Kenya’ 12.

³⁰ Kwenā and others, “Transactional sex in the fishing communities along Lake Victoria, Kenya’ 12.

Select agricultural labour practices	Men’s roles	Women’s roles	Gendered impact
Animal husbandry	Ownership of larger livestock (cattle, goats, sheep, donkeys); Women may care for them but do not own them.	Ownership of smaller livestock (poultry); Increasing demand for traditional poultry is shifting dynamics.	<i>Historically malignant</i> due to economic disparity, but increasing poultry demand is shifting towards <i>benign sexism</i> .
Crop agriculture	Dominating cultivation and control of cash crops.	Relegated to family farming and labour-intensive crops (for example, green grams).	<i>Malignant</i> division where women bear the burden of labour without corresponding financial benefits.
Chemical application (Pesticides)	Applying pesticides, often framed as benevolent sexism due to the health risks and physical demands of the job.	Expected to work on treated farms the next day, often without protective gear.	<i>Malignant sexism</i> due to harmful exposure risks for women; Health risks for instance in Nakuru County.
Beekeeping	Historically dominant; justified by risks such as bee stings and hive placement in the wilderness.	Increasing participation due to modern technology (hives placed in homesteads).	<i>Benevolent</i> traditionally. <i>Malignant</i> in certain respects: For instance, cultural beliefs such as women experiencing menstruation repelling bees hinder full participation despite technological advancements.

Select agricultural labour practices	Men’s roles	Women’s roles	Gendered impact
Fishing	Rowing boats, casting nets, catching fish; controlling large-scale transport and refrigeration.	Fish mongering (selling and processing fish); Limited control when technology is involved.	<i>Malignant:</i> Rigid division of roles; Exploitative dynamics in Lake Victoria (for example, women being required to have sexual relations with fishermen to buy their catch of the day).

Up to this point, this chapter has established that the enduring legacies of colonialism continue to shape gendered economic and social structures. It has also demonstrated that the imposition of Western legal frameworks, economic models, and patriarchal norms not only disrupted traditional African institutions but also deepened systemic inequalities that persist today. While technological advancements and shifting economic realities offer opportunities for transformation, deeply ingrained colonial and indigenous capitalistic and patriarchal practices still constrain women’s agency and participation in agriculture. Addressing these disparities requires a conscious effort to deconstruct inherited legal and socio-economic frameworks, recognising and restoring indigenous practices that promoted gender equity while challenging those that perpetuate subordination.

The developmental mandate

The most profound and enduring consequences of the developmental mandate include the transformation of land tenure systems, agricultural practices, and related economic activities, as well as the disruption of population demographics and the reallocation of labour and other economic resources. Such transformation and disruption aimed to serve the colonial economic interests only. This

part identifies the interplay between select African agricultural labour traditions and Western 'developmental' values as practised within the agricultural communities in the study counties. Consequently, the gendered impact of this interplay is assessed against the three levels of sexism in order to proffer, without doubt, that the impositions of the developmental mandate occasion gender inequality. The subsection first discusses the pre-colonial and colonial landscape of such impositions then examines the legacies of their gendered inequities on women's labour.

Before the colonial era, African communities employed diverse systems of land tenure and agriculture. Some communities, such as the Kikuyu, practised private ownership of land, while others, like the Maasai, owned vast regions collectively. Land ownership was typically vested in male family or clan heads, who held these resources in trust for the benefit of all members. Notably, women had access to land regardless of ownership, enabling them to engage in agricultural activities. It was not uncommon for individuals, clans, or families to migrate from one region to another in search of greener pastures or more favourable climatic conditions for their agricultural pursuits.

Farming and animal husbandry were common practices across many communities. Hunting and gathering were practised widely, as was pastoralism. Along rivers and lakes, fishing communities, such as the River-Lake Nilotes, thrived, relying on aquatic resources for their sustenance and economic activities.

The arrival of the Europeans disrupted the African systems of land tenure discussed above significantly. Because the essence of the political economy of colonial Kenya was agrarian, the colonial vision of development in Kenya was largely predicated on the expropriation of vast tracts of the most fertile land from indigenous communities—often through force—and their reservation for European agricultural enterprises. These areas, which came to be known as the white highlands, became the epicentre of colonial agrarian expansion and the corresponding liberation struggles of the indigenous communities.

Spanning hundreds of thousands of acres, the land in the white highlands was transferred to a small number of white settlers at the expense of entire communities who had relied on it historically for essential needs such as housing, food, water, grazing, medicine, and cultural practices. To legitimise and secure these acquisitions, the colonial administration instituted lease agreements extending for as long as 999 years, effectively dispossessing indigenous populations for generations.

The colonial administration strategically endowed the white highlands with extensive infrastructural and socio-economic privileges. These included access to water, electricity, roads, railways, and soft provisions such as security and legal protections. Additionally, settlers in the highlands enjoyed unrestricted agricultural rights, comprehensive extension services, and guaranteed markets. By contemporary standards, the white highlands were designed and maintained as centres of privilege, both in structure and reality. In stark contrast, similar investments were not extended to the native reserves, where indigenous populations were confined.

As is already clear, the colonial vision for Kenya's agrarian development was fundamentally predicated on the systematic marginalisation of native Africans. This entailed confining them to designated reserves—areas with significantly less land, both in quantity and fertility—while vast, resource-rich territories were appropriated for colonial settlers. Communities that had historically occupied or accessed expansive natural resources were abruptly forced into a life of scarcity, their economic and social stability undermined severely.

This hardship was further exacerbated by the *kipande* system, which controlled the movement of the Africans strictly. Under this system, natives were required to remain within their designated reserves unless granted explicit permission by the colonial administrators to leave. This policy not only entrenched spatial segregation but also reinforced economic disenfranchisement, ensuring that indigenous populations remained a cheap, controlled labour force for colonial enterprises.

Beyond the loss of their most fertile lands, the native Africans also lost autonomy over what they could cultivate. Agriculture in the reserves was heavily restricted, not out of concern for sustainability or land management, but to serve Britain's economic interests. Colonial agricultural policies were designed primarily to benefit the imperial economy, dictating what crops could be grown, by whom, and in what quantities. As a result, indigenous farmers were often compelled to cultivate crops that had little relevance to their traditional diets, cultural practices, or immediate subsistence needs. This imposition not only disrupted local food systems but also deepened economic dependency, ensuring that African agriculture remained subservient to the demands of the colonial market rather than the well-being of native communities.

The scarcity of natural resources, coupled with reinforced divisions along ethnic and other social lines, made conflict a pervasive reality in the reserves. While the white highlands functioned as enclaves of privilege, the African reserves were sites of economic deprivation and social strain, where competition over limited land and resources escalated into conflict frequently.³¹ If the white highlands symbolised colonial affluence, the reserves represented a demographic crisis—overcrowded, impoverished, and neglected systematically. The deliberate colonial policy of spatial segregation not only entrenched inequality but also sowed the seeds of long-term instability, the effects of which continue to shape socio-economic dynamics.

From native reserves to post-independence struggles: The enduring impact of land scarcity on women's agricultural labour

The establishment of native reserves had a malignant impact on women's labour, striking at the very heart of their economic roles. The drastic reduction in available agricultural land intensified competition for this vital resource, leaving women with increasingly limited space for family farming. This constraint not only disrupted traditional food production systems but also heightened women's economic vulnerability. As both literature and my own observation show, although

³¹ Kariuki, *Property law*, 204.

Baringo, Kitui, and Nakuru counties are at different stages of scarcity, pressure on land remains a concern, with parts of Nakuru County such as Naivasha being affected severely already.

Indeed, in the post-independence era, pressure on land has only intensified. While a small, politically connected elite among native Africans has acquired ownership of land in the former white highlands, this shift in ownership has done little to alter the colonial landholding structure. The fundamental inequalities entrenched during colonial rule remain intact - largely. Constitutional restrictions on land ownership by acreage have been routinely disregarded, just as popular demands for the non-renewal of expiring 99-year leases have been ignored. As a result, land distribution continues to reflect historical injustices, perpetuating disparities that were originally designed to serve colonial interests.

Furthermore, as discussed earlier, the intersection of Western capitalism and patriarchy played a pivotal malignant role in reshaping land ownership structures. The introduction of British land adjudication and registration systems formalised land ownership in the names of male household heads. Where African customary practices had previously implied a form of communal trust under the stewardship of male family heads, colonial land policies transferred absolute ownership to these trustees, stripping women of any legal claim to the land they had long cultivated.

Although this study finds that many women continue to access family land in practice despite ownership documents being in the names of men,³² Western capitalism introduced a critical and malignant shift—the possibility of land being leased, sold, or mortgaged at the sole discretion of its registered male owners. When such dispossession occurs, the vast majority of the affected women are often left with little choice but to seek employment as casual agricultural labourers, a sector

³² My own observations and also discussions with communities in Baringo, Kitui and Nakuru revealed this. See also the chapter on land in this book.

rife with economic precarity and heightened risks of sexual and other forms of exploitation as this study finds.

To exploit the vast tracts of land in the white highlands, the colonial administration introduced taxation and a currency system designed to compel and incentivise local populations to participate in the colonial agrarian economy as farm labourers. As a result, young and able-bodied men left the reserves in search of employment in settler farms and urban centres, altering traditional labour dynamics fundamentally.

This shift had malignant social and economic consequences. With men migrating for work, women were left to bear a dual burden—continuing to fulfil their traditional roles while also assuming responsibilities that had been assigned to men historically.³³ This restructuring of labour not only intensified women's workloads but also disrupted familial and community structures.

This study suggests that these patterns persist in many rural communities today. The former white highlands, including areas such as Naivasha, and urban centres like Nakuru continue to attract young and energetic men in search of economic opportunities. Meanwhile, the former native reserves remain populated by women, children and the elderly disproportionately, exacerbating socio-economic challenges such as labour shortages, economic dependency, and the feminisation of rural poverty.³⁴

While post-independence efforts have led to some infrastructural expansion—particularly in road networks and electricity—these developments have been incremental rather than transformative. The former native reserves remain largely underdeveloped, failing to reach

³³ Ruth Nasimiyu, 'Women in the colonial economy of Bungoma: Role of women in agriculture, 1902-1960' 15 *Journal of Eastern African Research and Development* (1985) 56.

³⁴ Ademola Oluborode Jegede and Ndzumbululo Mulaudzi, 'Article 19: Right to sustainable development' in Annika Rudman, Celestine Nyamu Musembi and Trésor Muhindo Makunya (eds) *The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa: A commentary*, Pretoria University Law Press, 2023, 409.

anything close to the prosperity of the white highlands. Counties such as Baringo and Kitui remain semi-arid predominantly; yet, no radical interventions—such as large-scale irrigation projects—have been implemented to enhance their agricultural viability.³⁵ In the absence of such Government interventions, women have had to resume their role as the goddesses of water to irrigate the farms at their own personal and physical cost. This continued disparity underscores the enduring legacy of colonial land policies and the need for more substantive reforms to unlock the full economic potential of these historically marginalised regions.

The introduction of cash crops further entrenched malignant gendered economic inequalities, as formal trade structures recognised only the male-registered landowners, effectively disinheriting women. Although women contribute to the labour on family cash crop plantations significantly; invariably, it is the men who sign contracts and, as a result, receive the financial returns directly. Despite the long and laborious hours women invest in cultivating and maintaining these crops, they remain excluded from financial decision-making and profit-sharing. In many cases, they are not even privy to discussions about the earnings generated from their labour. The structure of family cash crop plantations thus creates a complex and inequitable malignant arrangement, where labour and financial returns are disconnected—women provide the work, but men control the wealth. Additionally, in most places, cash crop farming has also reduced the acreage available for subsistence farming, which is critical for the survival of families. Further, the decline of cash crops such as sugar, coffee, and tea has exacerbated economic hardships, further intensifying the challenges faced by women.

The scarcity of land and other natural resources is often cited as a primary catalyst for the liberation struggles between the 1920s and 1950s. However, while these movements sought to dismantle colonial rule, they also inadvertently deepened gender inequalities. At the

³⁵ Existing irrigation projects such as Perkerra Irrigation Scheme are themselves colonial relics.

heights of the struggle, many African men and women—particularly in regions such as the former Central Province—either left to join the resistance or were killed by colonial forces. This mass exodus and loss of life placed an immense burden on women, who were left to manage households and entire communities in the absence of their fathers, uncles, brothers, sons, and husbands; but also their womenfolk.

Women in the native reserves faced not only profound personal loss but also a malignant and dramatic expansion of their responsibilities. In addition to their traditional roles as the core nurturers of nature, caregivers and subsistence farmers, they had to take on tasks reserved for men typically, such as herding cattle and maintaining household security albeit under more difficult conditions.³⁶ Furthermore, when duty called, these women were thrust into the perilous responsibilities of initiating or aiding the agrarian resistance—hiding and feeding freedom fighters (including women) at great personal risk.³⁷

From the Kavirondo to Mau Mau rebellion and other liberation movements, the struggle for freedom placed unprecedented demands on women. Beyond their agricultural labour and domestic duties, they became crucial, if often unacknowledged, pillars of the resistance.³⁸ Their resilience and sacrifice during this period underscore the gendered cost of liberation, revealing that while the struggle dismantled formal colonialism, it did little to liberate women from the compounded burdens imposed upon them.

From colonialism to constitutionalism: The ongoing quest for equitable land reform and development in Kenya

Ironically, the euphoria of independence did not bring about immediate or sufficient reforms to undo the malignant effects of the colonial developmental mandate. Instead, the post-independence

³⁶ Nasimiyu, 'Women in the colonial economy of Bungoma', 56.

³⁷ Wilhelmina Oduol and Wanjika Mukabi Kabira, 'The mother of warriors and her daughters: The women's movement in Kenya' in Amrita Basu (ed) *The challenge of local feminisms: Women's movement in global perspective*, Westview Press, 1995, 195.

³⁸ Oduol and Kabira, 'The mother of warriors and her daughters', 195.

Government, led by the Kenya African National Union (KANU) under President Jomo Kenyatta, continued to prioritise the former white highlands in its development agenda. This approach was guided by Sessional Paper No 10 of 1965 on African Socialism and its Application to Planning in Kenya, which rested on two key assumptions: i) That investing in the former white highlands, where infrastructure and economic fundamentals were already in place, would yield quicker and higher returns; and ii) that surplus revenue generated from these high-potential areas could be used to develop the rest of the country subsequently.³⁹

The first assumption was valid, partly, as export-oriented agriculture in the former white highlands has remained a crucial pillar of Kenya's economy since independence. However, the second assumption—that wealth generated from these regions would be redistributed to develop other parts of the country—failed to materialise. Various structural and political factors, including tribalism, corruption, and the misallocation of State resources, undermined this vision. Instead of fostering national economic equity, State investments deepened existing regional disparities. Furthermore, Sessional Paper No 10 reinforced the malignant colonial legacy by emphasising land consolidation and the formal registration of land titles. These policies entrenched the fundamentals of the colonial developmental mandate, preserving the structural inequalities of land ownership and economic privilege. As a result, rather than redressing historical injustices, the Kenyatta I Government perpetuated them, further entrenching the country's uneven development.

The second most significant post-independence development policy framework was the District Focus for Rural Development Strategy, adopted in 1983 under President Daniel Moi's Government. This strategy aimed to promote rural development by decentralising development planning and implementation to the district level. It was

³⁹ Government of Kenya, *African Socialism and its application to planning in Kenya*, Sessional Paper No. 10 of 1965, Government Printer, 1965.

envisioned as a bottom-up approach, where problem identification, resource mobilisation, and project design and execution would be driven by district-level structures before being escalated to higher administrative levels. The strategy sought to correct the highly centralised and disproportionately urban-focused policies of both the colonial and immediate post-colonial governments, ensuring that rural populations benefited from national development efforts more equitably. However, despite its ambitious goals, the District Focus for Rural Development Strategy failed to disrupt the entrenched colonial economic order. Its implementation was marred by poor coordination, inadequate funding, and inefficiencies, leading to widespread resource wastage and minimal impact.

In subsequent years, various decentralisation initiatives were introduced to further the goal of devolution and economic equity. These included the Local Authorities Transfer Fund,⁴⁰ designed to revitalise service delivery by local governments, and the Constituency Development Fund,⁴¹ which channelled resources to constituencies to support grassroots development projects directly. While these initiatives sought to correct historical imbalances, they too faced challenges in execution, often falling short of their intended transformative potential.

The most radical attempt at decolonisation since independence remains the 2010 Constitution, celebrated widely as a transformative legal framework. At its core, the 2010 Constitution serves as a manifesto for land reform, seeking to redress historical injustices and promote equitable land management.⁴² It mandates that land be utilised and governed in a manner that is equitable, efficient, productive, and sustainable, ensuring that land ownership and access are no longer dictated by entrenched colonial-era disparities.⁴³

⁴⁰ Local Authorities Transfer Fund Act (Cap 272A), section 3 and 4.

⁴¹ Constituencies Development Fund Act (Cap 414), section 3 and 4.

⁴² Constitution of Kenya (2010), Article 60(1)(a), (c) and (f).

⁴³ Constitution of Kenya (2010), Article 60(1).

The Land and Environment chapter of the 2010 Constitution introduces several ground-breaking principles aimed at restructuring Kenya's land tenure system. Among these are: Equitable access to land, ensuring that all citizens have fair opportunities to own and utilise land resources;⁴⁴ security of land rights, safeguarding individuals and communities from arbitrary dispossession;⁴⁵ elimination of gender discrimination in laws, customs, and practices related to land and property, dismantling patriarchal norms that have excluded women from land ownership historically;⁴⁶ and promotion of community-led dispute resolution mechanisms, encouraging local initiatives to mediate land conflicts in ways that are relevant and accessible culturally.⁴⁷ By embedding these principles in the national legal framework, the 2010 Constitution represents a bold departure from the colonial and post-colonial land policies that perpetuated inequality. Although its full implementation remains a work in progress, it lays a strong foundation for a more just and inclusive land tenure system in Kenya.

Under the principle of equality, women are now legally entitled to own land—a significant departure from historical practices that excluded them systematically. While these reforms mark a crucial step towards gender equity, their full realisation remains a work in progress as deep-seated cultural norms, bureaucratic hurdles, and enforcement gaps continue to hinder the practical implementation of women's land rights.

Nevertheless, the 2010 Constitution represents a decisive turn in dismantling the historical marginalisation of women in land ownership. By explicitly guaranteeing equal property rights, it lays the groundwork for transformative change, challenging long-standing patriarchal structures and affirming women's rightful place in land governance and economic empowerment.

⁴⁴ Constitution of Kenya (2010), Article 60(1)(a).

⁴⁵ Constitution of Kenya (2010), Article 60(1)(b).

⁴⁶ Constitution of Kenya (2010), Article 60(1)(f).

⁴⁷ Constitution of Kenya (2010), Article 60(1)(g).

Another significant milestone is the devolution of power, which holds the potential to drive equitable development across the country.⁴⁸ When effectively implemented, devolution can catalyse rural development by enhancing infrastructure, expanding agricultural extension services, and improving service delivery in historically marginalised regions, including the former native reserves. Moreover, by fostering economic opportunities at the grassroots level, devolution could help reverse the longstanding trend of unidirectional migration towards the former white highlands and urban centres. If fully realised, it has the capacity to create more balanced regional development, empowering local communities and reducing the economic disparities that have persisted since the colonial era.

Even the most cursory review or visit to the study counties reveals that the stark contrast between the former white highlands and the native reserves remains as evident as day and night. This is not to suggest that post-independence governments have made no efforts to address the entrenched disparities described as two countries in one. Rather, it highlights the extent to which these interventions remain insufficient in counteracting the deeply skewed investments concentrated historically in the former white highlands—first by the colonial administration and later by successive post-independence governments. While progress has been made, bridging this long-standing economic and infrastructural divide requires far more comprehensive and sustained efforts to ensure equitable development across all regions.

Conclusion

The historical trajectory of Kenya's agricultural labour sector reveals the enduring impact of colonial legacies, patriarchal capitalism, and structural inequalities. Women have remained central to agricultural production, yet their contributions have been marginalised systematically through malignant gender roles, and resultant factors such as land dispossession, exclusion from financial

⁴⁸ Peter Wanyande, 'Devolution and territorial development inequalities: The Kenyan experience' Working Paper Series (187), 2016, 9.

and technological resources, and limited decision-making power. The colonial developmental mandate, as conceptualised by Frederick Lugard's dual mandate, played a pivotal role in shaping these disparities by advancing economic exploitation under the guise of development. This framework justified the expropriation of fertile land for European settlers while relegating indigenous populations—particularly women—to resource-scarce native reserves, fundamentally altering gender roles in agriculture.

The dual mandate ensured that economic power remained concentrated in the hands of the colonial administration and settler farmers while indigenous populations were primarily positioned as labourers. This structure reinforced the gendered division of labour, where men were encouraged to participate in wage employment on settler farms and in urban centres, while women were left to sustain family farming under deteriorating conditions. These disruptions, compounded by taxation policies designed to drive male migration, left women with increased economic burdens, effectively feminising rural poverty. The post-independence era did not succeed to dismantle these colonial structures, with successive governments continuing to prioritise the former white highlands, deepening regional and gendered inequalities.

Ali Mazrui's triple heritage theory provides a crucial lens for understanding the intersection of African traditions, Western capitalism and patriarchy, and colonial governance in shaping gender roles within agriculture. His classification of benevolent, benign, and malignant sexism aptly describes the various ways in which women's exclusion from land ownership, mechanisation, and economic decision-making has been justified and institutionalised. Malignant sexism is evident in the formalisation of land tenure systems that transferred absolute ownership to men, leaving women vulnerable and dependent economically. Similarly, the relegation of women to menial agricultural tasks, while men controlled high-value crops and mechanised farming, reflects deeply entrenched patriarchal biases. Meanwhile, benevolent sexism is seen in the exclusion of women from chemical application

and beekeeping under the pretext of protection, even as such practices ultimately limit their access to critical agricultural opportunities.

While the 2010 Constitution represents a significant legal step towards dismantling these injustices—particularly through provisions ensuring equitable land access and gender inclusion—structural and cultural barriers continue to hinder meaningful progress. The persistence of patriarchal landholding patterns, economic marginalisation, and bureaucratic inefficiencies suggests that legal reforms alone are insufficient. Transformative change requires proactive interventions, including gender-responsive agricultural policies, financial inclusion strategies for women, and sustained efforts to alter socio-cultural attitudes that perpetuate their economic subordination.

Without deliberate and sustained action, the disparities established under colonial rule will continue to define Kenya's agricultural and economic landscape. Achieving true equity necessitates not only addressing the historical injustices embedded in the dual mandate but also confronting the on-going gendered economic structures that continue to disadvantage women. Only through comprehensive reforms, coupled with a decisive reconfiguration of power dynamics in land ownership and agricultural labour, can Kenya begin to rectify the long-standing inequalities that have burdened women in the agricultural sector disproportionately.

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Women are the backbone of Kenya's agricultural sector, yet they remain marginalised in land ownership, environmental management, policy-making, and economic empowerment. This book critically examines how African traditions, colonial legacies, and exclusive governance structures shape their participation in agriculture. It explores the tensions between agripreneurship and ecofeminism, the struggle for land rights, and the structural inequalities that define agricultural governance and labour. Drawing on research from Baringo, Kitui, and Nakuru counties, it offers a compelling analysis of both the challenges and opportunities for gender-responsive agricultural governance. An essential read for scholars, policymakers, and advocates of gender justice in Africa.

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