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Can the Law Secure Women's Land Rights in Tanzania?

Tanzanya'da Kadınların Toprak Haklarını Yasa Güvence Altına Alabilir mi?



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Abstract

This literature review explores the extent to which Tanzanian land laws secure women's rights to land. The qualitative method based on narrative reviews was adopted. The classical theories on the evolution of property rights and empirical studies published between 1990 and the present were reviewed. Findings indicate that while the law formally recognises women's land rights, actual tenure security remains elusive. The coexistence of statutory, customary, and religious legal systems creates complex land rights. Socio-cultural norms often obstruct the enforcement of statutory laws intended to protect women's land rights. Additionally, the law may discriminate against women, especially those whose names are not listed on a certificate of occupancy. In contrast, communal tenure arrangements offer more reliable safeguards. The review identifies the challenges in implementing, monitoring, and enforcing land laws and calls for comprehensive reforms. These include strengthening legal enforcement mechanisms, revising outdated laws, fostering political commitment to gender equity, and encouraging a shift in societal and religious attitudes towards women's access to land.

Öz

Bu literatür taraması makalesi, Tanzanya arazi yasalarının kadınların arazi haklarını ne ölçüde güvence altına aldığını incelemektedir. Anlatı incelemelerine dayalı nitel yöntem benimsenmiştir. Mülkiyet haklarının evrimine ilişkin klasik teoriler ve 1990 ile günümüz arasında yayınlanmış ampirik çalışmalar incelenmiştir. Bulgular, yasanın kadınların arazi haklarını resmen tanımasına rağmen, gerçek kullanım hakkının hala belirsiz olduğunu göstermektedir. Yasal, örf ve adet hukuku sistemlerinin bir arada bulunması karmaşık bir arazi hakkı yaratmaktadır. Sosyo-kültürel normlar, kadınların arazi haklarını korumayı amaçlayan yasal yasaların uygulanmasını sıklıkla engellemektedir. Ayrıca, yasa, özellikle de isimleri oturma izni belgelerinde listelenmeyen kadınlara karşı ayrımcılık yapabilmektedir. Buna karşılık, müşterek kullanım hakkı düzenlemeleri daha güvenilir güvenceler sunmaktadır. İnceleme, arazi yasalarının uygulanması, izlenmesi ve yaptırımında devam eden zorlukları tespit etmekte ve kapsamlı reformlar çağrısında bulunmaktadır. Bunlar arasında yasal uygulama mekanizmalarının güçlendirilmesi, güncelliğini yitirmiş yasaların revize edilmesi, toplumsal cinsiyet eşitliğine yönelik siyasi bağlılığın teşvik edilmesi ve kadınların araziye erişimine yönelik toplumsal ve dini tutumlarda bir değişimin teşvik edilmesi yer almaktadır.

Keywords

Women's land rights • Customary law • Statutory law • Tenure security • Communal tenure

Anahtar Kelimeler

Kadınların arazi hakları • Örf ve adet hukuku • Kanuni hukuk • Mülkiyet güvenliği • Topluluk mülkiyeti



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Introduction

Land is the foundation of many essentials, including food, shelter, and a better life. It is a vital national resource essential for activities such as agriculture (Chitonge, 2019). Land rights refer to legitimate claims to land and the benefits and products produced on it (Kasimbazi, 2017; Meinzen-Dick *et al.*, 1997). Land represents a valuable asset for both genders (Mbonea & Msoka, 2024). Women's rights to land are crucial for secure access to land and other natural resources, which in turn support sustainable livelihoods, strengthening food security, identity, and dignity (Adem *et al.*, 2021; Pallas, 2011).

Over the past three decades, many developing countries have adopted policies and laws related to formalising property rights (Fredrick *et al.*, 2025; Fairley, 2013; Deininger & Feder, 2009). Land reforms in Africa emphasize recognition of indigenous land tenure practices, the protection of property rights, and provide mechanisms to secure these rights through poverty reduction (Msangi *et al.*, 2022; Knight, 2010). Land laws in various countries, such as Mozambique (1997), Tanzania (1995), Uganda (2013), Ghana (1992), and Zambia (1991), include provisions aimed at promoting and safeguarding women's rights to own, inherit, and transfer land. The coexistence of Multiple legal systems (legal pluralism) influences customary land tenure practices. Colonial laws imposed European legal systems alongside the existing indigenous systems (customary laws), which later evolved into post-colonial legal frameworks (Butungo, 2024; Griffiths, 1996). Traditionally, customary land tenure is based on communal ownership, rooted in norms accepted within the local communities (Antonio & Griffith-Charles, 2019; Chimhowu & Woodhouse, 2006). Stevenson (1991) describes communal property as a set of assigned rights granted to specific groups of resource owners, who can exclude non-group members from possessing, using, or benefiting from such property. Recent land reforms have undermined the communal tenure regime, which has historically dominated Africa. Laws increasingly formalise customary land tenure through record-keeping, titling, and issuing certificates of customary rights of occupancy.

Land titles have recently been promoted in policy and business circles as a powerful intervention, offering tenure security (De la O Campos *et al.*, 2023; Galiani & Schargrotsky, 2010; Desoto, 2000). It is argued that land titles address the failure of customary tenure to secure property rights by, for example, enabling land owners to access credit, encouraging investment in land, speeding up land conflict resolution, and increasing women's bargaining power over land matters (Kironde, 2009; Deininger & Byerlee, 2012; Wankogere & Alananga, 2020). However, some claims oppose this, assuming that under the customary tenure, land access involves negotiations that effectively create tenure security, and that land titles might weaken such security (Manara & Regan, 2024; Payne & Lasserre, 2012). The introduction of land documentation has led to changes in the traditional practices of indigenous peoples. Customary land tenure systems are complex, with overlapping rights held by various groups, including the parents and the children, as well as men and women. The evolving perception of land tenure security poses a challenge for local communities whose land rights are not officially recognised. Documentation often favours certain groups while undermining the security of others. For instance, in Kenya, women's land security, which was previously protected under traditional use rights, was compromised once the land was titled (Walker, 2002). Individualism contradicts women's land rights under the customary tenure. The question that is asked is how the law often addresses discriminatory practices against women and ensures tenure security. In Senegal, for example, a quota of at least ten percent is informally allocated to women's groups (Sanga & Exaud, 2023). The development of land markets led to the dispossession of indigenous and economically disadvantaged communities (Sjaastad & Cousins, 2008; Sawadogo & Stamm, 2000; Deininger & Feder, 2009). The potential for the poor and women to invest and access financial credit through land collateral may not guarantee tenure security. In some cases,

banks are reluctant to provide loans to land title holders due to the low land values in rural areas (Kabigi *et al.*, 2021).

This review article focuses on the questions related to contemporary land deals in the context of dynamic customary land rights within land reforms and the legal recognition of women's rights to land. By assessing the debate in the literature regarding the efficiency of law in securing women's land rights, the studies show that these laws incorporate traditional customary laws. The article contributes to the challenges in states with *de jure* legal pluralism (customary, statutory, and religious systems) and the difficulties in implementing, monitoring, and enforcing the existing laws. It critiques the idea that land titles are beneficial to women since their rights are protected/secured. This assumption contradicts the reality that collective tenure may secure women's rights. This review article applies the Evolutionary Theory of Land Rights acknowledged by the property rights school (Coase, 1960; Demsetz, 1967; Alchian & Demsetz, 1973). The theory states that 'under the joint impact of population pressure and market integration, land rights spontaneously evolve towards 'rising individualisation', which eventually leads to the demand for the creation of duly formalised property rights. This theory is applied because studies on land rights in Africa seem to point to the evolution of customary tenure from communal to private regimes in response to emerging global issues (Shipton, 1989; Boserup, 1981; Bruce, 2007; Migot-Adholla *et al.*, 1991). Scholars such as Barners & Charles (2007) have proposed land titling as the best strategy to create tenure security. Land reforms in Tanzania are closely linked to the legal framework surrounding the right of occupancy and land titles.

Evolution of Property Rights

The property rights originated from the property rights theory, which supports the legal recognition of land ownership. Some classical theorists (Libecap, 1989; Ciriacy-Wantrup & Bishop, 1975; Snare, 1972) state that property rights involve the use, control, transfer, and receipt of income derived from the property. According to Meinzen-Dick *et al* (1997), property rights include more than titles and documents outlining the ownership of a defined piece of land. They involve various sets of tenure rules for access to and use of resources. Use rights are the rights to access the resources, such as land, which may be supported by the force of law (Alchan, 1965). The property holder has the right to exclude other individuals (Shipton & Goheen, 1992). Property rights refer to an individual's capacity to call upon a collective to stand behind his or her claim to a benefit stream. This implies that property rights define relationships between people, and the implementation of laws designed to prevent further depletion of natural resources depends on the actual response of individuals (Bromley, 1995).

In the past, land was held communally, and each group member had a right to use it. For example, the land where hunting took place among the American Indians, as far back as the 1600s, was communal, and no one had the right to exclude others from hunting (Demsetz, 1967). Previously, hunting was for food, and few furs were needed in families. Changes occurred with the emergence of the fur trade, which led to overhunting, hence the demand for the law to regulate such overuse of land. Hardin published an article, "The Tragedy of the Commons," in 1968. The tragedy of the commons explains the effects of the overutilisation of resources on a common pool of land for grazing. Overutilisation of land can reduce productivity, affecting all members of the group. In a communal system, an individual's property rights are not clearly defined. The individual has greater control over the use and disposition of the land he/she occupy, hence the need for some regulations. There is a claim that private property is an efficient response to the tragedy of the commons. Private property rights depend on laws that assign rights to certain activities (Hardin, 1968). In response to the increased land value and competition, the communal property rights structure was attempted to evolve towards private property. From this description, the existence of law is the prerequisite for protecting

property rights. The question that is asked is: how does the law secure the communal property rights held by women in the agrarian societies?

Customary Land Tenure and Women

Customary tenure has intensified scholarly debates on land rights, specifically regarding women's limited access to land. Scholars such as Doss *et al.* (2015) and Ng'ombe & Mushinge (2014) argue that in Sub-Saharan Africa, land is governed by cultural norms and practices, which hinder women's rights to land ownership. Feminist activists advocate that in social institutions, men and women are unequally situated (Ossome, 2014). Women's rights to land are determined by the relationship between them and men (Odeny, 2013; Cotula, 2007). According to Genicot & Hernandez-de-Benito (2022), under customary law, women's access to land in many Tanzanian societies is determined by the relationship between male partners or relatives. In other areas, such as Ghana, land may be obtained through clearing the bush, which gives women the right to own land (Selase *et al.*, 2015). Yet, socio-cultural norms hinder women from owning land (Mbonea & Msoka, 2024; Tsikata, 2009). Tanzania is often recognised as a leading example in integrating women's land rights into its legal framework; however, many women continue to face challenges in fully realising these rights (Magawa & Hansungule, 2018). The land is mainly used by women, particularly for agriculture (Kongela, 2020; Moyo, 2017; Leavens & Anderson, 2011), which Cotula (2007) refers to as the "feminisation of agriculture." However, women's land ownership rights are invisible.

This is not to say that women have no rights, although they may rarely own a small amount of such land compared to men. Osorio *et al.*, in 2014, remarked that

"In developing countries, male landholders considerably outnumber female landholders: 73% of holders are men, whereas only 27% are women, particularly on smaller plots for subsistence farming."

Wives' rights to use land are rooted in their relationship with their husbands or sons, and they may lose such rights if the relationship is no longer in place, such as marriage instability or the death of a husband (Errico, 2021). This is the case in Northern Tanzania among the Maasai ethnic groups, where African norms violate widows' rights to inherit land held by their deceased husbands (Tiare Cross, 2013). Customary tenure distinguishes the rights of sons and daughters, particularly in patrilineal societies. Traditionally, sons are considered permanent members of the clan, who can inherit land directly from their fathers; daughters are expected to secure land through marriage, typically via their husbands. However, they have the right to use such land until they are married (Kivaria, 2020).

Another body of literature argues that traditional norms act as barriers, preventing women from accessing information about property rights laws, which ultimately leads to the erosion of such rights (Rawal & Agrawal, 2016; Uvuza, 2019; Odeny, 2013; Hatcher *et al.*, 2005). A study by Rawal & Agrawal (2016) stated that Nepalese women living in nuclear families have more rights and demonstrate a higher degree of land ownership than women from other groups. Besides, women's access to information also depends on their level of education. In Ghana, a high rate of illiteracy among women is tied to insufficient access to information, which contributes to the lack of awareness about their rights (Hatcher *et al.*, 2005). Bayisenge (2018) found that in Rwanda, women's awareness of legal protections for their rights contributed to their inability to assert those rights through lawful means. A similar situation has been reported in the rural areas of Ghana by Lidstrom (2014). According to the UNHC (2020), facilitating women's access to information is a powerful strategy for protecting their land rights. It remains questionable whether access to information about laws can protect or secure women's land rights. In the Makete district, Moyo (2017) discovered that

women learned about land laws and property rights through radio and non-governmental organisations (NGOs). However, their property rights were not secured.

The FAO (2002) has outlined strategies to inform women about laws and property rights. (i) Mass media such as radio and television may be a more active communication tool than public forums in some cultures. (ii) Ensure that there is two-way communication between women and policymakers. Gender mainstreaming is crucial and should be incorporated at the initial community assessment. Socio-cultural norms/gender-sensitive approaches must be understood, and women's voices and ideas should be heard in policies.

These studies treat customary tenure as static and consider African norms homogenous, suggesting that similar strategies can be applied uniformly across societies. In most pre-colonial societies, land was the property of the clan. Individuals' access to land was based on membership of a particular group/clan (Muraina & Ajimatanraeje, 2023; Errico, 2021). Other scholars have established that, with the evolution of customary land tenure regimes from communal to private property, women tend to lose their rights within their clans (Besteman, 1994; Dondeyne *et al.*, 2003; Chimhowu, 2019). Laws in Sub-Saharan countries have recognised and continue to encourage women's rights to land. **Table 1** summarises the integration of women's land rights in the constitutions and legal frameworks of the selected countries.

Table 1

Women's Land Rights in the selected Constitutions and other legal frameworks in Africa

| | | |
|---|---|---|
| 1 | Constitution of Ghana (1992) | Recognises the rights of spouses to inherit the land. No spouse shall be deprived of a reasonable provision out of the estate of a spouse, whether or not the spouse died having made a will. |
| 2 | The Intestate Succession Act (1989) of Zambia | Promotes the rights of women to own and inherit land. In the case of the death of the spouse, a male or female shall be the primary inheritor of the decedent's estate. |
| 3 | The National Land Policy of Uganda (2013) | Recognises women's rights to transfer land. The government shall "modify the rules of transmission of land rights under the customary land tenure to guarantee gender equality and equity." |
| 4 | Constitution of Rwanda (2003) | Recognises women's rights to be involved in decision-making bodies. |
| 5 | Constitution of Zambia (1991) | Promotes the protection of the property rights of both men and women. |
| 6 | Constitution of Mozambique (1997) | Recognises the rights of all citizens (men and women) to the use and enjoyment of land. |
| 7 | Constitution of Malawi (1994) | Recognises the property rights of women in possession of the property. Women have the right to full and equal protection by the law and the right to acquire and hold property, either independently or in association with others. |
| 8 | Constitution of Tanzania (1977) | Promotes the protection of human rights and the property of both men and women. Everyone has an equal right to own land. |
| 9 | Land and Village Land Acts (1999), Tanzania | Recognise the right of women to acquire, use, and transfer land similar to men. Matrimonial couples have the right to co-occupy land. |

Source: National Constitutions and Legal Frameworks

It is clear from **Table 1** that women have legal rights to own, inherit, transfer, make decisions on, and use land. The question that arises is: are there any enforcement mechanisms/strategies to harmonise customary and statutory laws? The integration of women's land rights into law may not guarantee women's tenure security due to the complexity arising from legal pluralism.

Method

This narrative review used a qualitative approach, drawing evidence from secondary sources. According to Ellis *et al.* (2011), a secondary research method involves reviewing, describing, and summarising existing literature and applying it to your context. This review discusses the historical women's land rights under customary tenure and the current laws that protect these rights. It also examines laws promoting gender equality in property rights in various African countries, specifically in Tanzania, including the Constitution of the United Republic of Tanzania (1977), the Tanzanian Land Policy (1995), the Land Act (1999), and the Village Land Act (1999). Relevant literature related to the topic was selected without adhering to a specific research strategy or protocol. Articles were identified through Scopus and Google Scholar using keywords such as 'Gender and land', 'women's rights', 'tenure security', 'laws', and 'Tanzania'. Peer-reviewed papers and research reports were given priority. Of the 94 sources used in this review, 49 (52%) were peer-reviewed papers. The inclusion criteria covered both classical studies on the development of property rights and the documented sources from 1990 onward. The literature written in languages other than English was excluded. The data obtained from the selected sources were analysed through thematic analysis. The themes that emerged from this body of literature include the recognition and protection of women's land rights; conflicts between customary practices and statutory law; and the practical difficulties of implementing the legal frameworks to secure women's land rights. The limitations include the lack of a systematic review and the restriction to specific language.

Historical Perspectives of Land Tenure in Tanzania

In Tanzania, land is divided into three categories: (i) village land, managed by the village Land Council; (ii) reserved land, which is set aside for specific purposes, for example, the national parks; and (iii) public land, which is not reserved or village land. Communal property exists, for example, the village land is divided into (i) occupied land, held by an individual or a group, and (ii) vacant land, available for future uses by the individuals or groups. (iii) Communal land (s) such as public markets, meeting areas, grazing land, and burial grounds. For example, in Northern Tanzania, pastoralists continue to graze livestock freely on rangelands throughout the year or season without restriction (Koka *et al.*, 2024). Evolutionary theorists (Demsetz, 1967, and Hardin, 1968) outlined that, in the past, property rights were communal. Before the 19th century, in the Tanzanian mainland (Tanganyika by then), land was owned communally and governed by the native laws (customs and traditions) of different ethnic groups (Tenga & Mramba, 2015). The traditional leaders (chiefs or clan leaders) held authority over the land in their respective tribes (Aikaeli & Markussen, 2017). A person held land in a particular clan or tribe (URT, 1995). African customs prohibited the private ownership and sale of land, viewing it as communal property used for subsistence production (Magawa & Hansungule, 2018). The customary land tenure system started to change and appeared more formal since the colonial period.

Tanganyika was colonised by the Germans from 1884 to 1916 and the British from 1917 to 1961. The colonialists changed the native customary land tenure system by introducing common and statutory laws. Customary law was administered by traditional or local courts, where High Courts and magistrates' courts were exercised in line with the common law (Morris, 2010). Different types of property rights were introduced. Freeholds led to widespread land sales and private land ownership, which was uncommon under the African norm. The Imperial Decree of 1895 stated that crown land was subject to disposal at the discretion of the Governor. The Land Registration Ordinance of 1903 established a land registry to prove ownership (Kironde, 2006). Under British rule, the authority of local leaders in land administration was maintained through a system of indirect rule. The colonialists used chiefs to rule people in organised kingdoms (Tsikata, 2003).

Non-traditional chiefs who served the colonial administration emerged, for example, the Mazengo of Mvumi (Gogo).

In 1923, a new legislation known as the Land Ordinance Cap. 113 was passed, declaring all land to be public and vested in the Governor in the trust of the British Monarch (URT, 1995). The ordinance defined the right of occupancy as the title and occupation of the land. The Governor issued the certificate of land occupancy for a maximum of 99 years. In 1928, the Land Ordinance was amended to include the title of a native community lawfully occupying land under the customary law. The people who held land under the customary tenure continued to occupy land under the deemed right of occupancy (URT, 1995).

The Colonial administrative structure contained its seeds in the post-colonial government, such as the right of occupancy. The existing land tenure system originates from the 1923 Land Ordinance, Cap 113, with its only modification being the substitution of the term "Governor" with "President." The freeholds of Germans were converted to government leases for a maximum of 99 years by the Freehold Titles (Conversion) and Government Leases Act (1963). In the country, all land is publicly vested in the president as a trustee of all citizens (URT, 1999). This implies that instead of owning land, individuals should acquire land through leasing. The *Nyarubanja* Tenure (Enfranchisement) Act of 1965 was one of the key reform measures aimed at eroding the feudal landholding system, in which a single individual held ownership over a tract of land known as Nyarubanja. The Act permitted some individuals to own land independently of the country's modern market system. There were three categories of land ownership: communal/village land, group/family land, and individually allocated land (Aikaeli & Markussen, 2017).

The Villagisation Programme (*Ujamaa* in Kiswahili), under the umbrella of socialism, was implemented in the 1970s. The Ujamaa Act (1975) aimed at transforming rural societies through collective agricultural production (Schneider, 2004). The programme resulted in the shifting of people from their original land(s) and resettling them in newly established villages.

"The removal of people from their land to ujamaa villages contributed to the erosion of communal landholding and alteration of land ownership and authority" (Myenzi, 2010).

Changes occurred in the mid-1980s when the country adopted a market-oriented approach in response to the economic crisis. The rise of private enterprises led to the displacement of people from their lands for development projects, hence the emergence of land conflicts (Mtatifikolo, 1995; Fairley, 2013).

The 1990s Land Reforms

The land reforms of the 1990s occurred when it was recognised that there was no policy or law to regulate multiple land rights claims. Coase (1960) argues that negotiation between the parties can resolve conflicts when conflicting property rights arise. In the country, conflicts were widespread and varied. These included clashes between farmers and pastoralists in the Kilindi and Kilosa districts (Aikaeli & Markussen, 2017). President Ali Hassan Mwinyi established the Presidential Commission on Land Matters Inquiry in 1991. The commission's task was to investigate the causes of land conflicts and recommend land reforms (Greco, 2016). It involved gathering public opinions and proposing alternative land tenure systems that fairly serve the rights of all community members. The Commission noted that community members were being evicted from their land, which was then sold to foreign companies, leaving many landless (Shivji, 1996). It concluded that ongoing land conflicts were linked to the lack of land titles and recommended establishing an independent body to resolve land disputes. Land reforms aimed to integrate indigenous property rights into a formal legal system (Fitzgerald, 2017). In 1995, a National Land Policy was published to replace the colonial laws.

The main goal of this policy was to promote and ensure a secure land tenure system, encourage optimal land use, and facilitate broad socio-economic development while protecting the environment (URT, 1995).

The policy aimed to promote secure land tenure and address administration challenges, such as land conflict and informal markets. The land legislation was split into two acts: the Land Act No. 4 (1999), which governs land management in urban areas, and the Village Land Act No. 5 (1999), which applies in rural villages. Village authorities issue Certificates of Customary Right of Occupancy (Wily, 2003). In September 2003, Desoto addressed Tanzania's Cabinet and explained the role of land titles in securing property rights (Schreiber, 2017). Desoto argued that the value was lost due to informality as dead capital. Land titles may increase land value, which creates an opportunity for landowners to borrow money.

The country implemented the Property and Business Formalisation Programme (PBFP) in Kiswahili: *mpango wa kurasimisha rasilimali na biashara za wanyonge Tanzania (MKURABITA)* in the 2000s. Desoto and his Institute for Liberty and Democracy paved the way for the formalisation of property, an idea that inspired donors who funded the project (Benjaminsen & Espen, 2009). One of the purposes of MKURABITA is to empower the population and marginalised groups, expand the market economy through the formalisation of property rights, and ensure the protection of property rights through legislation (Pedersen, 2010). MKURABITA aims to empower people by enabling them to use their assets to access capital and enhance their livelihoods (Claussen & Semboja, 2018). One of the crucial aspects of the programme is gender equality in property rights. The programme emphasised the inclusion of the names of a husband and wife/wives in polygamous marriages, when land is titled in families (Kosyando, 2007). Customary laws are not gender neutral; they discriminate against women from owning land. The programme is designed to close the gender gap and empower women who are a marginalised group. The governance of land is subject to statutory regulations, while local community owners continue to uphold the customary practices that regulate land tenure. In villages, land councils allocate land according to the provisions of section 22 of the Local Government (District Authorities) Act 1982, which grants the customary right of occupancy.

Legal Framework Governing Property Rights

In Tanzania, there are pluralistic legal systems, including customary, Islamic, statutory, and Hindu laws, that function concurrently in a community comprising approximately 120 ethnic groups with different norms and traditions. Equal property rights of both men and women are a constitutional issue and are legally recognised by the law.

Article 12 of the Constitution of the United Republic of Tanzania (1977) states that if all human beings are born free and equal, they should enjoy their human rights. Art. 13 (1) of the Constitution discourages discriminatory practices against any person in all aspects of life, economically, politically, and socially. The Constitution was amended in 1984 (Act No. 15) by adding a Bill of Rights, which emphasises respect for human rights and equal protection and treatment. The Constitution promotes the rights of men and women to own and dispose of land (Art. 24(i)). Any denial of individual possession of land is unlawful unless supported by a written law that guarantees fair and adequate compensation. The Constitution emphasises gender equity in property rights under customary practices. “No citizen shall have a right, status, or special position based on lineage, tradition, or descent” (Art. 29(3)).

In the country, land rights are legally supported in different ways. For example, in the land market, individuals may acquire land through purchase. Subsection (4.2.6) of the Tanzania Land Policy (1995) allows women to acquire land independently. Land laws in Tanzania emphasise the principle of gender equality in accessing land. However, it is uncertain whether women have equal economic power to obtain land themselves. In most Tanzanian communities, men are the custodians of the land (Kongela, 2020; Leavens

& Anderson, 2011). Women primarily engage in small-scale farming for subsistence, while men use land for activities related to the cash economy. Additionally, instead of creating alternative ways to acquire land, the land market might undermine the land-use rights of most rural women. When land is sold, informal rights are often not recognised, and women risk losing access to the land they depend on for their livelihood and food security (Knight, 2010; Attwood, 1990). Inheritance remains the primary means of obtaining land within the clans and families; land sales imply the transfer of land outside the lineages. Women who hold rights under customary tenure face difficulties in claiming property rights on the land that has been sold. These lands are no longer communal but private property where the holders have the right to exclude the previous owners.

Legal provisions in Tanzania promote the rights of women to co-occupy land, supporting their decision-making on land matters. These rights are stipulated in The Land Act No. 4 and Village Land Act No. 5 of 1999. The Land Act (Section 161(1) provides legal support for the co-occupation and joint registration of land by the spouses; all names of co-occupants must appear on the certificate of right of occupancy. The Village Land Act (section 20(2) stipulates that any customary laws or resulting decisions that deny women lawful access to or use of any customary land are deemed void and inoperative, and those customary laws must follow the National Land Policy (1995) and any other written law. The question is: do the joint titles secure women's land rights?

In the country, the formal law aims to secure land rights for all landowners. However, rather than securing, land reforms promote certain types of property rights. For example, co-titling favours women with titles, while those who do not hold documents are left behind (Fairley, 2013). It has been argued that co-ownership of land creates an opportunity for women's involvement in deciding on land matters; it is difficult for husbands to sell land without informing their wives (Fairley, 2013; Fitzgerald, 2017). There are some improvements in land co-occupation practices. In the Kigoma, Katavi, and Mwanza regions, Genicot and Hernandez-de-Benito (2019) found that women's land access is mostly through joint ownership with their husbands. There is a lack of clarity on whether such co-ownership has/has not secured women's tenure security. The lack of differentiation between wives and daughters implies the impracticability of co-ownership among unmarried women. From such descriptions, it means that joint titles may free wives from the husband's control. Daughters'/unmarried women's rights may continue to face restrictions due to the power of their fathers or brothers. Such disparity has been forgotten in land law, meaning that only certain categories of women, particularly married ones, have the right to own land.

Customary land tenure rights may be established in communal regimes, particularly in certain clans, and women's rights may be secured. This is inconsistent with the argument of property rights schools that communal property is inefficient in creating tenure security. Statutory law has shifted communal land rights towards individual ownership. For instance, land titles are now commonly issued to individuals or nuclear families (such as spouses), which results in the exclusion of women from extended lineages who previously held communal claims. This is similar to Payne & Lasseve (2012), who argued that titles may undermine tenure security through individualism. Another issue is that, as a result of the land market and titles, native people may lose their ownership rights to the rich, who take advantage of the law to purchase and seek titles for their lands. This is similar to the claim of Knight (2010), who stated that in African societies, land sales may undermine the traditional source of property rights (inheritance).

The Law of Marriage (1971) provides women's land ownership rights during marriage and the division of matrimonial property on divorce. The law distinguishes the individual rights of women and couples. The property acquired before marriage would be in the name of either the wife or the husband who acquired such property. Section 60a states that it is lawful for one party, either wife or husband, to exclude another

party from the property that was obtained in the name of one spouse before the marriage. Section 56 of the law of marriage provides that married women should enjoy equal property rights as a husband (right to acquire, hold, and dispose of property). In the event of a divorce, each spouse is entitled to a share of the matrimonial property. Section 114 of the law of marriage documents that the court has the power to order the division of property rights acquired by the spouses through joint efforts during the existence of marriage. Section 59 stipulates that it is illegal for one party to dispose of or alter the matrimonial property without the consent of the other because it belongs to both parties. This implies that the couple should document every event that contributed to the development of the property. The law allows couples to dispose of land based on an agreement among themselves. In a dynamic land tenure system, wives, with their husbands, may lose ownership rights when the matrimonial land is sold to outsiders.

The land tenure system and women's rights to own land in Tanzania are complex. Such complexity arises from the existence of dual legal systems, namely, customary and statutory. Fairley (2013) refers to such a duo system as a "hybrid." Legal provisions aim at creating gender equality in property rights. This may not be in the interest of the customary land tenure system. Where the country's Constitution addresses the issue of gender equality, there is no such equality between men and women due to the dominance of customary laws that discriminate against women from holding land. In local societies, particularly in rural areas, customary laws are more prevalent than statutory laws, and it appears difficult to attain gender equality in the rights to acquire land. Women face challenges in disposing of land because they do not hold ownership rights. The law accepts customs and traditions practices in land tenure, allowing customary laws to operate independently of statutory legislation.

Although the Indian Succession Act guarantees gender-neutral property rights, customary and Islamic laws are not neutral. Under Islamic law, gender influences how a deceased husband's estate is distributed, with sons receiving a larger share than daughters and widows.

Although regulations promote gender equality in property rights, this idea has not been fully realised in practice. The Inheritance Law of 1963 contains a provision that may guarantee widows' rights to inherit land when their husbands die. A widow should be remarried to one of the deceased's relatives to access land in marital clans (rule 66A of the customary law Declaration order). This becomes a challenge to women's rights to land in societies where remarriage is not practical or cultural changes have occurred. In Africa, the widow inheritance system (levirate marriage) has been challenged by the emergence of HIV and AIDS (Villarreal, 2006; Yuya, 2018). In Mbozi District in Tanzania, Sadock (2020) observed a negative community attitude against levirate marriage, which was singled out as a risk factor for HIV transmission.

Conclusion

The focus of this review article was the ability of the law to secure women's land rights in Tanzania. In the country, there is a lack of firm conclusion that the law secures women's land rights. The law has attempted to formalise land rights by integrating customary and statutory law. The literature shows that, in the past, the land was held communally, and women were not denied property rights. Communal property rights still exist in the country, for example, communal village land, grazing areas, and marketplaces. The shift towards private property has undermined such rights. The belief among evolutionary theorists that land titles can create tenure security is assumed rather than practical. The law emphasises co-titling to safeguard women's land rights, which is now happening in the country. However, co-occupation of land to secure property rights eventually excludes women whose names do not appear on certificates. Women are not a single entity; there are disparities such as married, single, widows, divorced, wives, and daughters. Despite the legal recognition of individual land occupancy rights, women with limited economic means continue to face challenges in

exercising these rights. When land is sold, it becomes private property, and women who previously relied on it for use often lose their rights to it.

Another issue from the literature is the existence of legal pluralism. Tanzania contains a complex set of laws governing property rights, including Hindu, customary, and Islamic laws. These systems do not promote women's land rights in the same way in the largest community, with approximately 120 ethnic groups with different norms. Statutory law advocates equality in land ownership, inheritance, transfer, decision-making, and use (Land & Village Land, 1999). However, customary and Islamic laws tend to violate equality in land rights. This implies that women's land rights are and will continue to be undermined due to a lack of enforcement mechanisms of laws.

In Tanzania, both the Land and Village Land Act (1999) state that statutory and customary laws are of the same status, and women have equal rights. However, this is not the case due to the existing societal norms that discriminate against women. In reality, in many Tanzanian societies, customary laws are leading, and there is a lack of an enforcement body to harmonise the existing laws. The government needs to establish enforcement mechanisms to ensure compliance with land laws. There should be clear and accessible legislation to balance the practice of customary and statutory laws. This may be possible through the establishment of a land commission/department with enforcement mechanisms. Another recommendation is a review of the outdated laws. Certain laws, including the Law of Marriage of 1971 and the Customary Law Declaration Order of 1963, have remained in effect for more than five decades. Some aspects of these laws do not fit the dynamic land tenure system. Moreover, the successful implementation of a society-wide programme mindset requires strong political will from both the state apparatus and its political leaders. This requires a change of attitudes among religious leaders towards women's access to, use, control, ownership, and disposal of land. There is a need for change in religious doctrines about women, including Islamic teachings and laws of inheritance. Women's land rights are well stated in legal provisions and the Constitution of the United Republic of Tanzania (1977). It remains unclear whether the community members' ideas were incorporated into the drafting of the law. The omission of local society's ideas in designing programmes may lead to insecurity of tenure for the weaker groups, particularly women.



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