

ENDOROIS WOMEN LEADERS: A Primer on Human Rights and Women's Leadership



May 2018

الشبكة العالمية
للحقوق الاقتصادية
والاجتماعية والثقافية



ESCR-Net
Red-DESC
Réseau-DESC

الشبكة العالمية
للحقوق الاقتصادية
والاجتماعية والثقافية



ESCR-Net
Red-DESC
Réseau-DESC

Acknowledgments

This primer was developed by ESCR-Net - International Network for Economic, Social & Cultural Rights for the Workshop on Human Rights Principles and Organizing for Endorois Women Leaders held in Lake Bogoria, Kenya, 8-11 May, 2018.

We would like to express our deep gratitude to ESCR-Net member the Federation of Women's Lawyers, Kenya, (FIDA-Kenya) for granting permission to reprint Modules 2 and 3 from their Training Handbook, Women's Land and Property Rights in Kenya. We would also like to acknowledge the immense support of the Endorois Welfare Council, especially Christine Chebii and Christine Kandie in the preparation of this primer and organization of the workshop.

info@escr-net.org

TABLE OF CONTENTS:

| | |
|---|-----------|
| Introduction to Human Rights | 2 |
| Women's Land And Property Rights in Kenya | 5 |
| Training Module: International and Regional Framework for Women's Land and Property Rights | 6 |
| Training Module: The Constitutional Framework for the Protection of Women's Property Rights | 10 |
| The Power of Endorois Women Leaders | 14 |



AN INTRODUCTION TO HUMAN RIGHTS

What are human rights?

Human rights emerge from a recognition of the dignity and value of every human being, shared by cultures and religions around the world. Human rights have been recognized and turned into laws by governments as a result of peoples' struggles for participation, equality and well-being for themselves, their families and their communities. **All people possess human rights simply because they are human.** These rights cannot be taken away.

Human rights include: the right to equality and non-discrimination; the rights to water and sanitation, food, education and healthcare; the right to property; the right to development; and many more. There is no hierarchy of rights—they are equal and interdependent.

Rights and obligations

Governments and States have the primary obligation to realize human rights. **Specifically, states have the obligation:**

- **To respect human rights**, as in not to interfere with their enjoyment.
For instance, States must refrain from conducting forced evictions.
- **To protect human rights**, as in taking steps to guarantee that third parties do not interfere with their enjoyment.
For instance, States should take action to ensure that corporations in their territory do not cause pollution that damages the environment and public health.
- **To fulfill human rights**, as in take steps toward progressive realization. In other words, governments have the obligation to make laws and use all of their available resources — including resources gained through taxation and public spending — to ensure human rights are increasingly becoming a reality for all people.
For instance, States must create long-term, comprehensive plans that guarantee access to housing for low-income persons.
- **To seek and provide international assistance and cooperation** in the realization of human rights.

The human rights framework is an important tool that can hold states, and increasingly non-state actors, accountable for violations.

» THE PROCESS OF REALIZING HUMAN RIGHTS FOR ALL



Key Human Rights Principles

The following principles are fundamental to the human rights framework:

Universality is the principle that human rights belong to everyone without exception.

Equality and non-discrimination is the principle that further articulates the universal guarantee of human rights without discrimination of any kind. Discrimination means unequal or different treatment of people based on what they identify as or certain characteristics they possess. For example, discrimination can be based on race, gender, or religion. This principle upholds protection against intentional discrimination and *protection from policies and practices which may have a discriminatory effect*.



Accountability is the principle that courts and other mechanisms must be established to ensure that governments respect, protect and fulfill rights. If a community or person's rights are violated, this principle ensures that they have a way to seek justice.

Participation is the principle that people have a right to engage in the decisions affecting their lives, including government decisions regarding their rights.

Transparency is the principle that governments must be open with regard to information and decision-making processes related to human rights. Transparency facilitates the realization of accountability and participation principles.

Where are human rights rules set out?

Human rights have been recognized and turned into laws by governments at the international, regional and national levels.

At the international level, human rights rules are set forth in international agreements, such as treaties, covenants, and conventions, which are legally binding for States.

Key human rights treaties include: the **International Covenant on Economic, Social and Cultural Rights**; the **International Covenant on Civil and Political Rights**; the **Convention on the Rights of the Child**; and the **Convention on the Elimination of All Forms of Discrimination Against Women**.

Human rights standards are also set out in other types of instruments, through declarations, principles, and guidelines. The **United Nations Declaration on the Rights of Indigenous Peoples** and the **United Nations Declaration on the Right to Development** are a few examples. These standards are generally not legally binding, but they guide the conduct of States and are often widely accepted within the international community.

At the regional level, there are key regional human rights instruments including, for instance, the **African Charter on Human and Peoples' Rights**. In its decision on behalf of the Endorois, the African Commission on Human and Peoples' Rights had found that the Kenyan government had violated the Endorois' rights to religious practice, to property, to culture, to the free disposition of natural resources, and to development, under the African Charter.

At the national level, constitutions, national and local laws can recognize, protect and advance human rights. In Kenya, for example, the **Kenyan Constitution**, which we will briefly consider in the next section of this primer, explicitly recognizes human rights and contains a bill of rights.



IMPORTANT REMINDER:

Human rights exist beyond legal standards. Rights are a set of values shaped by peoples' struggles and shared by communities around the world. For women leaders and community organizers, they can be a range of tools, giving legitimacy to struggles for justice and helping to shape a common vision for the future. Even before human rights law was formally codified at the United Nations, communities across the world struggling for social justice had embraced the inherent worth of every person. The ongoing struggle of peoples' movements, led by women and men, remain vital to securing economic justice, social well-being, participation and equality for every person.

Embracing a Human Rights Approach

When powerful actors take people's land, impede access to quality education, create the conditions for widespread hunger and so on, it can be straightforward and powerful to understand those abuses as violation of our human rights.

For instance, when considered through a human rights perspective, poverty is not the fault of the poor, it is the result of governments failing to respect, to protect and to fulfill their human rights obligations. Governments' failure to build schools and health clinics, redistribute resources via public spending to support small farmers, as well as build roads and infrastructure, can be understood as them failing to uphold the rights to health, work and education.

By emphasizing the common humanity of those affected, human rights claims can cultivate empathy and assert equality, ultimately encouraging decision makers and the public to see beyond the marginalized status of those impacted. The human rights framework can propel us to analyze the structural problems that marginalize people in the first place. For example, in a land dispossession situation, structural problems to analyze might include the uneven power dynamics between multinational corporations and indigenous communities.

In addition, a human rights approach clearly defines the obligations of State actors and holds them legally accountable, it establishes responsibilities for all actors involved, and it can be used as a tool for framing a common vision of the future and related demands for new policies, legislation and public spending. Moreover, as a common global framework, human rights is useful in building alliances and solidarity with other struggles. By recognizing, understanding and articulating individual and community claims as part of a larger struggle for equality and dignity, human rights can be a powerful organizing tool, inspiring communities to expose abuses and demand real on-the-ground change.

Rights to Self-Determination and Development

Common Article 1, paragraph 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights provides that:

"All peoples have the rights of self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development."

To be meaningful, self-determination must include economic self-determination, which includes control over traditional lands and resources. Moreover, indigenous peoples must have the right to grant or withhold consent to development projects within their territories, and which affect their resources. This right is embodied in the Free, Prior and Informed Consent (FPIC) standard, recognized by various international legal instruments, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Once indigenous peoples have given their consent for a project, they can still withdraw it at any stage. In addition, FPIC permits them to negotiate the conditions under which the project will be designed, implemented, monitored and evaluated. In the Endorois case, the African Commission references FPIC, noting that:

"[f]ree, prior and informed consent is essential for the [protection of] human rights of indigenous peoples in relation to major development projects."

Also connected closely with the full realization of the right of peoples to self-determination is the right to development. As embodied in the United Nations Declaration on the Right to Development, this right may be expressed as follow:

"Everyone has the right to participate in, contribute to and enjoy economic, social, cultural and political development."

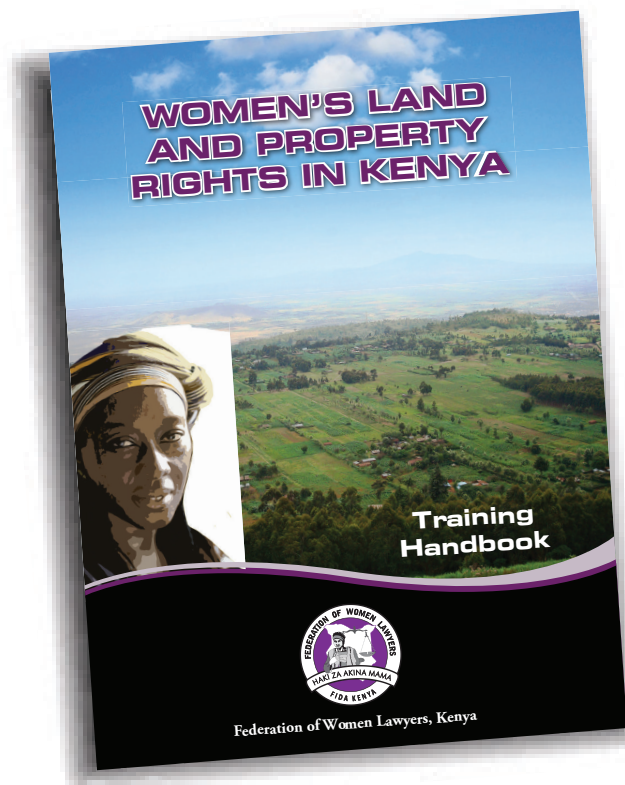
The right to development includes permanent sovereignty over natural resources, popular participation, equality of opportunity, and the advancement of adequate conditions for the enjoyment of other civil, cultural, economic, political and social rights. Sustainable development puts people at the center of development and promotes the protection of opportunities of present and future generations, respecting the natural systems on which all life depends.

WOMEN'S LAND AND PROPERTY RIGHTS IN KENYA

The following are excerpts from a training handbook developed by the Federation of Women's Lawyers, Kenya (FIDA-Kenya).

This handbook is part of FIDA-Kenya's larger effort to simplify new Kenyan land laws in relation to Women' Land and Property Rights and explain the legal requirements and processes for land ownership and registration.

The knowledge contained therein is intended to enable Kenyan women to legally register the land they own to avoid being disinherited in instances of divorce, widowhood or through other legal technicalities. The handbook attempts to provide clarity on the constitutional and legislative provisions on land and women property rights, analysis and awareness of these provisions and a path forward in terms of opportunities and strategies in advancing women's land and property rights in Kenya.



Read the full handbook online:

www.escr-net.org/fida-kenya-women-land-rights-handbook.pdf

MODULE 2: INTERNATIONAL AND REGIONAL FRAMEWORK FOR WOMENS LAND AND PROPERTY RIGHTS

Session Aim:

By the end of this session, participants will be able to:

- a. Identify key regional and international laws which Kenya has ratified and which address women's rights to land and property.
- b. To demonstrate an understanding of the provisions of those instruments, and how they relate to Kenyan law.

Trainers Guide

Participants may be asked to name the regional and international instruments that they know of, and what they contain on women's property rights. They may discuss these in groups than report back before the presentation begins.

Time requires: 10 minutes. Discussion 5 minutes, report back 5 minutes

Unequal property rights and harmful customary practices violate international laws which recognize the rights of women as equal to those of men. Kenya has ratified international treaties requiring it to eliminate all forms of discrimination against women, including discrimination in marriage and family relations, to guarantee equality before the law and the equal protection of the law, and ensure that women have effective remedies if their rights are violated. International law also obliges states to modify discriminatory social and cultural patterns of conduct. Kenya is violating those obligations.

Under the Constitution (Article 2) the general rules of international law shall form part of the law of Kenya. This means that every instrument that Kenya has ratifies at regional or international level becomes part of Kenyan law. Regional instruments are those that cover Africa or parts of Africa only, while international ones cover the whole world, apart from countries that have not accepted to sign, ratify or accede to them. Most of the principles contained in the Constitution have been borrowed from these instruments.

Regional and Sub regional instruments

(i) The African Charter on Human and Peoples' Rights (ACHPR)

The provisions in the ACHPR was adopted in June 1981 by the organization of African Unity (OAU) , now the African Union (AU) to provide a human rights framework for Africa that takes into account the peculiar circumstances of the continent. The ACHPR gives recognition to rights of women by stating under Article 2 that;

“Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.”

It further states under Article 3 that

“Every individual shall be equal before the law”

and that

“Every individual shall be entitled to equal protection of the law”.

The Charter therefore by extension prohibits discrimination against women even on the issue of woman’s property and land rights.

Under Article 18, member states are required to eliminate every discrimination against women and ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.

(ii) The Common Market for Eastern and Southern Africa (COMESA) Gender policy

The main objective of the COMESA gender policy is to facilitate the inclusion of perspectives into all policies, structures and systems. The gender policy recognizes women and men in their different roles, have unequal access to resources and benefits, and that women have limited access to land. Sustainable economic and social development of the region requires the full and equal participation of women, men and youth. Articles 154 and 155 of the COMESA treaty, recognize the critical and important contribution of women to the economic and social transformation of the region. The treaty also recognizes the role of women in business especially participation in Agriculture, Industry and Trade.

Through the gender policy, COMESA commits itself to eliminate gender inequality and ensure women’s economic empowerment and equal access to and control of resources and opportunities.

(iii) East Africa Community Treaty

Article 6 (d) of EAC-Treaty recognizes gender equality as one of its fundamental principles that shall govern the community.

It also recognizes the promotion and protection of human and peoples’ rights in accordance with the provisions of the African Charter on Human and Peoples’ Rights therefore prohibiting gender discrimination in land and property issues.

International legal instruments

Specific standards to protect women’s rights include;

- Convention on the Elimination of all forms of discrimination against women (CEDAW).
- The Universal Declaration of Human Rights (UDHR), 1948,
- The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966,

(i) The Convention on the Elimination of all forms of Discrimination Against Women

CEDAW is unique among existing human rights instruments because it is concerned exclusively with promoting and protecting women’s human rights which operates from the premise that patriarchy is a global reality. It is the most important legally binding international document concerning the human rights of women. CEDAW is sometimes referred to as the international bill of rights for women as it offers the most comprehensive coverage of women’s rights for both public and private spheres

by bringing together all conventions and treaties that protect and promote the rights of women

Under Article 14 of CEDAW, states are obliged to ensure equal treatment of men and women in land and agrarian reform. Land rights under marriage and inheritance laws should be based on equality.

Article 16 of CEDAW states that land tenure reform must ensure women's property rights during marriage, at divorce and in the event of her husband's death. This provision is mirrored in the Kenyan Constitution.

(ii) The Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) is a declaration adopted by the United Nations General Assembly in 1948 after the Second World War and represents the first global expression of rights to which all human beings are inherently entitled. Under the UDHR, provisions relating to land and property include:

- a. The rights to equality before the law and to equal protection of the law (Article 7);
- b. The right to own property (Article 17);
- c. The right to adequate housing (Article 25).

All member states therefore are under a obligation to ensure that women and men have equal rights to property and land.

(iii) Beijing platform for Action, 1995,

The Beijing Platform for Action (BFA) is an agenda for women's empowerment which aims at accelerating the removal of all the obstacles to women's active participation in all spheres of public and private life through a full and equal share in economic, social, cultural and political decision-making.

The BPA calls upon Governments to " Undertake legislation and administrative reforms to give women equal rights with men to economic resources, including access to ownership and control over land and other properties, credit, inheritance, natural resources, and appropriate new technology".

The development of the National land Policy, and the new laws including the National Land Commission Act 2011, the Land Act 2012 and the Land Registration Act 2012 are significant steps made by Kenya to achieve some of the vision of these regional and international conventions as far as women's land and property rights are concerned.

MODULE 3: THE CONSTITUTIONAL FRAMEWORK FOR THE PROTECTION OF WOMEN'S PROPERTY RIGHTS

Session aim;

By the end of this session, participants will be able to

- (a) Identify constitutional provisions on women and property rights
- (b) Demonstrate an understanding of those rights and their implications on women's lives within communities.

Trainers Guide

The session may begin by asking participants to share what they know about the constitutional provisions on women's rights to land and property. The importance of this is that it will help the trainer determine the participants' levels of understanding, and hence tailor make her/his entry level with a particular group. *Time required 10 minutes*

Several provisions exist in the Constitution that guarantee the rights of women to own property and land. These are provisions relating to;

- Access to justice,
- National values and principles,
- Equality and freedom from discrimination,
- The protection of the right to property
- Principles of land policy, and
- Judicial authority.

The constitutional provisions on land are based on the National Land Policy (NLP), which identifies women's land rights as an issue requiring special intervention. The key principles in the Land policy (2009) include access to justice, gender and inter generational equity. Under the Land policy principles and guiding values, gender equity and sensitivity as principles have been given prominence.

1. Access to justice

Trainer's guide

The participants may be asked to list some of the challenges people face, women in particular, in seeking court intervention whenever their rights are violated. Practical experiences may be shared. Note down the responses on flip chart and use the information to explain the basic concepts of access to justice.

Article 48 of the Constitution provides for the right to access to justice and states

“the state shall ensure access to justice for all persons and , if any fee is required, it shall be reasonable and shall not impede access to justice”

The elements that make up access to justice are that;

- I. People, notably the poor and vulnerable,
- II. Suffering from injustices,
- III. Have the ability to have their grievances listened to,
- IV. Obtain proper treatment of their grievances by state or non-state institutions,
- V. Get redress of those injustices on the basis of rules or principles of state law, religious law or customary law in accordance with the rule of law.

The implication of Article 48 are that even poor people can now seek court intervention when their rights are violated. Women who have been denied land or property rights can go to court even when they have no money to pay for legal or court fees by invoking the provisions of Article 48.

Women are generally marginalized in society and poverty is often said to wear the face of a women. For there to be access to justice for women , laws must be put in place in place to address women's right to land and property, women must be aware of those laws, and the courts should deal with cases of injustice and discrimination against women in strict compliance with the law. The courts must also ensure that the orders given for purposes of fulfilling right to property and land are enforced.

National values and principles of governance

Article 10 ii (b) of the constitution sets out the national core values and principles of governance, which include

- *Human dignity*,- women should not be treated with indignity when it comes to their property rights, for example, being thrown out of her and or home, or taking away her property upon the death of her spouse.
- *Equity*- women must have a fair share or opportunity to inherit family land or property, or equal opportunity to acquire property and to participate in decision making organs regulation land.
- *Social justice*- women must not suffer any form of injustice as far as issues of land and property are concerned. For example, courts or government administrators must ensure land and property issues are resolved in accordance with the rule of law.
- *Equality*- land and property matters must be handled or decided on the basis of the principle of equality between women and men(Art 27 of the Constitution)
- *Human rights*; The right to property is a human right. Women's rights are human rights too and therefore women' right to property must be protected.
- *Non-discrimination and protection of the marginalized*; women are often marginalized and discriminated against on land and property, which is now prohibited by the constitution.

It further states under Article 3 that

“Every individual shall be equal before the law”

and that

“Every individual shall be entitled to equal protection of the law”.

The Charter therefore by extension prohibits discrimination against women even on the issue of woman’s property and land rights.

Under Article 18, member states are required to eliminate every discrimination against women and ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.

(ii) The Common Market for Eastern and Southern Africa (COMESA) Gender policy

The main objective of the COMESA gender policy is to facilitate the inclusion of perspectives into all policies, structures and systems. The gender policy recognizes women and men in their different roles, have unequal access to resources and benefits, and that women have limited access to land. Sustainable economic and social development of the region requires the full and equal participation of women, men and youth. Articles 154 and 155 of the COMESA treaty, recognize the critical and important contribution of women to the economic and social transformation of the region. The treaty also recognizes the role of women in business especially participation in Agriculture, Industry and Trade.

Through the gender policy, COMESA commits itself to eliminate gender inequality and ensure women’s economic empowerment and equal access to and control of resources and opportunities.

(iii) East Africa Community Treaty

Article 6 (d) of EAC-Treaty recognizes gender equality as one of its fundamental principles that shall govern the community.

It also recognizes the promotion and protection of human and peoples’ rights in accordance with the provisions of the African Charter on Human and Peoples’ Rights therefore prohibiting gender discrimination in land and property issues.

International legal instruments

Specific standards to protect women’s rights include;

- Convention on the Elimination of all forms of discrimination against women (CEDAW).
- The Universal Declaration of Human Rights (UDHR), 1948,
- The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966,

(i) The Convention on the Elimination of all forms of Discrimination Against Women

CEDAW is unique among existing human rights instruments because it is concerned exclusively with promoting and protecting women’s human rights which operates from the premise that patriarchy is a global reality. It is the most important legally binding international document concerning the human rights of women. CEDAW is sometimes referred to as the international bill of rights for women as it offers the most comprehensive coverage of women’s rights for both public and private spheres

that women and men will have the right to equal treatment and opportunities in political, economic, cultural and social spheres without discrimination as provided for under Article 27 (3).

Judicial authority

The constitution requires under Article 159(2) that courts must be guided by the principles that;

- (a) Justice shall be done to all irrespective of their status- *even women who are disadvantaged must benefit from justice processes;*
- (b) Justice shall not be delayed- *women tend to give up on their cases when they take too long. This provisions allows for the legitimate expectations that justice will be dispensed quickly.*
- (c) Alternative dispute resolution (ADR), which includes traditional justice mechanism, will be applied when appropriate-*women sometimes shy away from public hearings that characterize a court hearing. ADR is a private process that allows for amicable settlements that serve the best interests of the parties. For women who find it difficult to go through the formal justice processes, there is now a more suitable alternative to through which they can get quicker, less costly and more satisfying settlements.*
- (d) Justice shall be administered without undue regard to procedural technicalities- *women who are not conversant with legal technicalities can pursue their cases even with limited knowledge of court procedures.*

Article 159 (3) provides that

“ Traditional dispute resolution mechanisms shall not be used in a way that-

- (a) contravenes the Bill of rights
- (b) is repugnant to justice, and morality or results in outcomes that are repugnant to justice or morality
- (c) or is inconsistent with this constitution and any written law.”

Trainers Guide

Participants may share some examples of what they have experienced or witnessed, that they consider to be repugnant to justice and morality.

The examples given further may be used to demonstrate how they contravene the bill of rights, for example, Article 27 on equality and non discrimination, article 10 on national values and principles or article 40 on the right to property.

THE POWER OF ENDOROIS WOMEN LEADERS

With their active engagement in the implementation process of the African Commission on Human and Peoples' Rights decision in favor of the Endorois, as well as their community development participation, Endorois women have demonstrated power leadership in these last years. Their participation and leadership have proven to be essential for not only gender equality but the overall development of their communities.

Understanding substantive equality and its relation to land struggles

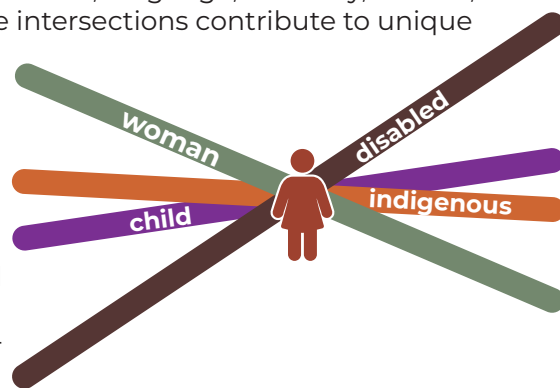
Women and men should be treated equally in law and in practice. This is the content of the general principle of equality and non-discrimination, which is a fundamental element of international human rights law. The United Nations Committee on the Elimination of Discrimination against Women (CEDAW) requires States to achieve not only **formal equality** — between women and men before the law with respect to formal opportunities and treatment — but also **substantive equality**, where women enjoy equality with men in practice. The concept of substantive equality arose out of the recognition that formal equality may not be sufficient to ensure that women enjoy the same rights as men.

Women are diverse. Most of us identify with different groups at certain moments — as women, youth, widows, Endorois, Kenyan, persons with disabilities, farmers — and these identities shape our experience of the world and our relationships. Many women encounter distinct forms of discrimination due to the intersection of sex with such factors as: race, language, ethnicity, culture, religion, disability, or socioeconomic class, among others. These intersections contribute to unique experiences of discrimination.

For instance, a girl with a disability from an indigenous community whose settlement is located far from urban areas may face more challenging circumstances to access education than a girl living in Nairobi.

Sometimes legal systems work only with the concept of formal equality, ignoring these particularities and different realities. In these situations, equality before the law becomes only surface-level or illusory. Women are recognized as equal before the law, but transformative measures to bring that into reality are not taken into account. As a consequence, some groups remain in disadvantaged positions regarding access to resources, opportunities, political representation, cultural and social patterns.

Conversely, substantive equality treats people equally, while also considering and responding to women's diverse realities to effectively and positively transform their lives. For example, a State policy to create equal opportunities for women in employment may not result in women having equal opportunities with men in employment if it fails to consider that there are factors at play that disadvantage women. To achieve substantive equality, States must take appropriate measures to guarantee rights in practice. For example, childcare centers and safe transportation means are necessary conditions to effectively enable women to participate in employment opportunities offered on paper.



The **Kenyan Constitution** implicitly recognizes these challenges. It has designed policies to achieve equality in practice, including:

1. women's rights provisions,
2. protections for marginalized groups,
3. affirmative action programs, and
4. special funds designed to "equalize" resources across the nation.

When implementation mechanisms are weak, allocated budgets are insufficient, or communities are not yet empowered to hold governments accountable, implementation remains a key challenge.

“

...the achievement of substantive equality in practice requires a multifaceted approach which: **redresses disadvantage** (based on historical and current social structures and power relations that define and influence women’s abilities to enjoy their human rights); **addresses stereotypes, stigma, prejudice, and violence** (with underlying change in the ways in which women are regarded and regard themselves, and are treated by others); **transforms institutional structures and practices** (which are often male-oriented and ignorant or dismissive of women’s experiences); and **facilitates social inclusion and political participation** (in all formal and informal decision-making processes).

For more information on this framework, see Sandra Fredman and Beth Goldblatt Gender Equality and Human Rights (2015) UN Women Discussion Paper No. 4, www.unwomen.org/en/digital-library/publications/2015/7/dps-gender-equality-and-human-rights.

Protecting and strengthening the rights of women to access, use and control land and natural resources

When women have equal rights over land (as well as housing and property), they are better able to cope with life’s most difficult challenges, including some of the consequences of domestic violence. Indeed, women’s access to and control over land is essential to women’s equality and ability to enjoy a range of other rights enshrined in international human rights law. The right to adequate food and nutrition being a prime example.

The enjoyment of women’s rights in relation to land must be considered not only as a gender issue, but also with reference to a variety of intersecting characteristics including residence, race, ethnicity, religion or belief, health or economic status, disability status, sexual orientation and gender identity, among others.



Forced eviction and dispossession impact on Endorois women

The Endorois were forcefully evicted from their ancestral land at Lake Bogoria by the Kenyan government in the 1970s. They were forced to relocate from fertile lands to semi-arid areas in various locations. Over time, the eviction caused economic, social and cultural devastation among the Endorois community.

Based on your own experience as an indigenous woman and your knowledge of the experience of other Endorois women:

- What are the obstacles Endorois women have faced regarding control and use of land? In relation to land restitution and compensation?
- What have been the impacts of forced eviction and displacement in relation to women’s access to adequate healthcare facilities, adequate housing and education?
- What are some impacts or challenges that you think women and men may have experienced differently within the Endorois community?
- How do you think Endorois women can effectively address these impacts and challenges?

Women make the difference

Women taking on leadership and key decision-making roles is a central condition for women's equality. It is a basic human right of women to participate directly in decision-making processes that affect their lives. Furthermore, women's participation is a critical condition for true democracy: Women have a unique set of issues and experiences that must be sufficiently represented in decision-making processes at the community, county and national levels. Their participation has a significant impact on political agendas. This means that community debates and government policies are more likely to be aligned to women's needs and interests if they are able to participate effectively. Participation of diverse women — young and elderly, married and widowed, poor and wealthy — is essential to ensure women are widely represented.

Capacity building favors the development of women's skills and provides them with opportunities to step into leadership roles. This also fosters the empowerment of women to have greater agency over the quality of their lives by increasing the opportunities for meaningful social and political participation. Autonomy, gender awareness, access to basic rights, and involvement in decision-making processes are often increasingly embraced by emerging women leaders.

Capacity building is also a tool for the development of young leaders as a key for the continuity of the movement over time. When women become leaders and are visible in their communities, this inspires girls and young women to recognize themselves as catalyzers of change and contribute to the empowerment of the younger members of the community, impacting gender relationships at all levels.

"Laws often don't allow women to assume leadership positions. Likewise, women are not comfortable discussing their desire for leadership in front of male leaders. There is a need to build sustainable solidarity among women... there is an excitement when women meet together."



Chanda Tappa, Asia Indigenous Peoples Pact

"Women get married very young and hold most of the responsibilities regarding the household. It is hard for them to add other responsibilities, such as political roles and participation in community meetings. Women need still to be trained on political issues, including how to defend the land."



Paty Gualinga, Sarayaku community (Ecuador)

"Women don't participate in public affairs as much as men do. Many times women feel their spouse could represent them. One way of inspiring is through a community radio program. How do you see yourself as a Mayan woman in regard to the ownership of land? What are some of the challenges? This is a safe environment where women can raise their voices and raise awareness of other women. They also develop confidence and engage outside the community."



Cristina Coc, Julian Cho Society - Mayan Leaders Alliance (Belize)

How Endorois women powerfully safeguarded their community's rights

In 2010 the African Commission on Human and Peoples' Rights issued unprecedented recommendations on the Endorois case. The Commission found that the eviction of the Endorois from their traditional land was a violation of their rights to religious practice, to property, to culture, to the free disposition of natural resources, and to development under the African Charter.

Following traditional rules and customs, the Endorois struggle for land had been mainly led by men. However, Endorois women increasingly participated in efforts to advocate for the implementation of the ruling. Endorois women have shown strength and determination on issues of community development through different roles in safeguarding the community's rights:

Participation in decision-making and shared leadership

Through capacity building initiatives such as exchange visits and trainings on land rights and human rights, Endorois women are now actively participating in the implementation of the Endorois case and other development issues.

Endorois women have requested key Endorois Welfare Council (EWC) male leaders to ensure that each of the main EWC committees include at least five women paralleling the principle set by the Kenyan constitution for governmental bodies. They also pressed for the inclusion of women as co-chairs of the following committees: compensation, benefit sharing, management and boundaries, and future governance structures. The EWC also formed forums that would give Endorois community members more opportunities to engage in the negotiation process. This included; the Endorois Women Forum, the Youth Forum and the Religious Leaders Forum.

Women's economic empowerment: food security and developing community alternatives

Despite having been forced to live under challenging conditions as a result of their displacement, Endorois women have found ways to work together to better their lives, working towards meeting their daily needs and eradicating poverty in their communities, such as:

- farming to sell vegetables and fruit like watermelon
- running small teahouses out of their homes
- raising bees to sell honey
- raising and selling poultry and fish
- maintaining tree nurseries
- crafting and selling jewelry, artifacts, and decorative mats
- keeping a supply of tents and chairs which they rent out for ceremonies
- engaging in finance mechanisms, such as table banking (where women loan available funds to a collective fund, and then triage the collective funds to assist the most urgent needs of individual women)
- participating (at higher rates than men) and generating income from the tourism sector

(EWC, Manual on Gender and Community Development, 2018)

Some of key milestones achieved by the Endorois women forum:

1. Successful elections of the leadership of Endorois women Forum
2. Inclusion of Endorois women in the Lake Bogoria Revenue sharing committee
3. Participation of Endorois women in 2015 ACHPR session in Banjul Gambia.



How will women's participation strengthen the struggle for land and benefit the whole community?

How can women's participation and leadership shift the demands of the Endorois community?

Which obstacles, needs, or opportunities in the emergence and development of women's leadership need to be addressed?

What measures could strengthen the emergence of young Endorois women as leaders?

Why is it important for Endorois women to participate in the implementation process of the African Commission decision?

How could Endorois women's needs and interests be more visible?

What has been the experience with the Women Forum, the Youth Forum and the Religious Leaders Forum as openings for the participation of Endorois women?

How are you envisioning Endorois women's participation in the political and economic life of the community in the future?



الشبكة العالمية
للمحقوق الاقتصادية
والاجتماعية والثقافية



ESCR-Net
Red-DESC
Réseau-DESC