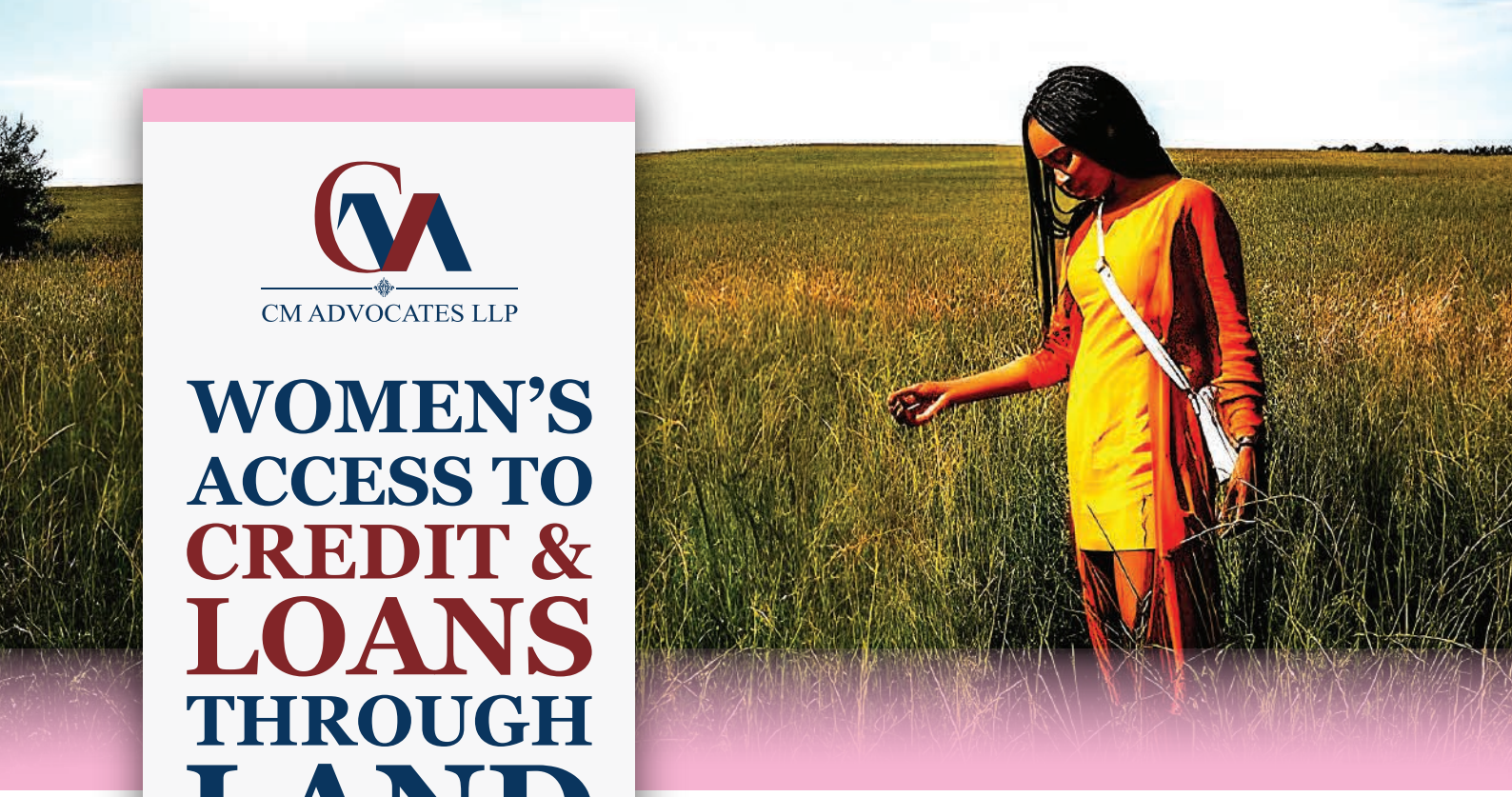


CM ADVOCATES LLP

WOMEN'S ACCESS TO CREDIT & LOANS THROUGH LAND OWNERSHIP

INTRODUCTION

Financial independence is a key driver of economic empowerment, yet many women in Kenya face major hurdles when trying to access loans. One of the biggest obstacles is land ownership—or rather, the lack of it. In Kenya's patriarchal society, land is traditionally passed down through male family members, leaving many women without this crucial asset. Since banks and microfinance institutions often require land as collateral, women's inability to legally own or control property severely limits their financial opportunities.

THE CONNECTION BETWEEN LAND OWNERSHIP AND FINANCIAL ACCESS

For most financial institutions, loans are secured by assets—most commonly land—because of its stable and appreciating value. Unfortunately, when it comes to land ownership in Kenya, the numbers from a report carried out by the Kenya Demographic and Health Survey in 2022, show a stark gender disparity. By 2022, only 25% of women owned agricultural land, and an even smaller percentage had legal title deeds. Even among those who acquire land, 62% lack formal documentation for agricultural property, leaving them without the legal recognition needed to use their land as collateral for loans or to protect their rights in inheritance disputes. Despite government efforts to distribute title deeds, only 10% of the approximately 3 million issued between 2013 and 2017 went to women. These systemic barriers continue to limit women's economic opportunities, financial independence, and ability to invest in their futures.

Without legal ownership documented in a title deed, land cannot be used as collateral, preventing women from securing loans to grow businesses, invest in education, or improve agricultural productivity.

CULTURAL AND LEGAL BARRIERS TO LAND OWNERSHIP

1. Customary Laws and Social norms that discriminate against women

While the Kenyan Constitution (Article 60[f]) prohibits gender discrimination in land ownership, many communities still follow traditional customs that favour men. In rural areas, a woman's access to land is often tied to male relatives—her father, husband, or brothers.

Court cases like ***Rono v Rono & Another (2005) eKLR*** have challenged these norms. In this case, two daughters contested their father's estate distribution after their brothers were given a larger share. The Court of Appeal ruled in favour of the daughters, stating that gender-based inheritance discrimination is unconstitutional. Another case, ***In re Estate of Lerionka Ole Ntutu (2016) eKLR***, reaffirmed that daughters have equal inheritance rights under the Law of Succession Act, even in communities where women traditionally do not inherit land. However, enforcement remains weak, and many women continue to be denied their rightful share.

2. Marriage, Divorce, and Property Rights

A woman's ability to claim land often depends on her marital status. Married women typically access land through joint ownership with their husbands. However, many are left vulnerable because their names are not included on title deeds. If a husband dies or the marriage ends, the woman may struggle to claim the land.

Widows, despite having legal protections under the Customary Land Act, frequently face eviction by in-laws who claim their late husband's land. Although the law supports a widow's right to remain on the land, many lack the resources to fight for it.

Divorced or separated women face an additional hurdle. The Matrimonial Property Act states that a woman must prove financial contribution to claim ownership of land acquired during marriage. This requirement overlooks non-monetary contributions like childcare and farm labor, making it difficult for many women to retain property rights after a divorce.

3. The complex and costly Land Registration Process

Registering land in Kenya is an expensive and bureaucratic process, discouraging many women from pursuing formal ownership. Even when women are legally entitled to land, navigating the courts to claim it is time-consuming and costly.

THE ECONOMIC IMPACT OF LAND OWNERSHIP BARRIERS

When women are unable to own land, the effects ripple across multiple sectors.The lack of land ownership severely limits women's economic opportunities in Kenya. Without collateral, female entrepreneurs struggle to secure loans for business expansion, while women in agriculture who despite being a major part of the workforce, face difficulties accessing credit for essential farming inputs. This reduces productivity and earnings, further entrenching financial dependence on male relatives. Without property rights, many women are unable to make independent economic decisions, leaving them vulnerable in cases of divorce or widowhood. Addressing these barriers through inclusive land policies and alternative loan collateral options is crucial for empowering women and fostering economic growth.

HOW TO IMPROVE WOMEN'S ACCESS TO LAND AND CREDIT

For many women in Kenya, land ownership remains out of reach due to legal hurdles, cultural norms, and financial barriers. While laws grant women the right to own and inherit land, many remain unaware of their rights or lack the resources to assert them. Government agencies and civil society must step up efforts to educate women and provide legal aid to help them secure ownership.

Even when women pursue formal land ownership, costly and complex registration processes create further obstacles. Simplifying procedures and reducing fees would make title deeds more accessible, offering women the legal protection they need. Stronger legal safeguards are also essential—widows should be protected from losing their husbands' land, and joint land registration in marriage should become standard to prevent women from being left landless after divorce or bereavement.

Beyond legal reforms, financial institutions must rethink collateral requirements. Since most banks require land as security for loans, women who lack property struggle to access credit. Accepting alternative forms of collateral, such as business income or savings, would open financial opportunities for women entrepreneurs and farmers.

Encouraging collective land ownership through women's cooperatives can also provide security and bargaining power, ensuring greater economic stability. With the right legal, policy, and financial reforms, Kenya can break down these barriers and move toward true economic equality, empowering women to own, invest, and thrive.

CONCLUSION

Women's financial independence in Kenya is closely tied to land ownership, yet cultural norms and legal barriers continue to exclude them. Without land, they struggle to access credit, expand businesses, and invest in agriculture, keeping them financially vulnerable. Strengthening property rights through legal reforms, joint land ownership, and simplified registration processes is essential. Financial institutions must also adopt more inclusive lending practices, accepting alternative forms of collateral. Ensuring women's access to land and credit is not just about fairness—it is key to unlocking economic growth and empowering future generations.

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