

Women's Access to Land Continues to Falter

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20 February 2026

Women's rights have long been a central point of discussion across Africa. It is common knowledge that in many African countries, due to entrenched cultural practices, women can only access land through a husband or a male relative. It therefore comes as a surprise that such unjust limitations persist even in South Africa — a country often lauded for having “the best constitution in the world.”

Despite constitutional guarantees of equality, women in South Africa continue to face insecure land tenure and, in some cases, barriers to house ownership. Other challenges include obstacles to land inheritance, restrictions on independent ownership, and precarious tenancy arrangements on commercial and communal farms. The gap between constitutional promise and lived reality remains stark.

In *Exploring Barriers to Women's Access to Communal Land in Selected Provinces of South Africa*, the Commission for Gender Equality notes:

“South Africa's legal system is dualistic, which includes common law constituting the idealistic and customary human rights law administered by the traditional leaders within the communal rural areas. Some of the key legislations that govern communal land rights, especially, include the Traditional Leadership Framework Act 41 of 2003 and the repealed Communal Land Rights Act 11 of 2004.”

This dual legal framework lies at the heart of the problem. While the Constitution guarantees equality before the law, customary law, as administered in many communal areas, often operates according to patrilineal systems of inheritance. In these areas, which are home to an estimated 21 million South Africans, land allocation frequently falls under the jurisdiction of traditional leaders. As a result, women are routinely bypassed as primary beneficiaries.

The consequences are not abstract. In places like Nquthu, KwaZulu-Natal, it is reportedly nearly impossible for women to acquire land independently. A Soweto-based woman, MaMbomvu (name changed for safety), recounts that she was told only a man can buy land. To secure a plot, she would need a male relative to act on her behalf and have the land registered in his name. Initially informed that she would need to pay R15,000 for allocation, she was later instructed to bring a male sibling or her son so that his details could be used for registration.

According to her account, local authorities justified this practice by claiming there had been “trouble” with allocating land to women. They alleged that women became involved with married men and that, if a woman died, “families scattered,” implying that women were unreliable custodians of land. Such reasoning reflects not only gender bias but also deep-seated stereotypes about women's moral character and social stability.

Nquthu is not an isolated case. In the Umnini Trust traditional area, similar practices have been documented. Scholars Nontobeko Khuzwayo, Lovemore Chipungu, Hangwelani Magidimisha, and Martin Lewis observe that customary law is generally

patrilineal; “it gives men primary rights to productive resources, and relegates women to secondary beneficiaries.”

At stake here is more than access to a physical asset. Land is a productive resource, a source of livelihood, social standing, and intergenerational security. When women are denied secure land rights, they are denied economic independence, bargaining power within households, and protection against poverty and displacement. In rural contexts especially, land is closely tied to food security and community participation. Excluding women undermines not only gender equality but broader developmental goals.

Moreover, there is a constitutional contradiction that cannot be ignored. Section 9 of the Constitution guarantees equality and prohibits discrimination based on gender. If customary practices systematically exclude women from land ownership, then the state has an obligation to reconcile customary governance with constitutional rights. Respect for culture cannot serve as a shield for discrimination.

Women’s access to land is therefore not merely a “women’s issue.” It is a question of justice, constitutionalism, and economic transformation. Without secure land rights for women, meaningful rural development and genuine equality will remain out of reach.

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